Memorandums

by Dan Meador

1. Character of the Internal Revenue Service; Application of the Internal Revenue Code

2. Character and Jurisdiction of United States District Courts

3. Character and Jurisdiction of State Statutory Courts

4. Bonus: A letter to the Oklahoma Supreme Court Chief Justice asking two of America's most fundamental contemporary questions

Is it true that IRS & BATF are agencies of the Department of the Treasury, Puerto Rico? That no taxing or collection statute in the Internal Revenue Code reaches the several States and the population at large? And that Federal Magistrate Judges are simply illustrious National Park Commissioners in black robes? Never has an adventure in law been so compelling for so many!

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Produced & distributed by Dan & Gail Meador, Ponca City, Oklahoma. The three memorandums are available on floppy disk for Macintosh or IBM & compatible. Contact Dan Meador, P.O. Box 2582, Ponca City, Oklahoma 74602; Phone 405/765-1415; FAX 405/765-1146.

Introduction

For years people dedicated to restoring constitutional government have been isolating and addressing what in many cases seemed to be bizarre allegations that a majority of the American population simply could not believe. Occasionally the charges asked ordinary people to view public servants almost as aliens from somewhere beyond Pluto.

"But they look just like we do, talk like we do ... how can these things be true?"

The three public notice memorandums contained in this work are designed in part to overcome skepticism: The one pertaining to the character of the Internal Revenue Service and application of the Internal Revenue Code has been published as legal public notice in Oklahoma, Nebraska and Montana, as well as a privately produced national magazine, so everything in it stands as presumed fact for all legal purposes. IRS and Department of Justice principals have not disputed any element of law or fact. The memorandum addressing the character and jurisdiction of United States District Courts, including the allegation that Federal Magistrate Judges are simply National Park Commissioners, will soon be published as legal notice in several States. And the memorandum on state statutory courts, which operate only in admiralty and vice-admiralty characters, will be published state-by-state as people in the several States adapt it to their respective States.

After reading the three public notice memorandums, the reason for asking the Chief Justice of the Oklahoma Supreme Court two penetrating questions will be clear: Have we exhausted judicial remedies? If we have, are the American people not entitled to do whatever is necessary to restore constitutional government?

Obviously, I'm not an attorney. As one attorney friend commented, if he were to introduce my allegations and evidence in the nation's courts, his professional corpse would be buried on some forgotten hill.

In the inner sanctums of State and Federal courts, it is the business of judges, government attorneys, and attorneys for entrenched powers to suppress, and if possible, purge case records of incriminating evidence. Experience with this conspiracy led to the conclusion that the only way to address it is publication in public forum as paid legal notice. Common law principle requires publishing any given instrument three times to establish presumed fact. If adverse parties fail to rebut any given element of law or fact, the presumption stands unless overcome with compelling authority in law.

When published presumed fact is entered into record via pleadings, judicial officers in statutory courts are required to take judicial notice. If they don't, and the contending party fails to produce legal authority which rebuts published presumed fact, both the judge and the contending party are exposed at law.

The historical record demonstrates that civil remedies have never effectively ended tyranny. If the evidence suggests criminal intent on the part of judicial officers, government attorneys, et al, they should be taken before grand juries, charged by indictment or presentment, then tried for crimes. The Nuremberg trials following World War II established modern precedent.

The letter to Chief Justice Wilson is being included to demonstrate how close America is to revolution. I didn't want to ask the two critical questions -- to date, she hasn't seen fit to answer them.

Ponca City -- August 1996

Public Notice

This memorandum will be construed to comply with provisions necessary to establish presumed fact (Rule 301, Federal Rules of Civil Procedure, and attending State rules) should interested parties fail to rebut 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, will be construed to have general application. A true and correct copy of this Public Notice is on file with and available for inspection at the newspaper responsible for publishing the instrument as legal notice. The memorandum addresses the character of the Internal Revenue Service and other agencies of the Department of the Treasury, and legal application of the Internal Revenue Code.

1. IRS Identity & Principal of Interest

In 1953, the Internal Revenue Service was created by the stroke of a pen when the Secretary of the Treasury changed the name of the Bureau of Internal Revenue (T.O. No. 150-29, G.M. Humphrey, Secretary of the Treasury, July 9, 1953). However, no congressional or presidential authorization for making this change has been located, so the source of authority had to originate elsewhere. Research to which IRS officials have acquiesced suggests that the Secretary exercised his authority as trustee of Puerto Rico Trust #62 (Internal Revenue) (see 31 USC § 1321), and as will be demonstrated, the Secretary does, in fact, operate as Secretary of the Treasury, Puerto Rico.

The solid link between the Internal Revenue Service and the Department of the Treasury, Puerto Rico, was first published in the September 1995 issue of *Veritas Magazine*, based on research by William Cooper and Wayne Bentson, both of Arizona. In October, a criminal complaint was filed in the office of W. A. Drew Edmondson, attorney general for Oklahoma, against an Enid-based revenue officer, and in the time since, IRS principals have failed to refute the allegation that IRS is an agency of the Department of Treasury, Puerto Rico. In November, criminal complaints were filed simultaneously with the grand jury for the United States district court for the District of Northern Oklahoma, Tulsa, and the office of Attorney General Edmondson, and both the office of the United States Attorney and IRS principals have yet to rebut the allegations in that instance (UNITED STATES OF AMERICA vs. Kenney F. Moore, et al, 95 CR-129C).

By consulting the index for Chapter 3, Title 31 of the United States Code, one finds that IRS and the Bureau of Alcohol, Tobacco and Firearms are not listed as agencies of the United States Department of the Treasury. The fact that Congress never created a "Bureau of Internal Revenue" is confirmed by publication in the Federal Register at 36 F.R. 849-890 [C.B. 1971 - 1,698], 36 F.R. 11946 [C.B. 1971 - 2,577], and 37 F.R. 489-490; and in Internal Revenue Manual 1100 at 1111.2.

Implications are condemning both to IRS and third parties who knowingly participate in IRS-initiated scams: No legitimate authority resides in or emanates from an office which was not legitimately created and/or ordained either by state or national constitutions or by legislative enactment. See variously, United States v. Germane, 99 U.S. 508 (1879), Norton v. Shelby County, 118 U.S. 425, 441, 6 S.Ct. 1121 (1866), etc., dating to Pope v. Commissioner, 138 F.2d 1006, 1009 (6th Cir. 1943); where the state is concerned, the most recent corresponding decision was State v. Pinckney, 276 N.W.2d 433, 436 (Iowa 1979).

Another direct evidence of the fraud is found at 27 CFR § 1, which prescribes basic requirements for securing permits under the Federal Alcohol Administration Act. The problem here is that Congress promulgated the Act in 1935, and the same year, the United States Supreme Court declared the Act unconstitutional. Administration of the Act was subsequently moved off-shore to Puerto Rico, along with the Federal Alcohol Administration, and operation eventually merged with the Bureau of Internal Revenue, Puerto Rico, which until 1938, along with the Bureau of Internal Revenue, Philippines, created by the Philippines provisional government via Philippines Trust #2 (internal revenue) (see 31 USC § 1321 for listing of Philippines Trust #2 (internal revenue)), administered the China Trade Act (licensing & revenue collection relating to opium, cocaine & citric wines). This line will be resumed after examining additional evidences concerning IRS and Commissioner of Internal Revenue authority.

Further verification that IRS does not have lawful authority in the several States is found in the Parallel Table of Authorities and Rules, beginning on page 751 of the 1995 Index volume to the Code of Federal Regulations. It will be found that there are no regulations supportive of 26 USC §§ 7621, 7801, 7802 & 7803 (these statute listings are absent from the table). In other words, no regulations have been published in the Federal Register, extending authority to the several States and the population at large, (1) to establish revenue districts within the several States, (2) extending authority of the Department of the Treasury [Puerto Rico] to the several States, (3) giving authority to the Commissioner of Internal Revenue and assistants within the several States, or (4) extending authority of any other Department of Treasury personnel to the several States.

Authority of the Internal Revenue Service, via the Commissioner of Internal Revenue, is convoluted in regulations, but makes an amount of sense by citing various regulations pertaining to the Service and application of the Commissioner's authority. General procedural rules at 26 CFR § 601.101(a) provide a beginning-point:

> (a) *General.* The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed...

The fact that there are no regulations extending Commissioner of Internal Revenue, or Department of the Treasury authority to the several States (26 USC § 7802(a)), has greater clarity in the light of the general merging of functions between IRS and other agencies presently attached to the Department of the Treasury. The Commissioner is given responsibility for issuing rules and regulations for the Code at 26 CFR § 301.7805-1, with approval of the Secretary, but there are no cites of authority for this CFR subpart, whether Treasury Order, publication in the Federal Register, or even statute cite. In other words, there is no actual or effective delegation which vests the Commissioner with significant independent authority which might be conveyed to IRS, BATF, Customs or any other Department of the Treasury agency with respect to powers extending to or affecting the several States and the population at large.

The link between IRS and the Bureau of Alcohol, Tobacco and Firearms is significant as the tie with the Bureau of Internal Revenue, Department of the Treasury, Puerto Rico, is through this door. Reorganization Plan No. 3 of 1940, Section 2, made the following change:

> § 2. Federal Alcohol Administration
>
> The Federal Alcohol Administration, the offices of the members thereof, and the office of the Administrator are abolished, and their function shall be administered under the direction and supervision of the Secretary of the Treasury through the Bureau of Internal Revenue in the Department of the Treasury.

Again, the Federal Alcohol Administration Act of 1935 was declared unconstitutional in 1935, and the operation thereafter transferred off shore to Puerto Rico. The name of the Bureau of Internal Revenue was changed to the Internal Revenue Service in 1953 (cite above), then the Bureau of Alcohol, Tobacco and Firearms, a division of the Internal Revenue Service, was seemingly separated from IRS (T.O. 120-01, June 6, 1972). In relevant part, the order reads as follows:

1. The purpose of this order is to transfer, as specified herein, the functions, powers and duties of the Internal Revenue Service arising under law relating to Alcohol, Tobacco, Firearms and Explosives including the Alcohol, Tobacco, and Firearms division of the Internal Revenue Service, to the Bureau of Alcohol, Tobacco and Firearms herein after referred to as the Bureau which is hereby established. The Bureau shall be headed by the Director of the Alcohol, Tobacco and Firearms herein referred to as the Director...
2. The Director shall perform the functions, exercise the powers and carry out the duties of the Secretary and the administration and the enforcement of the following provisions of law:
   A. Chapters 51 and 52 and 53 of the Internal Revenue Code of 1954 and Section 7652 and 7653 of such code insofar as they relate to the commodity subject to tax under such chapters.
   B. Chapter 61 to 80 inclusive to the Internal Revenue Code of 1954 insofar as they relate to activities administered and enforced with respect to chapters 51, 52, 53. (emphasis added)

Transfer of functions and duties of IRS to BATF relative to Internal Revenue Code Subtitle F (chapters 61 to 80) is important where the instant matter is concerned as the only regulations published in the Federal Register applicable to the several States are under 27 CFR, Part 70 and other parts of this title relating exclusively to alcohol, tobacco and firearms matters. However, the charade doesn't end there. In Reorganization Plan No. 1 of 1965 (5 USC § 903), the original Bureau of Customs, created by Act of Congress in 1895, was abolished and merged under the Secretary of the Treasury.

In a Treasury Order published in the Federal Register of December 15, 1976, the Secretary of the Treasury used something of a slight of hand to confuse matters more by determining, "The term Director, Alcohol, Tobacco, and Firearms has been replaced with the term Internal Revenue Service."

Obviously, it is impossible to replace a person with a thing when it comes to administrative responsibility. However, the order demonstrates that IRS and BATF are one and the same, merely operating with interchangeable hats. Therefore, definitions and designations applicable to one are applicable to the other.

In definitions at 27 CFR § 250.11, the following provisions are found:

> *Revenue Agent.* Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.
>
> *Secretary.* The Secretary of the Treasury of Puerto Rico.
>
> *Secretary or his delegate.* The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

In the absence of any other definition describing revenue officers and agents, the Secretary, or the Department of the Treasury, definitions above are uniformly applicable to all IRS and BATF departments, functions and personnel. In fact, it will be found that even petroleum tax prescribed in Subtitle D of the Internal Revenue Code applies only to United States territorial jurisdiction exclusive of the several States and to imported petroleum. BATF has authority only with respect to firearms, munitions, etc., produced outside the several States and the first sale of imports.

The two delegations of authority to the Commissioner of Internal Revenue thus far located tend to reinforce conclusions set out above. Treasury Department Order No. 150-42, dated July 27, 1956, appearing in at 21 Fed. Reg. 5852, specifies the following:

> The Commissioner shall, to the extent of the authority vested in him, provide for the administration of United States internal revenue laws in the Panama Canal Zone, Puerto Rico and the Virgin Islands.

On February 27, 1986 (51 Fed. Reg. 9571), Treasury Department Order No. 150-01 specified the following:

> The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the U.S. Territories and insular possessions and other authorized areas of the world.

To date only three statutes in the Internal Revenue Code of 1986, as currently amended, have been located that specifically reference the several States, exclusive of the federal States (District of Columbia, Puerto Rico, Guam, the Virgin Islands, etc.): 26 USC §§ 5272(b), 5362© & 7462. The first two provide certain exemptions to bond and import tax requirements relating to imported distilled spirits for governments of the several States and their respective political subdivisions, and the last provides that reports published by the United States Tax Court will constitute evidence of the reports in courts of the United States and the several States. None of the three statutes extend assessment or collections authority for IRS or BATF within the several States.

IRS is contracted to provide collection services for the Agency for International Development, and case law demonstrates that the true principals of interest are the International Monetary Fund and the World Bank (Bank of the United States v. Planters Bank of Georgia, 6 L.Ed (Wheat) 244; U.S. v. Burr, 309 U.S. 242; see 22 USCA § 286, et seq.). In other words, IRS seemingly provides collection services for undisclosed foreign principals rather than collecting internal revenue for the benefit of constitutional United States government operation. To date, IRS principals have failed to dispute the published Cooper/Bentson allegation that the agency, via these foreign principals, funded the enormous tank and military truck factory on the Kama River, Russia.

The Internal Revenue Service, a foreign entity with respect to the several States, is not registered to do business in the several States.

2 *Preservation of Due Process Rights*

The Internal Revenue Service has for years been protected by statutory courts both of the United States and the several States, with the latter operating in the framework of adopted uniform laws which ascribe a federal character to the several States. Both operate under the presumption of Congress' Article IV jurisdiction within the geographical United States (the District of Columbia, Puerto Rico, etc.), both accommodate private international law under exclusively United States treaties on private international law, and both operate in the framework of admiralty rules to impose Civil Law (see both majority & dissenting opinions variously, Bennis v. Michigan, U.S. Supreme Court No. 94-8729, March 4, 1996), which is repugnant to both state and national constitutions (see authority of Department of Justice as representative of the "Central Authority" established by U.S. treaties on private international law at 28 CFR § 0.49; also, "conflict of law" as a subcategory to "statutes" in American Jurisprudence). However, this house of cards will shortly fall as Cooperative Federalism, known as

Corporatism well into the 1930s, has been thoroughly documented and is rapidly being exposed via state and United States appellate courts and in public forum.

In reality, the Internal Revenue Code preserves due process rights, but the statute has been dormant until recently:

[Sec. 7804(b)]

> (b) PRESERVATION OF EXISTING RIGHTS AND REMEDIES.—Nothing in Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952 shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

The reorganization plans of 1950 & 1952 were implemented via the Internal Revenue Code of 1954, Volume 68A of the Statutes at Large, and codified as title 26 of the United States Code. Savings statutes have been in place since the beginning, but generally not understood by the general population or the legal profession. The statute set out above is easier to comprehend when references are consolidated. Further, the dependent clause "including trial by jury" relates to a constitutionally-assured right, not a remedy, so it should be moved to the proper location in the sentence. Finally, the matter of venue is important as "existing law" is constitutional and common law indigenous to the several States. In the absence of legitimate federal law which extends to the several States, those who operate under color of law, engage in oppression, extortion, etc., are subject to the foundation law of the States. Venue is determined by the law of legislative jurisdiction.

Citing "including trial by jury" preserves the full slate of due process rights included in Fourth, Fifth, Sixth, Seventh and Fourteenth Amendments to the Constitution for the united States of America and corresponding provisions in constitutions of the several States. The example represents the class.

Additionally, note that, (1) actions may issue against bogus assessments as well as collections, and (2) § 7804(b), unlike § 7433, does not presume that the complaining party is a "taxpayer". Finally, there is 26 CFR, Part 1 regulatory support for § 7804 where there are no regulations published in the Federal Register in support of § 7433 (see Parallel Table of Authorities and Rules, beginning on page 751 of the Index volume to the Code of Federal Regulations). Therefore, § 7804(b) preserves rights and determines the nature of civil actions for remedies in the several States. When straightened out, applicable portions of § 7804(b) read as follows:

> Nothing in [the Internal Revenue Code] shall be considered to impair any right, [including trial by jury], or remedy, [***], to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected ... The venue of any such action shall be the same as under existing law.

The necessity of due process is implicitly preserved by 28 USC § 2463, which stipulates that any seizure under United States revenue laws will be deemed in the custody of the law and subject solely to disposition of courts of the United States with proper jurisdiction. In other words, even if IRS had legitimate authority in the several States, the agency would of necessity have to file a civil or criminal complaint prior to garnishment, seizure or any other action adversely affecting the life, liberty or property of any given person, whether a Fourteenth Amendment citizen-subject of the United States or a Citizen principal of one of the several States. Due process assurances in the Fifth and Fourteenth Amendments do not equivocate—administrative seizures without due process can be equated only to tyranny and barbarian rule. Further, even regulations governing IRS conduct acknowledge and therefore preserve Fifth Amendment assurances at 26 CFR § 601.106(f)(1).

> (1) *Rule 1.* An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution. Accordingly, an Appeals representative in his or her conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction. It shall be his or her duty to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.

Even officers, agents and employees of United States agencies are assured due process where garnishment is concerned (5 USC § 5520a), so the notion that IRS has authority to execute garnishment and other seizures via the private sector without due process is clearly absurd. In the English-American lineage, due process has always been deemed to mean trial by jury under rules of the common law indigenous to the several States; the de jure people of America are not subject to admiralty or administrative tribunals.

Where officers, agents and employees of the Internal Revenue Service are concerned, there can be no plea of ignorance concerning the necessity of due process as the Handbook for Revenue Agents, at paragraph 332: (1), provides the following:

> During the course of administratively collecting a tax, an occasion may arise where service of a levy or a notice of levy is not adequate to seize the property of a taxpayer. It cannot be emphasized too strongly that constitutional guarantees and individual rights must not be violated. Property should not be forcibly removed from the person of the taxpayer. Such conduct may expose a revenue officer to an action in trespass, assault and battery, conversion, etc.

The provision acknowledges the Supreme Court decision in Larson v. Domestic and Foreign Commerce Corp. 337 U.S. 682 (1949).

In sum, the mandate for due process, meaning initiatives through judicial courts with proper jurisdiction, is clearly antecedent to imposition of administratively-issued liens, except where licensing agreements obligate assets, or seizures, whether by garnishment, attachment of bank accounts, administrative seizure and sale of real or private property, or any other initiative that compromises life, liberty or property.

3. *Current Internal Revenue Code & Internal Revenue Code of 1939 Are Same*

Consult 26 USC §§ 7851 & 7852 to verify that the Internal Revenue Code of 1954, as amended in 1986 and since, simply reorganized the Internal Revenue Code of 1939. Read § 7852(b) & (c), then read the balance of §§ 7851 & 7852 for best comprehension.

The importance of making this connection rests on the fact that the Internal Revenue Code of 1939 was merely codification of the Public Salary Tax Act of 1939. There was no general income tax levied against the population at large in 1939 or since. The Public Salary Tax Act of 1939, which in the Internal Revenue Code of 1939 incorporated the Social Security tax activated after 1936, was premised on the notion that working for federal government is a

privilege. Income and related taxes prescribed in Subtitles A & C of the current Internal Revenue Code have never been mandatory for anyone other than officers, agents and employees of the United States, as identified at 26 USC § 3401(c), and agencies of the United States, identified at § 3401(d), particularized at 5 USC §§ 102 & 105.

The privilege tax is an excise rather than direct tax—the Sixteenth Amendment, fraudulently promulgated in 1913, did not alter or repeal constitutional provisions which require all direct taxes to be apportioned among the several States (Constitution, Article I §§ 2.3 & 9.4). In Eisner v. Macomber, 252 U.S. 189 (1918), Coppage v. Kansas, 236 U.S. 1, and numerous decisions since, the United States Supreme Court has repeatedly affirmed that for purposes of income tax, wages and other returns from enterprise of common right are property, not income. In fact, returns from enterprise of common right are fundamental to all property, and the sanctity is preserved as a fundamental common law principle dating to signing of the Magna Charta in 1215.

The nature of Subtitles A & C taxes is revealed at 26 CFR § 31.3101-1: "The employee tax is measured by the amount of wages received after 1954 with respect to employment after 1936..."

In other words, the wage is not the object, but merely the measure of the tax. This verbiage constitutes so much legalese in an effort to circumvent the duck test, but the fact that taxes collected by the Internal Revenue Service fall into the excise category was confirmed by the Comptroller General's report following the initial effort to audit IRS (GAO/T-AIMD-93-3). It is further suggested at 26 CFR § 106.401(a)(2), where the regulation concedes that, "The descriptive terms used in this section to designate the various classes of taxes are intended only to indicate their general character..."

By referencing the Parallel Table of Authorities and Rules, cited above, it is found that the definition of "gross income" is still preserved in Section 22 of the Internal Revenue Code of 1939, thus cementing the link between the Code of 1939 and Subtitles A & C of the Code of 1954, as amended in 1986 and since. The Internal Revenue Code of 1939 merely codified the Public Salary Tax Act of 1939. This link is further confirmed in Senate Committee On Finance and House Committee On Ways and Means reports No. H.R. 8300 (1954, Internal Revenue Code), in which § 22 of the Internal Revenue Code of 1939 and § 61 of the Internal Revenue Code of 1954 (current code) were solidly linked. Both reports stipulate that the current definition of "gross income" is intended to be constitutional.

This intent is articulated at 26 CFR § 1.61-1(a): "Gross income means all income from whatever source derived, unless excluded by law."

An "Act of Congress" is policy, not law, and per definition located in Rule 54, Federal Rules of Criminal Procedure, has only local application in the District of Columbia and other United States territories and insular possessions unless general application is manifestly expressed: Rule 54(c) -- "'Act of congress' includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession."

Where the Internal Revenue Code of 1954 is concerned (Vol. 68A, Statutes at Large, p. 3), the legislation is in fact styled, "An Act" "To revise the internal revenue laws of the United States."

As demonstrated above, wages and other returns from enterprise of common right are exempt from direct tax by fundamental law, and the regulation for the current Internal Revenue Code definition for "gross income" clearly articulates the fundamental law exemption.

The exemption as it pertains to the several States is demonstrated by referencing the Parallel Table of Authorities and Rules (Index volume to the CFR, p. 751 of the 1995 edition): There are 26 CFR, Part 1 regulations listed for 26 USC §§ 61 & 62, the latter being the definition for adjusted gross income, but there is no 26 CFR, Part 1 or 31 regulation for 26 USC § 63, the definition for taxable income.

While definitions for gross and adjusted gross income are clearly antecedent to the definition of taxable income, they have no legal effect if there is no taxing authority—adjusted gross income which is not taxable within the several States is of no consequence where the federal tax system is concerned.

Further, on examination of 26 CFR § 1.62-1, pertaining to "adjusted gross income", it is found that subsections (a) & (b) are reserved so the published regulation is incomplete, with "temporary" regulation § 1.62-1T serving as the current authority defining "adjusted gross income." Temporary regulations have no legal effect.

Definitions at § 3401, Vol. 68A of the Statutes at Large (the Internal Revenue Code of 1954), make it clear that, (§ 3401(a)(A)), "a resident of a contiguous country who enters and leaves the United States at frequent intervals..," is a nonresident alien of the United States (citizens and residents of the several States included), and the exclusion from "wages" extends even to citizens of the United States who provide services for employers "other than the United States or an agency thereof" (§ 3401(a)(8)(A)).

4. *The Employer or Agent is Liable*

Volume 68A of the Statutes at Large, the Internal Revenue Code of 1954, makes it perfectly clear who is "liable" for payment of Subtitles A & C taxes:

> SEC. 3504. ACTS TO BE PERFORMED BY AGENTS.
>
> In case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Secretary of his delegate, under regulations prescribed by him, is authorized to designate such fiduciary, agent, or other person to perform such acts as are required by employers under this subtitle and as the Secretary or his delegate may specify. Except as may be otherwise prescribed by the Secretary or his delegate, all provisions of law (including penalties) applicable in respect to an employer shall be applicable to a fiduciary, agent, or other person so designated, but, except as so provided, the employer for whom such fiduciary, agent, or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect to employers.

The liability is further clarified at Vol. 68A, Sec. 3402(d):

> (d) TAX PAID BY RECIPIENT.—If the employer, in violation of the provisions of this chapter, fails to deduct and withhold the tax under this chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect to such failure to deduct and withhold.

These provisions from Vol. 68A of the Statutes at Large comply with and verify liability set out at 26 CFR, Part 601, Subpart D in general. Further, territorial limits of application are made clear by the absence of regulations supporting 26 USC §§ 7621, 7802, etc., which are the statutes authorizing establishment of internal revenue districts and delegations of authority to the Commissioner of Internal Revenue and assistants. The fact that the liability falls to the "employer" (26 USC § 3401(d)) and/or his agent, with no compensation for serving as "tax collector," narrows the field to federal government entities as "employers" if for no other reason than the population at large is not subject to the edict of government officials. As a matter of course, government cannot compel performance where the general population is

concerned. The subject class that has "liability" for Subtitles A & C taxes is the "employer" or his agent, fiduciary, etc., as specified above.

The matter is further clarified in Sections 3403 & 3404 of Vol. 68A, Statutes at Large:

SEC. 3403. LIABILITY FOR TAX.

> The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment.

> SEC. 3404. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

> If the employer is the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

The territorial application, and limitation, is made clear by definitions in Title 26 of the Code of Federal Regulations, as follows:

> §31.3121(3)-1 State, United States, and citizen.

> (a) When used in the regulations in this subpart, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa.

> (b) When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term "United States" also includes Guam and American Samoa when the term is used in a geographical sense. The term "citizen of the United States" includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

Definition of the terms "includes" and "including" located at 26 USC § 7701© provides the limiting authority which the above definitions, beyond constructive application, are subject to:

> © INCLUDES AND INCLUDING.—The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Two principles of law clarify definition intent: (1) The example represents the class, and (2) that which is not named is intended to be omitted. In the definition of "United States" and "State" set out above, all examples are of federal States, and are exclusive of the several States, with the transition of Alaska and Hawaii from the included to the excluded class proving the point. This conclusion is reinforced by the absence of regulations which extend authority to establish revenue districts in the several States (26 USC § 7621), authority for the Department of the Treasury [Puerto Rico] in the several States (26 USC § 7801), and no grant of delegated authority for the Commissioner of Internal Revenue, assistant commissioners, or other Department of the Treasury personnel (26 USC § 7802 & 7803).

5. Lack of Regulations Supporting General Application of Tax

Here again, the Parallel Table of Authorities and Rules is useful as it demonstrates that Subtitles A & C taxes do not have general application within the several States and to the population at large. The regulation for 26 USC § 1 refers to 26 CFR § 301, but that amounts to a dead end—there is no regulation under 26 CFR, Part 1 or 31 which would apply to the several States and the population at large. Further, there are no supportive regulations at all for 26 USC §§ 2 & 3, and of considerable significance, no regulations supporting corporate income tax, 26 USC § 11, as applicable to the several States.

Where the instant matter is concerned, regulations supporting 26 USC § 6321, liens for taxes, and § 6331, levy and distraint, are under 27 CFR, Part 70. The importance here is that Title 27 of the Code of Federal Regulations is exclusively under Bureau of Alcohol, Tobacco and Firearms administration for Subtitle E and related taxes. There are no corresponding regulations for the Internal Revenue Service, in 26 CFR, Part 1 or 31, which extend comparable authority to the several States and the population at large.

The necessity of regulations being published in the Federal Register is variously prescribed in the Administrative Procedures Act, at 5 USC § 552 et seq., and the Federal Register Act, at 44 USC § 1501 et seq. Of particular note, it is specifically set out at 44 USC § 1505(a), that when regulations are not published in the Federal Register, application of any given statute is exclusively to agencies of the United States and officers, agents and employees of the United States, thus once again confirming application of Subtitles A & C tax demonstrated above. Further, the need for regulations is detailed in 1 CFR, Chapter 1, and where the Internal Revenue Service is concerned, 26 CFR § 601.702.

The need for regulations has repeatedly been affirmed by the Supreme Court of the United States, as stated in California Bankers Ass'n. v. Schultz, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed.2d 812 (1974):

> Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone ... The government argues that since only those who violate regulations may incur civil and criminal penalties it is the regulations issued by the Secretary of the Treasury and not the broad, authorizing language of the statute, which is to be tested against the standards of the 4th Amendment...

Because there is a citation supporting these statutes applicable under Title 27 of the Code of Federal Regulations, it is important to point out that, "Each agency shall publish its own regulations in full text," (1 CFR § 21.21(c)), with further verification that one agency cannot use regulations promulgated by another at 1 CFR § 21.40. To date, no corresponding regulation has been found for 26 CFR, Part 1 or 31, so until proven otherwise, IRS does not have authority to perfect liens or prosecute seizures in the several States as pertaining to the population at large.

6. Misapplication of Authority

Regulations pertaining to seized property are found at 26 CFR § 601.326:

> Part 72 of Title 27 CFR contains the regulations relative to the personal property seized by officers of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms as subject to forfeiture as being used, or intended to be used, to violate certain Federal Laws; the remission or mitigation of such

> forfeiture; and the administrative sale or other disposition, pursuant to forfeiture, of such seized property other than firearms seized under the National Firearms Act and firearms and ammunition seized under title 1 of the Gun Control Act of 1968. For disposal of firearms and ammunition under Title 1 of the Gun Control Act of 1968, see 18 U.S.C. 924(d). For disposal of explosives under Title XI of Organized Crime Control Act of 1970, see 18 U.S.C. 844©.

The only other comparable authority thus far found pertains to windfall profits tax on petroleum (26 CFR § 601.405), but once again, application is not supported by regulations applicable to the several States and the population at large.

Where the provision for filing 1040 returns is concerned, the key regulatory reference is at 26 CFR § 601.401(d)(4), and this application appears related to "employees" who work for two or more "employers", receiving foreign-earned income effectively connected to the United States. The option of filing a 1040 return for refund is mentioned in instructions applicable to United States citizens and residents of the Virgin Islands, but to date has not been located elsewhere. Reference OMB numbers for § 601.401, listed on page 170, 26 CFR, Part 600-End, cross referenced to Department of Treasury OMB numbers published in the Federal Register, November 1995, for foreign application.

The fact that 1040 tax return forms are optional and voluntary, with special application, is further reinforced by Delegation Order 182 (reference 26 CFR §§ 301.6020-1(b) & 301.7701). The Secretary or his delegate is authorized to file a Substitute for Return for the following: Form 941 (Employer's Quarterly Federal Tax Return); Form 720 (Quarterly Federal Excise Tax Return); Form 2290 (Federal Use Tax Return on Highway Motor Vehicles); Form CT-1 (Employer's Annual Railroad Retirement Tax Return); Form 1065 (U.S. Partnership Return of Income); Form 11-B (Special Tax Return - Gaming Services); Form 942 (Employer's Quarterly Federal Tax Return for Household Employees); and Form 943 (Employer's Annual Tax Return for Agricultural Employees).

The "notice of levy" instrument forwarded to various third parties is not a "levy" which warrants surrender of property. The Internal Revenue Code, at § 6335(a), defines the "notice" instrument by use—notice is to be served to whomever seizure has been executed against after the seizure is effected. In short, the notice merely conveys information, it is not cause for action. The term "notice" is clarified by definition in Black's Law Dictionary, 6th Edition, and other law dictionaries. Use of the "notice of levy" instrument to effect seizure is fraud by design.

Proper use of the "notice" process, administrative garnishment, et al, is specifically set out in 5 USC § 5514, as being applicable exclusively to officers, agents and employees of agencies of the United States (26 USC § 3401©). Even then, however, the process must comply with provisions of 31 USC § 3530(d), and standards set forth in §§ 3711 & 3716-17. In accordance with provisions of 26 CFR, Part 601, Subpart D, the employer, meaning the United States agency the employee is employed by, is responsible for promulgating regulations and carrying out garnishment.

Even if IRS was the agency responsible for collecting from an "employee," due process would be required, as noted above, so authority to collect would ensue only after securing a court order from a court of competent jurisdiction, which in the several States would mean a judicial court of the State. In law, however, there is no authority for securing or issuing a Notice of Distraint premised on non-filing, bogus filing, or any other act relating to the 1040 return. See United States v. O'Dell, Case No. 10188, Sixth Circuit Court of Appeals, March 10, 1947. In G.M. Leasing Corp. v. United States, 429 U.S. 338 (1977), the United States Supreme Court held that a judicial warrant for tax levies is necessary to protect against unjustified intrusions into privacy. The Court further held that forcible entry by IRS officials onto private premises without prior judicial authorization was also an invasion of privacy.

7. Liability Depends on a Taxing Statute

General demands for filing tax returns, production of records, examination of books, imposition and payment of tax, etc., are of no consequence to the point a taxing statute (1) defines what tax is being imposed, and (2) the basis of liability. In other words, even if the Internal Revenue Service was a legitimate agency of the United States Department of the Treasury and had authority in the several States, the Service would have to be specific with respect to what tax was at issue and would have to demonstrate the tax by citing a taxing statute with the necessary elements to establish that any given person was obligated to pay any given tax.

This mandate has been clarified by the courts numerous times, with the matter definitively stated by the Tenth Circuit Court of Appeals in United States v. Community TV, Inc., 327 F.2d 797, at p. 800 (1964):

> Without question, a taxing statute must describe with some certainty the transaction, service, or object to be taxed, and in the typical situation it is construed against the Government. Hassett v. Welch, 303 U.S. 303, 58 S.Ct. 559, 82 L.Ed.858

In other words, to the point Service personnel produce the statute which mandates a certain tax and which specifies, "... the transaction, service, or object to be taxed..." the burden of proof lies with the Government, with the consequence being that no obligation or civil or criminal liability can ensue to the point a taxing statute that meets the above requirements is in evidence.

This conclusion is supported by the statute which provides the underlying requirements for keeping records, making statements, etc., located at 26 USC § 6001:

> 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 comply with such rules and regulations as the Secretary may from time to time prescribe. 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, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employee shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

The control statute for Subtitle F, Chapter 61, Subchapter A, Part I, concerning records, statements, and special returns, clearly returns the matter to the "employee" defined at § 3401(c), and the "employer" defined at § 3401(d). In general, however, (1) the Secretary must provide direct notice to whomever is required to keep books, records, etc., as being the "person liable," or (2) specify the person liable by regulation. In the absence of notice by the Secretary, based on a taxing statute which makes such a person liable according to provisions stipulated in United States v. Community TV, Inc., Hassett v. Welch, and other such cases, or regulations which specifically set establish general liability, there is no liability.

Sec. 6001 also exempts "employees" from keeping records except where tips and the like are concerned. This is consistent with constructive demonstration that "employers" rather than "employees" are required to file returns, as opposed to paying deducted amounts as income tax returns, constructively demonstrated in a previous section of this memorandum and specifically articulated in 26 CFR § 601.104. Clarification via 26 USC § 6053(a) is as follows:

> (a) REPORTS BY EMPLOYEES.—Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) or

which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary.

Unraveling § 6001 straightens out the meaning of § 6011, which requires filing returns, statements, etc., by the person made liable (§ 3401(d)), as distinguished from the person required to make returns (payments) at § 6012 (§ 3401(c)). Even though a person might be a citizen or resident of the United States employed by an agency of the United States, and thereby be required to return a prescribed amount of United States-source income, he is not the person liable under § 6011 and attending regulations.

The "method of assessment" prescribed at 26 USC § 6303 is therefore dependent on the taxing statute and must rest on authority specifically conveyed by a taxing statute which prescribes liability where the Secretary (1) has provided specific notice, including the statute and type of tax being imposed, or (2) supports assessment by regulatory application. In the absence of one or the other, an assessment by the Secretary is of no consequence as it is not legally obligating.

The requirement for the Secretary to provide notice to whomever is responsible for collecting tax, keeping records, etc., is clarified at 26 CFR § 301.7512-1, particularly (a)(1)(i), relating to "employee tax imposed by section 3101 of chapter 21 (Federal Insurance Contributions Act)," and (a)(1)(iii), relating to "income tax required to be withheld on wages by section 3402 of chapter 24 (Collection of Income Tax at Source on Wages)..." The person liable is the employer or the employer's agent, and of particular significance, it is this "person" who is subject to civil and particularly criminal penalties (26 CFR § 301.7513-1(f); 26 CFR §§ 301.7207-1 & 301.7214-1, etc.). Officers and employees of the United States are specifically identified as being liable at 26 USC § 301.7214-1.

The matter of who is required to register, apply for licenses, or otherwise collect and/or pay taxes imposed by the Internal Revenue Code is ultimately and finally put to rest under "Licensing and Registration", 26 USC §§ 301.7001-1, et seq. Each of the categories so addressed has liability based on some particular taxing statute which creates liability.

8. The Necessity of Administrative Process

The requirement for a specific taxing statute, with 26 USC § 6001 clearly providing the first leg in necessary administrative procedure to determine liability, was addressed at length in Rodriguez v. United States, 629 F.Supp.333 (N.D.Ill. 1986). Presuming (1) the Secretary has provided the necessary notice, or (2) a regulation prescribes general application which makes any given person liable for a tax and requires tax return statements to be filed, each step in administrative process prescribed by 26 USC §§ 6201, 6212, 6213, 6303 and 6331 must be in place for seizure or any other encumbrance to be legal.

Here again, regulations published in the Federal Register are significant, with provisions of 5 USC § 552 et seq., 44 USC § 1501 et seq., 1 CFR, Chapter I, and 26 CFR, Part 601 all supporting the mandate for regulations to be published in the Federal Register before they have general application. It will be noted by referencing the Parallel Table of Authorities and Rules, beginning on page 751 of the 1995 Index volume to the Code of Federal Regulations, that application by regulation to the several States is only under Title 27 of the Code of Federal Regulations, or that there are no regulations published in the Federal Register. The following entries, or non-entries, are found:

26 USC § 6201	Assessment authority 27 CFR, Part 70
26 USC § 6212	Notice of deficiency No Regulation
26 USC § 6213	Restrictions applicable to deficie petition to Tax Court No Regulation
26 USC § 6303	Notice and Demand for Tax 27 CFR, Part 53, 70
26 USC § 6331	Levy and distraint 27 CFR, Part 70

The assessment authority under 26 USC § 6201, in relevant part as applicable to Subtitles A & C taxes, are as follows:

> (a) AUTHORITY OF SECRETARY.—The Secretary is authorized and required to make the inquires, determination, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:
>
> (1) TAXES SHOWN ON RETURN.—The secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.
>
> (3) ERRONEOUS INCOME TAX PREPAYMENT CREDITS.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.
>
> (b) AMOUNT NOT TO BE ASSESSED.—
>
> (1) ESTIMATED INCOME TAX.—No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.
>
> (2) FEDERAL EMPLOYMENT TAX.—No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.
>
> (d) DEFICIENCY PROCEEDINGS.—
>
> For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B. [emphasis added]

The grant of assessment authority with respect to taxes prescribed in Subtitles A & C is limited to provisions set out above even where the Service might have authority relating to those made liable for the tax, meaning the "employer" specified at 26 USC § 3401(d). Clearly, returns made either by the agent of the United States agency required to file a return, or the Secretary, are to be evaluated mathematically, and errors are to be treated as clerical errors, nothing more. The Secretary has no authority to assess estimated income tax (individual estimated income tax at § 6654; corporation estimated income tax at § 6655), or unemployment tax (§ 6157). For all practical purposes, the trail effectively ends here.

9. The Impossibility of Effective Contract/Election

In order for there to be an opportunity for a nonresident alien of the United States (a Citizen of one of the several States) to elect to be taxed or treated as a citizen or resident of the United States, one or the other of a married couple, or the single "individual" making the election, must be a citizen or resident of the United States (26 USC § 6013(g)(3)). Some party must in some way be connected with a "United States trade or business" (performance of the functions of a

public office (26 USC § 7701(a)(26)). A nonresident alien never has self-employment income (26 CFR § 1.1402(b)-1(d)). In the event that a nonresident alien is an "employee" (26 USC § 3401©), the "employer" (26 USC § 3401(d)) is liable for collection and payment of income tax (26 CFR § 1.1441-1). And in order for real property to be treated as effectively connected with a United States trade or business by way of election, it must be located within the geographical United States (26 USC § 871(d)).

Provisions cited above preclude any and all legal authority for Citizens of the several States, or privately owned enterprise located in the several States, to participate in federal tax and benefits programs prescribed in Subtitles A & C of the Internal Revenue Code and companion legislation such as the Social Security Act which provide benefits from the United States Government, which is a foreign corporation to the several States.

Summary & Conclusion

This memorandum is not intended to be exhaustive, but merely sufficient to support causes set out separately. The most conspicuous conclusions of law are that Congress never created a Bureau of Internal Revenue, the predecessor of the Internal Revenue Service; Subtitles A & C of the Internal Revenue Code prescribe excise taxes, mandatory only for employees of United States Government agencies; the Internal Revenue Service, within the geographical United States where the Service appears to have colorable authority, is required to use judicial process prior to seizing or encumbering assets; and the law demonstrates that people of the several States, defined as nonresident aliens of the self-interested United States in the Internal Revenue Code, cannot legitimately elect to be taxed or treated as citizens or residents of the United States. If a Citizen of one of the several States works for an agency of the United States or receives income from a United States "trade or business" or otherwise effectively connected with the United States, the employer or other third party responsible for payment is made liable for withholding taxes at the rate of 30% or 14%, depending on classification, and is thus "the person liable" and may be subject to Internal Revenue Service initiatives, with administrative initiatives, where seizure and/or encumbrance actions are concerned, subject to judicial determinations by courts of competent jurisdiction.

Under penalties of perjury, per 28 USC § 1746(1), I attest that to the best of my knowledge and understanding, all matters of law and fact presented herein are accurate and true.

/s/ Dan Meador - P.O. Box 2582, Ponca City, Okla. 74602

Under penalties of perjury, per 28 USC § 1746(1), I attest that this is a true and correct copy of the "Public Notice" memorandum which published the first of three times in Thayer County, Nebraska on June 12, 1996, the first of three times on June 20, 1996 in the Whitefish, Montana county newspaper, and the first of three times in *The Journal Record*, Oklahoma City, Oklahoma County, Oklahoma, the first of three times on June 20, 1996. I also attest that I have copies of these publications, including all three copies published in *The Journal Record*, and the certification of legal publication from *The Journal Record* principals. Finally, I attest that to date, no principal of the Internal Revenue Service or of the United States Government or any third party has contested any matter of law or fact set forth in the Public Notice memorandum set out above.

Dan Meador

Dan Meador, July 9, 1996

THE JOURNAL RECORD

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STATE OF OKLAHOMA
COUNTY OF OKLAHOMA } ss.

I, of lawful age, being duly sworn, am a legal representative of The Journal Record of Oklahoma City, Oklahoma, a daily newspaper of general circulation in Oklahoma County, Oklahoma, printed in the English Language and published in the City of Oklahoma City, in Oklahoma County, State of Oklahoma, continuously and uninterruptedly published in the County for a period of more than 104 consecutive weeks prior to the first publication of the attached notice, and having a paid general subscription circulation therein and with admission to the United States mails as paid second-class mail matter.

That said notice, a true copy of which is attached hereto, was published in the regular edition of said newspaper during the period and time of publication and not in a supplement, on the ABOVE LISTED DATE(S).

Linda Clark
(Representative Signature)

Subscribed and sworn to before me this 3 day of July 1996

Notary Public

My Commission expires: 1-22-99

Invoice Number
0017388

$ 2,700.0

Federal Judicial Authority in the Several States

A Memorandum, by Dan Meador

This memorandum will be construed to comply with provisions necessary to establish presumed fact (Rule 301, Federal Rules of Civil Procedure, and attending State rules) should interested parties fail to rebut any given allegation of fact 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, will be construed to have general application. The memorandum addresses jurisdiction of United States district courts and related agencies of the United States Government.

Part I -- Foundation of Law, Jurisdiction Principles & History

In the American system of Government, the Separation of Powers Doctrine works in two ways: First, it assures separation between the three branches of government, the branches being legislative, executive, and judicial. Second, the Doctrine effects vertical separation between operation of state and national governments, or put another way, operation of the Government of the United States and governments of the several States party to the Constitution for the united States of America.

In this system, as asserted by American Founders in the Declaration of Independence, all men are created equal, and are equally endowed by their Creator with certain unalienable or inherent rights, those listed in the Declaration of Independence being the right to life, liberty and the pursuit of happiness, or in the less poetic phrasing of the Fifth Amendment to the national constitution, life, liberty and property. This list, of course, is not exhaustive, as articulated in the Ninth and Tenth Amendments to the Constitution, and all, individually and collectively, are accountable in the framework of "the laws of Nature and Nature's God." The phrase in modern terms is better understood as physical and moral law. Man cannot author or amend the laws of Nature and Nature's God, but is directly accountable in the framework of cause and effect, or where moral law is concerned, cause and consequence.

By establishing these principles prior to addressing reasons for and power and operation of Government, American founders preserved the essence of English and American-lineage common law which evolved and was proven by cultural experience over many hundreds of years (the Magna Charta, drafted and signed by King John in 1215 is commonly recognized as the point of demarcation so far as formal proclamation of common rights). The foundation was basically biblical, with the understanding that people are individually created and are therefore individually accountable to God. Even when Government encroaches on the special relationship between man and God, man is still accountable individually and collectively, and he invariably suffers the consequences of tyranny.

The Founders went on to say governments are established among men for the sole purpose of securing inherent rights, and governments so established may rule only by consent of the governed.

In July 1776, the notion of specifically delegated authority conveyed by constitutions was well understood as the English considered the Magna Charta and subsequent similar documents to be elements of their unwritten constitution. On the other hand, American colonies had continuing experience with written constitutions for civil government which began in 1636 (Massachusetts).

Lowell H. Becraft, Jr., an attorney from Huntsville, Alabama, addresses historical events leading to the American Revolution in his privately distributed memorandum on federal jurisdiction as follows:

The original thirteen colonies of America were each separately established by charters from the English Crown. Outside of the common bond of each being a dependency and colony of the mother country, England, the colonies were not otherwise united. Each had its own governor, legislative assembly and courts, and each was governed separately and independently by the English Parliament.

The political connections of the separate colonies to the English Crown and Parliament descended to an unhappy state of affairs as the direct result of Parliamentary acts adopted in the late 1760's and early 1770's. Due to the real and perceived dangers caused by these various acts, the First Continental Congress was convened by representatives of the several colonies in October, 1774, the purpose of which was to submit a petition of grievances to the British Parliament and Crown. By the Declaration and Resolves of the First Continental Congress, dated October 14, 1774, the colonial representatives labeled these Parliamentary acts of which they complained as "impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights," and the purpose of which were designs, schemes and plans "which demonstrate a system formed to enslave America." Revolution was assuredly in the formative stages absent conciliation between the mother country and colonies.

Between October, 1775, and the middle of 1776, each of the colonies separately severed their ties and relations with England, and several adopted constitutions for the newly formed States. By July, 1776, the exercise of British authority in any and all colonies was not recognized in any degree. The capstone of this actual separation of the colonies from England was the more formal Declaration of Independence.

The legal effect of the Declaration of Independence was to make each new State a separate and independent sovereign over which there was no other government of superior power or jurisdiction. This was clearly shown in M'Ilvaine v. Coxe's Lessee, 8 U.S. (4 Cranch) 209, 212 (1808), where it was held:

> This opinion is predicated upon a principle which is believed to be undeniable, that the several states which composed this Union, so far at least as regarded their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign states, and that they did not derive them from concessions made by the British king. The treaty of peace contains a recognition of their independence, not a grant of it. From hence it results, that the laws of the several state governments were the laws of sovereign states, and as such were obligatory upon the people of such state, from the time they were enacted.

And a further expression of similar import is found in Harcourt v. Gaillard, 25 U.S. (12 Wheat.) 523, 526, 527 (1827), where the Court stated:

> There was no territory within the United States that was claimed in any other right than that of some one of the confederated states; therefore, there could be no acquisition of territory made by the United States distinct from, or independent of some one of the states.
>
> Each declared itself sovereign and independent, according to the limits of its territory.
>
> [T]he soil and sovereignty within their acknowledged limits were as much theirs at the declaration of independence as at this hour.

Thus, unequivocally, in July, 1776, the new States possessed all sovereignty, power, and jurisdiction over all the soil and persons in their respective territorial limits.

This condition of supreme sovereignty of each State over all property and persons within the borders thereof continued notwithstanding the adoption of the Articles of Confederation. In Article II of that document, it was expressly stated:

> Article II. Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

As the history of the confederation government demonstrated, each State was indeed sovereign and independent to the degree that it made the central government created by the confederation fairly ineffectual. These defects of the confederation government strained the relations between and among the States and the remedy became the calling of a constitutional convention.

The representatives which assembled in Philadelphia in May, 1787, to attend the Constitutional Convention met for the primary purpose of improving the commercial relations among the States, although the product of the Convention produced more than this. But, no intention was demonstrated for the States to surrender in any degree the jurisdiction so possessed by the States at that time, and indeed the Constitution as finally drafted continued the same territorial jurisdiction of the States as existed under the Articles of Confederation. The essence of this retention of state jurisdiction was embodied in Art. I, § 8, Cl. 17 of the U.S. Constitution, which read as follows:

> To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

The necessity for granting national government sovereignty over land which would serve as the seat of government became conspicuous during the Revolution when a contingent of irate folks from the Continental Army beleaguered Congress while in Philadelphia. Members of Congress fled Philadelphia to Princeton, New Jersey, and from there to Annapolis, Maryland. Philadelphia and Pennsylvania governments were unable, or unwilling, to disperse the rebels who taunted and insulted Congress. Problems persisted for the weak government under the Articles of Confederation following the Revolution, and it was in this framework that what turned into the Constitutional Convention was called in 1787. The purpose for establishing a seat of government under Congress' exclusive legislative jurisdiction was addressed in Essay No. 43 of The Federalist:

> The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings interrupted with impunity, but a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the

inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession will be derived from the whole people of the State in their adoption of the Constitution, every imaginable objection seems to be obviated.

The necessity of a like authority over forts, magazines, etc., established by the general government, is not less evident. The public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned in every such establishment.

Becraft cites several early court cases which addressed the matter of State v. United States jurisdiction, with each of the decisions reinforcing the principle of State sovereignty unless or until land is ceded by a State legislature to the United States:

Perhaps one of the earliest decisions on this point was United States v. Bevans, 16 U.S. (3 Wheat.) 336 (1818), which involved a federal prosecution for a murder committed on board the Warship, Independence, anchored in the harbor of Boston, Massachusetts. The defense complained that only the state had jurisdiction to prosecute and argued that the federal Circuit Courts had no jurisdiction of this crime supposedly committed within the federal government's admiralty jurisdiction. In argument before the Supreme Court, counsel for the United States admitted as follows:

> The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein, 3 Wheat., at 350, 351.

In holding that the State of Massachusetts had jurisdiction over the crime, the Court held:

> What, then, is the extent of jurisdiction which a state possesses?
>
> We answer, without hesitation, the jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power, 3 Wheat., at 386, 387.
>
> The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction. ... Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.
>
> It is observable that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in describing the judicial power, the framers of our constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction, 3 Wheat., at 388.

Thus in Bevans, the Court established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of exclusive legislation, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution.

The decision in Bevans was closely followed by decisions made in two state courts and one federal court within the next two years. In Commonwealth v. Young, Brightly, N.P. 302, 309 (Pa. 1818), the Supreme Court of Pennsylvania was presented with the issue of whether lands owned by the United States for which Pennsylvania had never ceded jurisdiction had to be sold pursuant to state law. In deciding that the state law of Pennsylvania exclusively controlled this sale of federal land, the Court held:

> The legislation and authority of congress is confined to cessions by particular states for the seat of government, and purchases made by consent of the legislature of the state, for the purpose of erecting forts. The legislative power and exclusive jurisdiction remained in the several states, of all territory within their limits, not ceded to, or purchased by, congress, with the assent of the state legislature, to prevent the collision of legislation and authority between the United States and the several states.

A year later, the Supreme Court of New York was presented with the issue of whether the State of New York had jurisdiction over a murder committed at Fort Niagara, a federal fort. In People v. Godfrey, 17 Johns. 225, 233 (N.Y. 1819), that court held that the fort was subject to the jurisdiction of the State since the lands therefore had not been ceded to the United States. The rationale of its opinion stated:

> To oust this state of its jurisdiction to support and maintain its laws, and to punish crimes, it must be shown that an offense committed within the acknowledged limits of the state, is clearly and exclusively cognizable by the laws and courts of the United States. In the case already cited, Chief Justice Marshall observed, that to bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of any state; it is not (he says,) the offense committed, but the place in which it is committed, which must be out of the jurisdiction of the state.

The case relied upon by this court was U.S. v. Bevans, supra.

At about the same time that the New York Supreme Court rendered its opinion in Godfrey, a similar fact situation was before a federal court, the only difference being that the murder committed in the case occurred on land which had been ceded to the United States. In United States v. Cornell, 25 Fed.Cas. 646, 648 No. 14,867 (C.C.D.R.I. 1819), the court held that the case fell within federal jurisdiction, describing such jurisdiction as follows:

> But although the United States may well purchase and hold lands for public purposes, within the territorial limits of a state, this does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased. It remains until the State has relinquished its authority over the land either expressly or by necessary implication.
>
> When therefore a purchase of land for any of these purposes is made by the national government, and the State Legislature has given its consent to the purchase, the land so purchased by the very terms of the constitution ipso facto falls within the exclusive legislation of Congress, and the State jurisdiction is completely ousted.

Through the first half of the Nineteenth Century, State and United States territorial jurisdiction was reasonably clear-cut, as accounts above evidence, but during the Civil War and after, entrenched powers concluded that Congress, on behalf of the United States, has a unique role in and through the territorial United States -- those lands, whether ceded by legislatures of the several States or acquired, by war or otherwise, by the United States. This alleged authority is at Article IV, Sec. 3, Clause 2 of the Constitution:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States...

During the Reconstruction period immediately following the Civil War, the Imperialistic Congress postured to make an end run around the Constitution. One of the first important measures was promulgation of the Fourteenth Amendment in 1868. This amendment, secured at bayonet point, created a colorable citizenship known as the citizen of the United States. To that point, people thought of themselves as United States citizens just as they do today, and the body of the Constitution even makes rhetorical use of the term, but people were Citizens of their respective states. The distinction between before and after is demonstrated by comparative court decisions, the first in 1855, the second in 1875:

> A citizen of any one of the States of the union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deducedfrom its various other provisions. The object then to be attained, by the exercise of the power of naturalization, was to make citizens of the respective States. (Ex Parte Knowles, 5 Cal. 300 (1855))

> We have in our political system a Government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. (United States v. Cruikshank, 95 US 542 (1875))

Where the Citizen of the State, identified in the Preamble of the Constitution, is a sovereign or principal, the Fourteenth Amendment citizen of the United States belongs to a subject class, as demonstrated by Section 1 of the amendment:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The citizen of the United States was distinct from the Citizen of the State or there wouldn't have been need to re-state due process rights already articulated in the Fifth Amendment. In the framework of what has already been covered, it is clear that Citizens of the States were and are not "subject to the jurisdiction" of the United States within the several States. This matter was addressed by Thomas Jefferson by way of "The Kentucky Resolutions" in response to the Alien and Sedition Acts in 1798. The second of nine resolutions addressed the matter of United States authority to punish crimes:

> 2. *Resolved*, That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, pira-

> cies, and felonies committed on the high seas, and offenses against the law of nations, and no other crimes whatsoever...

Where Jefferson articulated the limited direct authority the United States could exercise over Citizens of the several States, the Fourteenth Amendment citizen of the United States appears to be subject to United States authority wherever he might be, whether in the geographical United States or any of the several States party to the Constitution. More to the point, however, the subject class of United States citizen would be viewed on a par with corporations, associations and other entities created and/or sanctioned by government, and United States authority would reach into the States under the auspices not of inherent or unalienable rights; rights which American Founders proclaimed to be the direct endowments from God, but under the notion of civil rights -- rights granted by government to subject classes.

From this point forward, the American dialogue concerning law was to change, departing the biblical base of common law where God is sovereign and man is endowed directly by his Creator, to embrace a secular view of man where the individual is little more than chattel and exists for the convenience of entrenched powers. This change is easily demonstrated in the Roe v. Wade decision which threw the door open to abortion on demand: Even though medical science long ago demonstrated that life begins at conception, the United States Supreme Court did not consider either the existence or sanctity of life in the landmark decision. The unborn baby, conveniently referred to as a "fetus," does not qualify as a "person" in the context of the Fourteenth Amendment definition promulgated by Congress, so since the unborn lacks legal standing, the law is indifferent to his existence -- whether or not life has intrinsic value or unborn babies have God-given rights wasn't and isn't considered.

The Fourteenth Amendment effected a subtle perversion of first causes. Where Citizens of the several States, being sovereign, have God-given rights which are merely secured by state and national constitutions, the subject citizen of the United States falls under Congress' Article IV legislative jurisdiction, with the list of his constitutionally assured rights itemized in the Fourteenth Amendment. Beyond that, he is dependent on Congress for grants of privilege -- rather than God, government is the Fourteenth Amendment citizen's prime mover.

The next important move was incorporation of the District of Columbia as a municipal corporation and political subdivision of the geographical or self-interested United States. Original incorporation was in 1871, with several reorganizations during the decade and since. Thereafter the corporate Government became increasingly important, particularly through late-century westward development, as the United States Government managed settlement territory simultaneous with post-Civil War reconstruction -- the days of Carpet Bagger plunder. Then in 1884, the Supreme Court gave way to powerful influences in the Julliard case when it reversed fields from four years earlier by concluding Congress could print paper money because the Constitution does not expressly prohibit United States paper money.

Considering provisions of Article I, Sec. 8, Clause 5 and Section 10, Clause 1 of the Constitution, which stipulate that Congress will mint coin and regulate value, and the States cannot make any thing but gold and silver coin tender for payment of debt, the Julliard decision was conspicuously contrary to constitutional intent, but as Naval Academy founder George Bancroft pointed out in a detailed rebuttal to the decision (*A Plea for the Constitution of the United States: Wounded in the House of Its Guardians*), Julliard was based on Congress' legislative jurisdiction under Article IV of the Constitution in the geographical United States. Thus, manifestation of Congress' dual role -- exercise only of delegated power under Article I with regard to the several States, and exercise of any power not specifically prohibited by the Constitution in the geographical United States under Article IV. So far as lawful implication, the people and governments of the several States had

the right to reject United States paper money, as several court decisions confirm, but as a practical matter, the nation was largely changed over to paper money rather than gold and silver coin by the time the Federal Reserve Act established the Federal Reserve System in 1913. By 1933, the Federal Reserve Note, not to be confused with the current Federal Reserve Bank Note, was backed 60% by obligations of the United States and 40% gold.

Congress also engaged in massive land-grabs both in the Continental United States and abroad. Takeover of the Hawaiian Islands, going to war with Spain to take the Philippines, Puerto Rico, etc. ... and nearly all States admitted to the Union after the Civil War were blackmailed into land concessions. Oklahoma, admitted in 1907, adopted the following provision at Article I, Section 3 of the state constitution:

> The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof...

Even though the Constitution grants authority for the United States to establish nothing more than forts, magazines, dockyards and other needful buildings in the several States, from the time of the Civil War well into this century, including mineral-rich Alaska, Congress indulged greed for land, where the intent of American Founders, via the Constitution, the "Ordinance of 1887: The Northwest Territorial Government", and other such instruments, was clearly to keep the federal beast locked soundly in its box, for the most part, limited to the ten miles square authorized for the seat of national government.

Toward the end of the Nineteenth Century, some of the retained federal lands in the several States were declared to be national parks. Development of federally-owned resources accelerated in the 1930s via public works programs such as building dams for flood control and electrical generation, and a multitude of other enterprises.

On the enforcement and judicial fronts, there was corresponding reorganization. The Department of Justice was created by Act of Congress on June 22, 1870 (Forty-First Congress, Session II, Chapter 150, pp. 162 et seq.), with the Attorney General at the head. To that point, each government agency or department pretty well took care of its own legal affairs, but the Act establishing the Justice Department consolidated authority over most enforcement and legal matters, including those of the Department of the Interior.

Changing United States courts around was a somewhat longer process, but it was managed over time. The United States Circuit Courts became United States Courts of Appeals via Act of Congress on March 3, 1891, and organization of United States District Courts, with amendments since, was accomplished by Act of Congress on March 3, 1911 (Sixty-First Congress, Session III, Chapter 231, pp. 1087 et seq.).

Part II -- Current Federal Jurisdiction in the States

While some of the seemingly unrelated history conveyed in Part I of this memorandum might appear not to address United States judicial authority in the several States, it will fall into place when the office of magistrate is addressed -- magistrates in United States district courts are simply federal park commissioners, nothing more. The name was changed, but the character and jurisdiction of the office didn't.

The territorial jurisdiction of federal magistrates, which is easily demonstrated by way of two statutes, is concurrent with jurisdiction of United States district courts in the several States. Or at least it would appear so. The first definition, in relative part, comes from title 18 of the United States Code, the Code of Criminal Procedure, at Section 7, with particular attention to § 7(3) (USCS, 1979 edition):

> § 7. Special maritime and territorial jurisdiction of the United States defined
>
> The term "special maritime and territorial jurisdiction of the United States", as used in this title [18 USCS §§ 1 et seq.], includes:

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

The second comes from the so-called Buck Act, at 4 USCS § 110 (1995 Lawyer's Cooperative CD-ROM edition):

§ 110. Same; definitions

As used in sections 105-109 of this title:

(d) The term "State" includes any Territory or possession of the United States.

(e) The term "Federal area" means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State. [emphasis added]

Definition of the term "State" was included in the above cite as use in both the United States Code and codes of the various States is essential to understanding that most statutes in the United States Code presume application in federal States such as the District of Columbia, Puerto Rico, etc., not in the several States party to the Constitution. The distinction in 18 USC § 7(3) is subtle, but becomes clearer when read carefully: Special territorial jurisdiction where the United States Code of Criminal Procedure is applicable includes, (1) "Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction," (2) "or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building."

In the first instance, the United States has exclusive or concurrent jurisdiction over any land acquired for any purpose, where in the second, the United States has jurisdiction only over lands acquired for a constitutional purpose, as specified in Article I, after the land has been ceded to the United States by the legislature. In the District of Columbia, Puerto Rico, the Virgin Islands and other United States possessions classified as States, Congress has unrestricted Article IV legislative jurisdiction, so purchase of land for United States use automatically comes under Congress' legislative jurisdiction with or without consent of the State legislative body. In the second instance, legislatures of the several States must cede jurisdiction over acquired property to the United States before judicial authority can be exercised.

The Buck Act definition of "State" is about as straight forward as any of the various definitions of "State" which refers to the federal States: "The term 'State' includes any Territory or possession of the United States."

A similar definition of the term is located in Rule 54 of the Federal Rules of Criminal Procedure: "'State' includes District of Columbia, Puerto Rico, territory and insular possession."

Jurisdiction of United States district courts being limited to federal States and on federal enclaves within the several States is further reinforced by another Rule 54 application: "'Act of Congress' includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession."

Distinction between federal States and the several States is clarified in the jurisdiction and venue statute (territorial jurisdiction) governing conduct of United States district courts, which, according to The United States Government Manual for 1995/96, at page 75, is 18 USCS § 3231 (1979 edition, USCS):

§ 3231. District courts

> The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.
>
> Nothing in this title [18 USCS §§ 1 et seq.] shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.

If the distinction between the federal States and the several States isn't made clear enough by § 3231, proof of the distinction is found in the history for 18 USCS § 3241, again using the 1979 edition of the USCS:

> § 3241. Jurisdiction of offenses under certain sections
>
> The United States District Court for the Canal Zone and the District Court of the Virgin Islands shall have jurisdiction of offenses under the territorial jurisdiction of such courts, and jurisdiction, concurrently with the district courts of the United States, of offenses against the laws of the United States committed upon the high seas.

At various times, other territorial courts were included in this statute. The district court of the Philippines was removed in 1946 when the island nation became an independent commonwealth, then "Act July 7, 1958 deleted 'District Court for the Territory of Alaska'..." In other words, to the point Alaska was admitted to the Union, the Territory was considered a federal State. Once admitted to the Union, Alaskan courts no longer qualified as courts of the United States -- State courts, because of Tenth and Eleventh Amendments and the Separation of Powers Doctrine, couldn't legitimately exercise federal authority. The Canal Zone district court has been removed from this statute since the 1979 USCS edition was published so the District Court of the Virgin Islands is the only remaining federal "State" court that exercises concurrent jurisdiction with United States district courts under 18 USCS § 3241.

We turn now to the "special territorial" jurisdiction found at 18 USCS § 7(3) by way of examining the evolution of what are today known as federal magistrate judges, formerly known as federal magistrates, and before that, as national park commissioners. The first selection comes from historic and amendment notes following 28 USCS § 631, which provides for appointment and tenure of federal magistrate judges (1995 Lawyer's Cooperative CD-ROM edition of USCS):

> 1979. Act Oct. 10, 1979, in subsec. (a), substituted "Where the conference deems it desirable, a magistrate may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate in the adjoining district or districts." for "Where an area under the administration of the National Park Service, or the United States Fish and Wildlife Service, or any other Federal agency, extends into two or more judicial districts and it is deemed desirable by the conference that the territorial jurisdiction of a magistrate's appointment include the entirety of such area, the appointment or reappointment shall be made by the concurrence of a majority of all judges of the district courts of the judicial districts involved, and where there is no such concurrence by the concurrence of the chief judges of such district courts."; in subsec. (b), in the introductory matter, inserted "reappointed to", in para. (1), inserted ", and has been for at least 5 years,", in cl. (A), inserted "or", in cl. (B), deleted "or" following "Islands;" deleted cl. (C) which read: "in an area under the administration of the National Park Service, the United States Fish and Wildlife Service, or any other Federal agency that extends into two or more States, a member in good standing of the bar of the highest court of one of those States;'" in para. (4), substituted "; and" for a period and added para. (5), redesignated subsecs. (f)*f*(j) as subsecs. (g)*f*(k) respectively; and added new subsec. (f). [emphasis added]

Before examining deletions set out in the 1979 amending Act, it will be useful to import the index from earlier law pertaining to national park commissioners before all the name changes, with the current Magistrate Act at 28 USCS §§ 631-639:

Amendments (1995 Lawyer's Cooperative CD-ROM edition of USCS):

1954. Act Aug. 13, 1954, ch 728, §1(c), 68 Stat. 704, amended the analysis of this chapter by adding "and expenses" to item 633.

1968. Act Oct. 17, 1968, P. L. 90-578, Title I, §101, 82 Stat. 1108, amended the analysis of this chapter by substituting items 632 through 639 for items which read:

"632. Park commissioners; jurisdiction and powers; procedure

"633. Fees and expenses

"634. Salaries of Park Commissioners; disposition of fees

"635. Park Commissioners; residence

"636. Accounts

"637. Oaths, acknowledgments, affidavits and depositions

"638. Seals

"639. Dockets and forms; United States Code".

1972. Act Mar. 1, 1972, P.L. 92-239, §3, 86 Stat. 47, amended the analysis of this chapter by substituting ", powers, and temporary assignment" for "and powers" in item 636.

It is also useful to see the evolution of this Act dating to the last century:

Based on title 28, U.S.C., 1940 ed., §§526 and 527, sections 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c-5, 403h-5, 404c-5, and 408m of title 16, U.S.C., 1940 ed., Conservation, and section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (May 27, 1894, ch. 72, §5, 28 Stat. 74; May 28, 1896, ch. 252, §§19, 20, 29 Stat. 184; Apr. 12, 1900, ch. 191, §34, 31 Stat. 84; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Aug. 22, 1914,

Section consolidates section 526 and a portion of 527, both of title 28, U.S.C., 1940 ed., with provisions of sections 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c-5, 403h-5, 404c-5 and 408m of title 16, U.S.C., 1940 ed., and provisions of section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to appointment of United States commissioners. For other provisions of said sections see Distribution Table.

Some of the provisions of section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions were retained in that title.

The provision of sections 395e, 403c-5, 404c-5, and 408m of title 16, U.S.C., 1940 ed., for appointment of the Park Commissioner in the Hawaii National Park, Shenandoah National Park, Great Smoky Mountains National Park, Mammoth Cave National Park and Isle Royale National Park upon "the recommendation of the Secretary of the Interior" was omitted as inconsistent not only with other provisions of this title but with other statutes applicable to other national parks.

All such park commissioners are United States commissioners and the revision of these sections makes possible uniformity and consistency in administrative matters concerning such commissioners. (See, also, sections 604 and 634 of this title.)

Words "the Director of the Administrative Office of the United States Courts" were substituted for "Attorney General" in section 526 of title 28, U.S.C., 1940 ed., in view of the general supervision by the Director over clerks and commissioners under section 601 et seq. of this title.

A provision in section 525 of title 28, U.S.C., 1940 ed., that commissioners should have the same powers and duties as are conferred and imposed by law, was omitted as superfluous. [emphasis added]

Jurisdiction provisions relating to federal magistrate judges/national park commissioners, was set out in definitive terms for the Grand Canyon National Park Commissioner:

Special commissioner for Grand Canyon National Park; appointment; jurisdiction; compensation. Act Sept. 14, 1959, P. L. 86-258, §§1*f*3, 73 Stat. 546, provided:

"Sec. 1. The United States District Court for the District of Arizona shall appoint a special commissioner for the Grand Canyon National Park, Arizona. The commissioner shall hold office for four years, unless sooner removed by the district court, and he shall be subject to the general laws and requirements applicable to United States commissioners.

"Sec. 2. The jurisdiction of the commissioner in adjudicating cases brought before him shall be limited to the trial, and sentencing upon conviction, of persons charged with the commission of those misdemeanors classified as petty offenses (18 U. S. C. 1) [18 USCS §1] relating to the violation of Federal laws or regulations applicable within the park: Provided, That any person charged with a petty offense may elect to be tried in the district court of the United States; and the commissioner shall apprise the defendant of his right to make such election, but shall not proceed to try the case unless the defendant, after being so apprised, signs a written consent to be tried before the commissioner. The exercise of additional functions by the commissioner shall be consistent with and be carried out in accordance with the authority, laws, and regulations of general application to United States commissioners. The rules of procedure set forth in title 18, section 3402, of the United States Code [18 USCS §3402], shall be followed in the handling of cases by such commissioner. The probation laws shall be applicable to persons tried by the commissioner and he shall have power to grant probation. [emphasis added]

Now we go to a few court cases to nail the matter down:

Powers and duties were coextensive with limits of judicial district in which he was appointed. United States v Harden (1881, DC NC) 10 F 802.; United States v Stern (1910, DC Pa) 177 F 479.

Purpose of Federal Magistrates Act, 28 USCS §§631 et seq., was to provide method to relieve judges of some of their non-Article III functions. United States v First Nat. Bank (1978, CA10 Okla) 576 F2d 852, 78-1 USTC § 9462, 42 AFTR 2d 78-5049.

Purpose of Federal Magistrates Act (28 USCS §§631-638) is to remove from workload of United States District Courts matters which are more desirably performed by lower tier of judicial officers. United States v Richardson (1972, DC NY) 57 FRD 196.

Evolution of the federal magistrate judge demonstrates that he is merely a glorified national park commissioner, who is a bar-licensed attorney, and his territorial jurisdiction is concurrent with jurisdiction of the U.S. district court where he serves. As previously demonstrated via analysis of 18 USCS § 7(3) and 4 USCS § 110(d) & (e), there is a gray area where there might be some discretion. In the federal States, U.S. district court venue and jurisdiction may extend to national parks and other lands retained by the United States, but in the several States party to the Constitution, United States judicial authority may be exercised only on federal enclaves: Lands ceded to the United States by legislatures of the several States, "for the erection of a fort, magazine, arsenal, dockyard, or other needful building." (1979 edition, USCS) There is and was no constitutional authority for Congress to retain land for the United States, as was the case in Oklahoma, Colorado, Nevada, Alaska,

etc., in States admitted to the Union subsequent to the Civil War. Nevada appears to be leading the charge on this issue; the right of the United States to retain land in the several States other than for constitutional purposes, and it is clear by distinctly separate authorities pertaining to federal States and the several States in 18 USCS §§ 7(3) & 3231 and 4 USCS § 1001(d) & (e) that application of judicial authority in the United States Code of Criminal Procedure limits jurisdiction to federal enclaves ceded by legislatures of the several States for constitutional purposes.

Still, this is a vague area which has yet to be thoroughly explored: Within the several States, the United States has judicial authority either (1) on federal enclaves ceded by legislatures of the several States for constitutional purposes, or (2) on federal enclaves ceded for constitutional purposes and in national parks. In his memorandum, Becraft frames his conclusion concerning United States judicial jurisdiction by basing it on an 1885 Supreme Court decision, even though the decision was premised on facts relative to the federal reservation at Ft. Leavenworth, Kansas:

> The single most important case regarding the subject of federal jurisdiction appears to be Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525, 531, 5 S.Ct. 995 (1885), which sets forth the law on this point fully. There, the railroad company property which passed through the Fort Leavenworth federal enclave was being subjected to taxation by Kansas, and the company claimed an exemption from state taxation. In holding that the railroad company's property could be taxed, the Court carefully explained federal jurisdiction within the States:
>
> > The consent of the states to the purchase of lands within them for the special purposes named, is, however, essential, under the constitution, to the transfer to the general government, with the title, of political jurisdiction and dominion. Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the government, is subject to the legislative authority and control of the states equally with the property of private individuals."
>
> Thus, the cases decided within the 19th century clearly disclosed the extent and scope of both State and federal jurisdiction. In essence, these cases, among many others, hold that the jurisdiction of any particular State is co-extensive with its borders or territory, and all persons and property located or found therein are subject to such jurisdiction; this jurisdiction is superior. Federal jurisdiction results only from a conveyance of state jurisdiction to the federal government for lands owned or otherwise possessed by the federal government, and thus federal jurisdiction is extremely limited in nature. And there is no federal jurisdiction if there be no grant or cession of jurisdiction by the State to the federal government. Therefore, federal territorial jurisdiction exists only in Washington, D.C., the federal enclaves within the States, and the territories and possessions of the United States.

During the Eisenhower administration, the matter of federal jurisdiction within the States was addressed at length by a specially formed Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, with both State and United States representatives participating in the study. Assistant Attorney General Mansfield D. Sprague chaired the committee. Part I of the report, titled "The Facts and Committee Recommendations", was submitted to Attorney General Herbert Brownell, Jr., then transmitted to President Eisenhower in April, 1956, and Part II, titles "A Text of the Law of Legislative Jurisdiction", was submitted in June, 1957. The latter report in particular affirms the conclusion that United States judicial authority within the several States extends only so far as the constitutional grant:

> The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction -- by State consent under Article I, section 8, clause 17 .... Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place. [Page 41]
>
> It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise by the State, subject to non-interference by the State with Federal functions. [Id., at 45]
>
> The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. [Id., at 46]
>
> On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or omissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our Federal-State system of government, unless such crime occurs on areas as to which legislative jurisdiction has been vested in the Federal Government. [Id., at 107]

The 1957 report appears to accommodate United States retention and/or acquisition of land, and therefore legislative and judicial jurisdiction, other than that specifically prescribed in the Constitution under Article I authority. Therefore, if the report is correct on this hairsplitting matter, congressional blackmail of States admitted to the Union after the Civil War would appear to be legitimized, and the report seems to accommodate legislative cession of land to the United States for other than constitutional purposes -- national parks, flood control and electrical generation dams, etc. However, the jury is still out on this matter as recent United States Supreme Court decisions such as New York v. United States, et al, 505 U.S. ___, 120 L.Ed.2d 120, 112 S.Ct. 2408 (1992), seem to condemn this conclusion under Tenth Amendment and Separation of Powers Doctrine authority: The United States cannot exercise authority within the several States not specifically enumerated in Article I of the Constitution, and officers of the States cannot accommodate a United States exercise of power which is not specifically delegated under Article I without first securing a constitutional amendment.

Regardless of Tenth Amendment and Separation of Powers issues, any given Act of Congress, under United States judicial authority, applies only to the extent of the Act and attending regulations, with territorial limits prescribed at 18 USCS § 7(3) and 4 USCS § 110(d) & (e).

Generally speaking, territorial bounds for United States judicial authority are applicable with respect to both civil and criminal matters, with diversity of citizenship being the only exception in civil matters. This expansion of United States judicial authority does not extend to criminal matters, except as specified by Thomas Jefferson in "The Kentucky Resolutions". The United States Supreme Court has repeatedly prescribed the limits of federal criminal jurisdiction in definitive terms. The conclusive statement is, "[federal] legislation applies only within the territorial jurisdiction of the United States unless a contrary intent [in legislation] appears..." See Caha v. United States, 152 U.S. 211, 215, 14 S.Ct. 513 (1894); American Banana Company v. United Fruit Company, 213 U.S. 347, 357, 29 S.Ct. 511 (1909); United States v. Bowman, 260 U.S. 94, 97, 93, 43 S.Ct. 39 (1922); Blackmer v. United States, 284 U.S. 421, 437, 52 S.Ct. 252 (1932); Foley Bros. v. Filardo, 336 U.S. 281, 285, 69 S.Ct. 575 (1949); United States v. Spelar, 338 U.S. 217, 222, 70 S.Ct. 10 (1949); and United States v. First National City Bank, 321 F.2d 14, 23 (2nd Cir. 1963).

The matter is addressed in Rule 54 of the Federal Rules of Criminal Procedure [selected portions, 1978 edition, USCS]:

> Rule 54. Application and Exception
>
> (a) Courts. These rules apply to all criminal proceedings in the United States District Courts...
>
> (c) Application of terms. As used in these rules the following terms have the designated meanings.
>
> "Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.
>
> The words "demurrer," "motion to quash," "plea in abatement," "plea in bar" and "special plea in bar," or words to the same effect, in any act of Congress shall be construed to mean the motion raising a defense or objection provided in Rule 12.
>
> "Federal Magistrate" means a United States magistrate as defined in 28 USC §§ 631-639, a judge of the United States or another judge or judicial officer specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates.
>
> "Judge of the United States" includes a judge of a district court, court of appeals, or the Supreme Court.
>
> "Law" includes statutes and judicial decisions.
>
> "Magistrate" includes a United States magistrate as defined in 28 USC §§ 631-639, a judge of the United States, another judge or judicial officer specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates, and a state or local judicial officer, authorized by 18 USC § 3041 to perform the functions prescribed in Rule 3, 4, and 5.
>
> "State" includes District of Columbia, Puerto Rico, territory and insular possession.
>
> "United States magistrate" means the officer authorized by 28 USC §§ 631-639.

Application of Acts of Congress was clearly articulated in Caha v. United States, supra, where the Supreme Court stated as follows:

> The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government.

Application of terms in Rule 54 of the Federal Rules of Criminal Procedure appear to exclude jurisdiction of United States courts on national parks in the Several States, as has repeatedly been demonstrated via 4 USCS § 110(d) & (e) and 18 USCS § 7(3) definitions and applications, and the definition of "State" cited above, but regardless of this hair-splitting, United States judicial authority via U.S. district courts, which is concurrent with jurisdiction of national park commissioners, now known as federal magistrate judges, does not extend to the several States in any general way other than in territory ceded by legislatures of the several States, whether for constitutional purposes or for national parks. Thus, the law of legislative jurisdiction is preserved in the convoluted United States Code by tracking the history and evolution of United States courts and their officers.

Part III: Character of Law & Court Effect on Jurisdiction

Judicial authority of the United States is established in Article III of the United States Constitution:

> Article III
>
> Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and

shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; -- to all Cases affecting Ambassadors, other public Ministers and Consuls; -- to all Cases of admiralty and maritime Jurisdiction; -- to Controversies to which the United States shall be a Party; -- to Controversies between two or more States; -- between a State and Citizens of another State; -- between Citizens of different States; -- between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Counsels, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

[3] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. [1] Treason against the United States, shall consist only in levying War against them, or, in adhering to their Enemies, giving Aid and Comfort. No person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted. [copied from Black's Law Dictionary, 6th edition]

The United States Supreme Court has classified judicial authority granted under Article III in three categories: First, those cases in common law and equity which are cognizable within the framework of the Section 2.1 "arising under" clause; second, admiralty and maritime jurisdiction under § 2.1; and third, cases pertaining to ambassadors, etc. Cases relating to the several States are affected by the Eleventh Amendment, ratified in 1798, but don't materially affect the instant matter.

Concern in this context focuses on two types of law and the originating source. Use of the term "law" in Article III of the Constitution, as is the case for due process amendments in the Bill of Rights (first Ten Amendments, particularly the Fourth, Fifth, Sixth and Seventh), contemplates English-American lineage common law. Equity, also known as chancery, pertains primarily to commercial or contract law, and is voluntary on the part of participating parties. In other words, common law was assumed and construed to be the law of the land applicable both within the United States and the several States.

Constitutional intent was carried out by the first Congress via the Judicial act of 1789. In this Act, original cognizance over admiralty and maritime affairs was vested in courts of the United States, exclusive of the several States, with a safeguard built in, known as the "saving to suitors clause." Suitors, or parties to an action, could remove to common law jurisdiction where the common law was competent to provide a remedy. The saving to suitors clause is retained in the current United States Code.

In the beginning, admiralty and maritime jurisdiction applied only to matters concerning international contracts and affairs on the high seas, with the law of nations providing a guiding light. The Supreme Court early on concluded that while admiralty jurisdiction is conveyed in Article III § 2.1, it is distinct from authority pertaining to law and equity and therefore does not fall under authority of the "arising under" clause (American Ins. Co. v. 356 Bales of Cotton (1828) 26 US 511, 7 L.Ed 242; Romero v. International Terminal Op-

erating Co. (1959) 358 US 354, 3 L.Ed 2d 368, 79 S.Ct. 468, reh den 359 US 962, 3 L.Ed. 2d 769, 79 S.Ct. 795).

The nature and origin of admiralty law is set out in Vol. 1 of Corpus Juris, 1914 edition, p. 1249, as follows:

> I. DEFINITION
>
> [§ 1] Admiralty is that branch or department of jurisprudence which relates to and regulates maritime property, affairs, and transactions, whether civil or criminal. In a more limited sense it is the tribunal exercising jurisdiction over maritime causes and administering the Maritime law by a procedure peculiar to itself and distinct from that followed by courts either of equity or of common law.
>
> II. ORIGIN AND GROWTH
>
> [§ 2] A. Under the Civil Law. Admiralty courts owe their origin and procedure largely to the civil law, which prevailed in Italy and along the north coast of the Mediterranean, where naval commerce was originally most active, and where, after the fall of the Western Empire, the merchants and traders by sea brought about the establishment of a court of consuls in each of the principal maritime cities to hear causes arising out of maritime commerce and property. The judges of these counsular courts were chosen on Christmas of each year by the chief merchants, and they enforced and applied to controversies the customs of the sea, whose origin is long anterior to the civil law itself. These courts gradually developed and extended their jurisdiction as maritime commerce became more profitable and important, until ultimately, in most states, they were merged into, and became known as, courts of admiralty.
>
> [§ 3] B. In England. The admiralty is a court of ancient origin, traceable back in English jurisprudence to the reign of Edward I, and exercising a jurisdiction coeval and coextensive with that of other foreign maritime courts; indeed, by some authorities it is said to have existed long before that time. But owing to the hostility which, from historic causes, gradually developed in England against the civil law, the jurisdiction of admiralty was there greatly restricted and limited, both by statute and by decisions of the common-law courts interpreting the same. A reaction in favor of the admiralty courts has now taken place, however, and by acts of parliament they have regained much of their lost jurisdiction, and have acquired jurisdiction over all claims for damages done by any ship, whether on land or water.
>
> [§ 4] C. In the United States. It is now well settled, after much controversy, that the jurisdiction of the courts of admiralty in the United States is not limited to that of the English admiralty at the time of the Revolution, but is derived from the early usages of the statutes and the federal laws and decisions.

The history related above hardly does justice to the continued English-American battle over imposition of admiralty law, which, as the article suggests, is in the nature of Roman Civil Law, British feudal law, or simply, Civil Law, where legislative and administrative bodies are ultimate authorities without reference to an independent judicial body. This kind of rule set English Barons against King John I, with the result being the Magna Charta, signed in 1215, and in 1640, resulted in the Popular Rebellion which ended Star-Chamber and convoluted ecclesiastical courts under Charles I. American founders were fully aware of the effect of admiralty or Civil Law -- the vice-admiralty courts of George III were largely responsible for the Revolution. Thus, the saving to suitors clause incorporated in the Judicial Act of 1789.

However, in the period following the Civil War, Congress found admiralty rule convenient, and as the geographical United States under Congress' alleged Article IV legislative jurisdiction became an increasingly powerful influence, admiralty rule was extended. First, as already noted from The United States Government Manual of 1995/96, circuit courts were changed to courts of appeal by Act of March 3, 1891, then United States district courts were reorganized and set by Act, March 3, 1911 (Sixty-First Congress, Sess. III, Chap. 231, pp. 1087, et seq. [Public No. 475]). The nature of U.S. district

courts is revealed in the Act at § 9: "The district courts, as courts of admiralty and as courts of equity..."

In other words, the district courts of the United States, from the Act of March 3, 1911 on, if not before, have never really had a common law character in federal territories, and their legitimate relationship to and within the several States has at best been at arm's length and shaky where the party of interest is the geographical United States under Congress' Article IV legislative jurisdiction exclusive of Article I delegated authorities. However, within federal areas or territories, as described in the Buck Act at 4 USCS § 4(e), and the first part of 18 USCS § 7(3), the same limitation does not apply, as disclosed at § 11 of Corpus Juris, supra, p. 1251:

> [§ 11] 7. Territorial courts. Although admiralty jurisdiction can be exercised in the states in those courts only which are established in pursuance of the third article of the constitution, the same limitation does not extend to the territories, and congress may vest admiralty jurisdiction in courts created by a territorial legislature as well as in territorial courts created by act of congress, and it has exercised this power in both instances. [In re Cooper, 143 U.S. 472, 12 Sec. 453, 36 L.ed. 232; The City of Panama, 101 U.S. 453, 25 L.ed. 1061; American Ins. Co. v. Three Hundred and Fifty-Six Bales of Cotton, supra...]

To say that U.S. district courts didn't have a common law character isn't precisely correct. In diversity suits at law or in equity, or suits covered by other provisions of the "arising under" clause, they appear to have had a law character. However, in 1938, via Erie Railroad Co. v. Tompkins, the United States Supreme Court declared that there is no longer a national or general common law. They today operate exclusively under "Special maritime and territorial jurisdiction of the United States," as defined at 18 USCS § 7(3), under admiralty/civil law rules which are contrary to common law indigenous to the several States. In fact, court decisions disclose that they have only admiralty and vice-admiralty capacities and in effect either accommodate private international law or serve as administrative law courts (see 5 USC §§ 701 et seq.). The Supreme Court is the only remaining United States court which has a true Article III judicial character, and under Rule 17.1 of the Supreme Court Rules, has original jurisdiction over original actions at law.

The fine line determining applicability of the Article III § 2.1 "arising under" clause is the party of interest. So long as an agent or agency of the United States is carrying out an Article I delegated power within the several States, courts of the United States have jurisdiction by way of the "arising under" clause, whether as the complaining party or defendant. However, if an agent or agency of the United States operates under Congress' article IV legislative jurisdiction exclusive to the geographical United States, or to the United States Government, which is a foreign corporation with respect to the several States, the "arising under" clause does not apply as the act is perpetrated under color of law. In other words, the "Act of Congress" which is locally applicable only in the District of Columbia, Puerto Rico, etc., does not legitimately reach the several States and the population at large.

For example, in my Public Notice memorandum pertaining to the character of the Internal Revenue Service and proper application of the Internal Revenue Code, which to date has been published as legal notice in Oklahoma, Nebraska and Montana newspapers, I demonstrated that IRS is an agency of the Department of the Treasury, Puerto Rico (Congress never created a Bureau of Internal Revenue, predecessor of IRS), and that no taxing statute in the Internal Revenue Code is applicable to the several States save as pertains to import duties on alcohol, tobacco and firearms in Subtitle E, and certain items in Subtitle D (Windfall Profits Tax on off-shore and imported petroleum) of the Internal Revenue Code. In the event that officers and agents who allege to represent United States laws and interest prove to be operating under color of law within the several States, United States judicial authority cannot spare them from accountability in the framework of laws and courts of the several States.

Suppose a soldier stationed at Ft. Sill robbed a store or murdered someone in Lawton, Oklahoma. The fact that he is in United States military service and might have even used an Army-issue gun doesn't affect the law he broke or the sovereign territorial authority which originates and is responsible for enforcing the law. In other words, immunity travels only so far as legislative jurisdiction and the precise limit of any given law. Under Congress' Article I delegated authority, agents and officers of the United States have certain legitimate duties which reach the several States, but under Congress' Article IV authority in the geographical, self-interested United States, the cloak of immunity is shed at borders of the several States except on federal enclaves ceded by legislatures of the States to the United States for constitutional purposes.

The distinction between United States "arising under" and admiralty jurisdiction, particularly when admiralty authority is under Congress' Article IV authority in the geographical United States, representing United States interest outside Congress' role as the Article I legislative body for national government, is territorial in nature, and must comply with the law of legislative jurisdiction. If this is not the case, Tenth Amendment and Separation of Powers Doctrine limitations are of no effect.

Part IV: Statute Application Determined by Regulation

The Administrative Procedures Act, located at 5 USCS §§ 552 et seq., and the Federal Register Act, at 44 USCS §§ 1501 et seq., provide the means for determining what statutes from any given Act of Congress are applicable where. If a statute has general application, the agency head responsible for carrying out whatever duties the statute prescribes is required to promulgate regulations disclosing the who, what, when, where and how, and have the regulation published in the Federal Register if it has general application. If regulations aren't published in the Federal Register, they have limited application. The control statute in the Federal Register Act is 44 USCS § 1505(a):

> § 1505. Documents to be published in Federal Register.
>
> (a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress.
>
> There shall be published in the Federal Register –
>
> (1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;
>
> (2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and
>
> (3) documents or classes of documents that may be required so to be published by Act of Congress.
>
> For the purposes of this chapter [44 USCS §§ 1501 et seq.] every document or order which prescribes a penalty has general applicability and legal effect.

At 44 USCS § 1507, the provision is made that, "The contents of the Federal Register shall be judicially noticed..," and at § 1510, which establishes the Code of Federal Regulations, it provides at subsection (e) that, "The codified documents [in the Code of Federal Regulations] of the several agencies published in the supplemental edition of the Federal Register ... shall be prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of publication."

In other words, where the several States and the general population are concerned, a statute created by Act of Congress is somewhat like a hot air balloon that won't get off the ground until someone pumps in hot air. Regulations are to statutes as hot air is to the balloon. As stated in § 1505(a)(1), if regulations for any given statute aren't published in the

Federal Register application is limited to Federal agencies or persons in their capacity as officers, agents, or employees of Federal agencies.

Provisions of 44 USCS § 1505(a) are re-stated at 1 CFR § 5.2:

§ 5.2 Documents required to be filed for public inspection and published.

The following documents are required to be filed for public inspection with the Office of the Federal Register and published in the Federal Register:

(a) Presidential proclamations and Executive orders in the numbered series, and each other document that the President submits for publication or orders to be published.

(b) Each document or class of documents required to be published by act of Congress.

(c) Each document having general applicability and legal effect.

Citations of authority requirements are as follows:

§ 21.40 General requirements: Authority citations.

Each section in a document subject to codification must include, or be covered by, a complete citation of the authority under which the section is issued, including –

(a) General or specific authority delegated by statute; and

(b) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

§ 21.41 Agency responsibility.

(a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues.

(b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes thereto.

The character of Federal statutory law and the need for regulations has been addressed time and again by the United States Supreme Court and Circuit Courts of Appeal. Many of the clearer statements relate to application of the Internal Revenue Code, as in California Bankers Ass'n. v. Schultz, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed. 2d 812 (1974):

> Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone...

In Foley Brothers v. Filardo, 336 U.S. 281 (1949), the high court said, "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." In order for a contrary intent to be facilitated, delegations of authority and implementing regulations must be published in the Federal Register and/or any given statute must clearly articulate application.

Fortunately, there is a reasonably easy way to discern what statutes in the United States Code have general application to the several States and the population at large. This is through the Parallel Table of Authorities and Rules, which begins on page 751 of the 1995 Index volume to the Code of Federal Regulations. It's authority is located at 1 CFR § 8.5(a):

> (a) *Parallel tables of statutory authorities and rules.* In the Code of Federal Regulations Index or at some other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of title 5) which are cited by issuing agencies as rule-making authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with parallel citations to the pertinent titles and parts of the Code of Federal Regulations.

This handy finding aid lists United States Code statutes by title and section in the left column, if implementing regulations have been published in the Federal Register, and applicable regulations by title and part in the right. If the statute doesn't appear, it doesn't have implementing regulations which have been published in the Federal Register, signifying that, in accordance with 44 USCS § 1505(a)(1) provisions, the statute is applicable only to Federal agencies or the officers, agents and employees of Federal agencies. If the statute number does appear and a regulation is cited, the regulation must be consulted to determine application.

Where the instant matter is concerned, the table immediately resolves the matter of territorial jurisdiction for United States district courts: There are no implementing regulations for 18 USCS §§ 7 & 3231. The absence of implementing regulations for these two statutes confirms that U.S. district court special maritime and territorial authority does not reach the several States and the population at large; the authority applies only on federal enclaves ceded to the United States for constitutional purposes, and as the second paragraph of § 3231 specifies, the laws and judicial authority of the several States are superior and govern within the States other than on federal enclaves ceded by legislatures of the States.

Further, there are no implementing regulations for 28 USCS §§ 631-639, the Federal Magistrate Act. Which is to say, these glorified national park rangers in black robes, known as federal magistrate judges, have no authority in the several States. Therefore, the United States district courts have no authority in the several States, per the following:

> Powers and duties were coextensive with limits of judicial district in which he was appointed. United States v Harden (1881, DC NC) 10 F 802.; United States v Stern (1910, DC Pa) 177 F 479.

Where matters pertaining to alleged offenses under the Internal Revenue Code are concerned, there are no implementing regulations to support 26 USCS § 7402, which prescribes jurisdiction for United States district courts. This confirms proofs in the Public Notice memorandum which demonstrate that there are no implementing regulations for Internal Revenue Code statutes prescribing taxing, assessment and collection authority save as relates to import duties on distilled spirits, etc., itemized in Subtitle E of the Internal Revenue Code, with the general authority being 27 CFR, Part 70, which is under Bureau of Alcohol, Tobacco and Firearms exclusive administration.

Matters relating to United States securities, etc., are commonly at issue via federal prosecution, so it is useful to briefly examine underlying authorities: The Constitution for the United States of America, at Article I § 8.1, provides, "The Congress shall have Power [§8.5] to coin Money [and] regulate the Value thereof," and at § 10.1, stipulates that, "No State shall ... coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts..."

Since these provisions have never been amended or repealed, underlying authorities for current United States credit and monetary systems should be examined for application:

12 USCS § 226. "Federal Reserve Act" NO REGULATION

12 USCS § 227. "Banking Act of 1933" NO REGULATION

12 USCS § 228. "Banking Act of 1935" NO REGULATION

There are no regulations applicable to the several States for the Jury Selection and Service Act, 28 USCS §§ 1861 et seq.

Use of the Parallel Table of Authorities and Rules is probably easiest to demonstrate by analysis of an actual case issued via the Department of Justice and/or one of a United States Attorney. In order to do this, I will use UNITED STATES OF AMERICA v. Kenney F. Moore; Colleen Moore; and Wayne Gunwall, 96 CR-082C, United States Court for

the Northern District of Oklahoma, Tulsa, under stamped impressions of Neal Kirkpatrick, assistant U.S. Attorney, and Fred White, grand jury foreman.

The same people were charged in 95 CR-129C in fall 1995 by the same assistant U.S. Attorneys, with Mr. White serving as grand jury foreman, and the case was assigned to the same judge. However, the grand jury foreman was presented with some of the same information included in this memorandum, and subsequently the Moores and Mr. Gunwall filed criminal complaints against Government principals, sending complaints and evidences to the U.S. district court in care of the court clerk, and to the Oklahoma Attorney General, W. A. Drew Edmondson. The complaint was received by the U.S. district court clerk on Friday, Nov. 17, then Assistant U.S. Attorney Kirkpatrick entered a motion to dismiss charges on Monday, Nov. 20.

Grand jury indictment against the Moores and Mr. Gunwall were allegedly issued again on May 15, 1996, with a "SUMMONS IN A CRIMINAL CASE" (96-CR-082-C) issued July 5, 1996 under the semblance of a signature for Phil Lombardi, allegedly the issuing officer of some undisclosed rank and horsepower.

This case is interesting for a number of reasons, and wouldn't be included in this memorandum except that Government insiders have chosen to scandalize the Moores and Mr. Gunwall via statewide Oklahoma media. One of the crucial points is that after receiving summons for Dr. and Mrs. Moore (the Government sent the Gunwall summons to the Moores and Moore papers to Gunwall), Mr. Gunwall drove from Ponca City to Tulsa and attempted to secure copies of relevant material from the office of the U.S. district court clerk, but the file was unavailable, allegedly still at an old office that wasn't open that particular day. Yet the information was made available to Oklahoma print and broadcast media, and principals from the United States Government and the office of Oklahoma Attorney General Edmondson fueled media reporting with comments.

It would be difficult to inflict much more injury on the Moores and Mr. Gunwall than Government officials have already choreographed. The question of the moment, however, concerns charges issued against Dr. & Mrs. Moore and Mr. Gunwall: What authority lies behind them?

Government charges rest on four statutes, presented here in the order they appear on the face of the alleged grand jury indictment: 18 USC § 371: Conspiracy; 26 USC § 7212(a): Interfering with Administration of Internal Revenue Laws; 18 USC § 1341: Mail Fraud; and 18 USC § 2: Aiding and Abetting.

By consulting the Parallel Table of Authorities and Rules, supra, it is found that there are no implementing regulations extending general application authority to the several States and the population at large for any of these statutes. Therefore, the statutes are applicable only to agencies of the United States and officers, agents and employees thereof, per 44 USC § 1505(a), cited above.

The only charge which might be of some concern would be mail fraud as Congress is obligated under Article I § 8 of the Constitution with providing mail service for the several States. However, manipulation of postal service was one of the first congressional initiatives which for all practical purposes has moved the whole of United States Government under Congress' Article IV legislative jurisdiction in the geographical United States. This was done via Act of Congress by the Thirty-Seventh Congress, Session III, Chapter 71 (1863). Sections 22 & 23 of this Act distinguish between "domestic" mail in the geographical United States and "drop" mail elsewhere. Today the United States Postal Service, a United States Government corporation, handles "domestic" mail in the geographical United States (District of Columbia, Puerto Rico, etc.), and "non-domestic" mail delivered in the several States and elsewhere. Regulatory application of 18 USC § 341 demonstrates the paradox in United States Government: Even though Congress is charged under Article I of the Constitution with responsibility for maintaining mail service for the several States, alleged Article IV authority to govern the geographical United States in any fashion not spe-

cifically prohibited by the Constitution confers absolutely no authority in and with respect to the several States party to the Constitution for the United States of America. Therefore, where Congress has elected to incorporate the United States Postal Service under Article IV authority, statutes prescribing penalties for mail fraud, etc., are not applicable to or enforceable in the several States.

Part V: Summary and Conclusion

Through the 1930s, evolution of the corporate United States Government, under Congress' alleged Article IV legislative jurisdiction in the geographical, self-interested United States, was referred to as "corporatism". Presently the United States Supreme Court and various other courts refer to the de facto arrangement between the United States and governments of the several States, the latter operating under presumption that they are federal States rather than independent republics subject only to Congress' Article I delegated authority, as "cooperative federalism". This diabolical scheme, from control of production and distribution of goods and services to the mathematically impossible social welfare system and criminal enforcement, is premised on the notion that all activity is commercial in nature. The effect has been to treat the nation as a seamless garment under Congress' Article IV legislative jurisdiction rather than a patchwork of fifty independent republics subject only to Congress' Article I delegated authority.

Thankfully, in the last few years the United States Supreme Court has provided footing which affords the possibility of correction. In New York v. United States (1992), supra, the high court reiterated principles framed by the Tenth Amendment and the Separation of Powers Doctrine: So far as the several States are concerned, Congress can exercise only those powers specifically delegated by the Constitution, and officers of the several States cannot accommodate a United States power not delegated without first securing a constitutional amendment. Unrestricted application of the commerce clause has been taken to task in Lopez and other such cases.

Unfortunately, judicially correcting the problem isn't as easy as it should be. Through the years, the United States Supreme Court has occasionally conveyed a message by way of decisions, or more appropriately, non-decisions. The maxim has been articulated when the Court has been presented with evidences such as Fourteenth and Sixteenth Amendments not being properly ratified: Ratification of amendments is a political rather than judicial matter.

If I read history properly, the nation's high court attempted to hold the line prior to acquiescence in Julliard (1884), and again resisted socialistic New Deal legislation until yielding in Erie Railroad (1938). The choice in both cases appears to have been pragmatic, yielding constitutional principles to the political tide.

In light of the current pervasive circumstance, it is necessary to revisit first causes in order to address the situation: As set forth in Part I of this memorandum, American Founders proclaimed that the "laws of Nature and Nature's God" govern nations and men, and that all men are endowed with certain unalienable rights by their Creator. This foundation is acknowledged in preambles to state and national constitutions: The sovereign American people, by way of the constitutions, have granted certain enumerated powers.

In New York v. United States, et al (1992), supra, the United States Supreme Court addressed the matter of authority. In the American system, the question isn't what power governments should have, but what powers have been delegated. The Court further concluded that public servants who usurp powers not delegated invariably do so for self-serving ends. The problem, of course, is accountability.

As the development history presented in the Becraft memorandum demonstrates, the several States precede the United States. The original thirteen colonies secured independence from English rule, and each thereby established sovereignty as an independent nation. The confederation they maintained following the Revolution was at best weak,

having precious little authority over the several new States. This arrangement threatened harmony and even survival of the confederation. These difficulties spawned the Constitutional Convention in 1787, with the first States convening under the Constitution in 1789. The Constitution vested the United States authority necessary to carry out delegated responsibilities. However, the people and the several States did not surrender more than was delegated -- they retained that which they did not delegate, including sovereignty over territories within the respective States.

Thomas Jefferson, responding to Alien and Sedition Acts, addressed this very problem, and the proper order of things in the American system of government, in the Kentucky Resolutions:

> 8th. *Resolved*, That a committee of conference and correspondence be appointed, who shall have in charge to communicate the preceding resolutions to the Legislatures of the several States; to assure them that this commonwealth continues in the same esteem of their friendship and union which it has manifested from the moment at which a common danger first suggested a common union; that it considers union, for specified national purposes, and particularly to those specified in their late federal compact, to be friendly to the peace, happiness and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and accededto by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness and prosperity of these States; and that therefore this commonwealth is determined, as it doubts not its co-States are, to submit to undelegated, and consequently unlimited powers in no man, or body of men on earth: that in cases of an abuse of the delegated powers, the members of the general government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy: that every State has a natural right in cases not within the compact... to nullify of their own authority all assumptions of power by others within their limits: that without this right, they would be under the domination, absolute and unlimited, of whosoever might exercise this right of judgment for them: that nevertheless, this commonwealth, from motives of regard and respect for its co-States, has wished to communicate with them on the subject: that with them alone it is proper to communicate, they alone being parties to the compact, and solely authorized to judge in the last resort of the powers exercised under it, Congress being not a party, but merely the creature of the compact, and subject as to its assumptions of power to the final judgment of those by whom, and for whose use itself and its powers were all created and modified: That if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they thing proper on the list of crimes, and punish it themselves whether enumerated or not enumerated by the constitution as cognizable by them: that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these States being, by this precedent, reduced, as outlaws, to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the powers of a majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the legislatures, judges, governors and counsellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and the people, or who for other causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their election, or other interests, public or personal...

Jefferson's argument is as valid in 1996 as it was in 1798: Congress and the other branches of federal government are not party to the Constitution. They are products of it. The Constitution vests Congress with certain delegated authorities under Article I, and

nothing more. Within its own borders, State authority is antecedent to that of the United States, and as parties to the Constitution, the several States have both the right and responsibility to correct their agent, the United States, when ambition seeks to abuse or expand powers which have been delegated. Of more immediate importance where the instant matter is concerned, those who exceed the law, whether of the State or the United States, are accountable to the law of the land, and ultimately, to the people of the land, within the several States. Operation under color of law is outlaw, criminal, and accountability must be in law. Judges, magistrates, attorneys for the Department of Justice, and enforcement people do not have immunity when they exceed the law as it is written.

This memorandum conclusively demonstrates jurisdiction of United States district courts in the several States. Implicitly, authority of the Department of Justice and United States enforcement agencies attached to the Department is concurrent with that of United States courts as the lawful authority of any given agency extends only so far as the legislative jurisdiction of the government it serves. All legislation is territorial in nature.

Under penalties of perjury, per 28 USC § 1746(1), I attest that to the best of my current knowledge and understanding, all matters of law and fact set out above are accurate and true.

Dan Meador

July 14, 1996
Date

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Conflict of Law: Jurisdiction of the Legislative Court

A Memorandum by Dan Meador

This memorandum will serve as a public notice instrument with general application. All matters of law and fact presented herein are believed to be true and accurate. Failure of interested parties to correct or rebut any given matter of law or fact will be construed as confession of correctness, with the consequence of general application as presumed fact for legal purposes. The memorandum is constructed as a good faith effort to disclose applicability of certain law and authority of Oklahoma courts, particularly with respect to uniform laws known as adopted acts.

Background & Character of "Non-constitutional" Court

On February 2, 1995, a Declaration by Writ of Mandamus endorsed by people from eleven Oklahoma counties was filed with the Oklahoma Supreme Court demanding that Oklahoma's high court promulgate rules for State district courts to operate as judicial courts in the framework of common law. The basis for the mandamus is current operation of district courts in Oklahoma and the other States party to the Constitution for the United States of America presently operating under Code law promulgated as uniform laws under the notion that the several States are federal States under Congress' Article IV legislative jurisdiction rather than State republics subject only to authority delegated in Article I of the Constitution. In July 1996, justices of the Oklahoma Supreme Court declined taking original jurisdiction and thereby effectively refused to act.

As lead counsel, I have constructed but as yet have not filed a brief consenting to the case being closed. Aside from the Supreme Court's memorandum order misrepresenting the purpose of the action, I agree that the mandamus was an improper forum. The lengthy memorandum filed to support demands in July 1995 was accurate with respect to analysis of current operation of Oklahoma's district courts as legislative or statutory courts, and it was also accurate in asserting that State district courts, in the framework of uniform acts, accommodate Civil Law in the lineage of British Feudal Law, Roman Civil Law, etc., with the State's first-level courts operating under summary or admiralty rules. The history and evolution of "Code Law" is detailed in the Maine Bar Association Centennial Report (1992), which acknowledges that current Code Law is premised on the British Judicial Act of 1873, thus confirming the Admiralty/Civil Law character of Code law.

In a special appearance via one of his assistants, Oklahoma Attorney General W. A. Drew Edmondson failed to address, and therefore confessed, the allegation that Oklahoma government as a whole is currently operating under the presumption that the State and its various political subdivisions, including counties, cities and towns, school district, etc., and the office of district attorney (see Rule 54, Federal Rules of Criminal Procedure), are operating under presumption of a federal character, and by way of the State's enforcement and court systems, are imposing procedural rather than substantive law. This law, as described at 12 O.S. § 2, is in derogation of, meaning it operates outside of, common law indigenous to the State. As Justice Marian P. Opala of the Oklahoma Supreme Court confirmed in a December 1994 letter, the statutory court operates in a legislative rather than judicial capacity, and the law the court imposes is described as non-constitutional -- it operates outside constitutional bounds. Further research demonstrates that State district courts in Oklahoma, along with first-level courts in the rest of the States, whether identified as district, circuit or superior courts, currently have only two capacities: They operate as admiralty courts, which accommodate private international law, or as vice-admiralty or administrative law courts, presuming that all who go before them are officers, agents or employees of the United States or political subdivisions of the United States under Congress' Article IV legislative jurisdiction.

At the heart of the matter, and the quickest way to demonstrate how the several States are accommodating the de facto federal character, is through the nation's credit and monetary systems, perpetrated by way of federally chartered financial institutions.

The United States Constitution makes the following stipulations:

At Article II § 8.1, the Constitution provides, "The Congress shall have Power.." [§ 8.5] "To coin Money, [and] regulate the Value thereof..," and at § 10.1 stipulates, "No State shall ... coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts..."

These provisions have never been amended or repealed, yet there is no gold and silver coin in common circulation, and courts of the several States routinely award and enforce judgments denominated in or described as "dollars" [$], premised on current mediums generated through federally chartered financial institutions and obligations of the United States.

It's impossible to have it both ways -- either the several States are independent of United States jurisdiction except under Article I delegated powers, or they are federal territories under Congress' Article IV jurisdiction, thereby being on a par with Puerto Rico, the District of Columbia, etc. If the former, they must operate within the constitutional framework; if the latter, they may accommodate whatever initiative Congress undertakes save those things specifically prohibited by the Constitution (see Julliard, 1884).

The money issue is easily resolved: The three key pieces of legislation which accommodate fractional reserve banking, etc., are the Federal Reserve Act, the Banking Act of 1933, and the Banking Act of 1935. These are listed at 12 USCS §§ 226, 227 & 228 (1995 edition, Lawyer's Cooperative CD-ROM). By referencing the Parallel Table of Authorities and Rules, beginning on page 751 of the 1995 Index volume to the Code of Federal Regulations, it is found that these statutes are not listed, and therefore do not have implementing regulations that extend to the several States and the population at large. Both the Administrative Procedures Act, at 5 USC § 552(a), and the Federal Register Act, at 44 USC § 1501 et seq., require publication of regulations, delegations of authority, etc., in the Federal Register if they have general application to the several States and the population at large. If regulations are not published in the Federal Register, they have limited application, as described at 44 USCS § 1505(a) (1980 edition, USCS):

> § 1505. Documents to be published in Federal Register
>
> (a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress.
>
> There shall be published in the Federal Register --
>
> (1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;
>
> (2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and
>
> (3) documents or classes of documents that may be required so to be published by Act of Congress.
>
> For the purposes of this chapter [44 USCS §§ 1501 et seq.] every document or order which prescribes a penalty has general applicability and legal effect.

It will be found at 44 USC §§ 1507 and 1510 that publication in the Federal Register is prima facie evidence of original documents, and contents in the Code of Federal Regulations is due judicial notice in courts of the several States and the United States. Particulars for publication are set out at 1 CFR §§ 21.40 & 21.41, and authorization for the Parallel Table of Authorities and Rules is located at 1 CFR § 8.5.

The exemption for heads of Government departments and agencies is prescribed at 5 USCS § 301:

> § 301. Departmental regulations
>
> The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

The United States Supreme Court has several times ruled on the mandate for regulations being published in the Federal Register before any given United States statute is applicable to the several States and the Population at large. One of the more definitive statements, relating to the Internal Revenue Code, was in California Bankers Ass'n. v. Schultz, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed.2d 812 (1974):

> Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone...

The requirement to publish implementing regulations in the Federal Register before any given statute promulgated by Act of Congress has general application extends to all federal legislation. This conclusion is affirmed by application of the term, "Act of Congress" at Rule 54(c) of the Federal Rules of Criminal Procedure:

> "Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

The underlying principle is the law of legislative jurisdiction: When enacting legislation affecting the several States and the population at large, Congress cannot exceed authority delegated by Article I of the Constitution, however, there are two other jurisdictions where Congress is reasonably unrestricted. Those spheres include, (1) federal territories under Congress' legislative jurisdiction outside the several States and on federal enclaves in the several States ceded to the United States for constitutional purposes, and (2) as pertains to operation of United States Government itself. Authority exercised in Congress' capacity as government for federal territories and as applies to operation of United States Government does not extend to the several States and the population at large. Where territorial authority is concerned, the loophole used to accommodate emergence of the United States as a self-interested, geographical entity is located at Article IV § 3.2:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States...

When President Andrew Jackson vetoed extension of the charter for the second bank of the United States (1836), he premised his decision on the fact that Article I of the Constitution does not delegate authority for Congress to establish a national bank or national banking system. The conclusion has never been challenged, and it wasn't until after the Civil War that much was heard about the United States Government getting back in the banking business. In fact, the United States Supreme Court held out against the United States printing paper money until the Julliard decision (1884), which reversed fields from just four years before. In his excellent rebuttal, Naval Academy founder George Bancroft pointed out that the Julliard decision was premised on the permissive view of Congress' authority in the geographical United States where under Article IV § 3.2 authority, this legislative body as government for exclusively United States territories has

power to do anything not prohibited by the Constitution (*A Plea for the Constitution of the United States: Wounded in the House of Its Guardians*).

Research in several critical areas relating to various federal government programs, including federal taxing authority under provisions of the Internal Revenue Code, has demonstrated that for the most part, the illusion of United States statutory authority is generally applicable to United States Government, without consideration of territorial application. For example, my public notice memorandum pertaining to the Internal Revenue Service and application of the Internal Revenue Code (published as Public Notice in June 20 & 27 and July 3, 1996 editions of *The Journal Record*, Oklahoma City), demonstrates that Subtitles A & C of the Internal Revenue Code (income, employment, unemployment and related taxes, deduction at source, etc.), applies only to United States Government agencies and officers, agents and employees of those agencies, as defined at §§ 3401(c) & (d) of the Code (Vol. 68A of the Statutes at Large). The following demonstrates that federally chartered financial institutions are set up for the same people, with the statutes located in Title 12 of the United States Code, pertaining to banks and banking (1980 edition, USCS):

> § 1811. Federal Deposit Insurance Corporation created
>
> There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the "Corporation") which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this Act [12 USCS §§ 1811 et seq.], and which shall have the powers hereinafter granted.
>
> § 1813. Definitions
>
> As used in this Act [12 USCS §§ 1811 et seq.] --
>
> (m) The term "insured deposit" means the net amount due to any depositor (other than a depositor referred to in the third sentence of this subsection) for deposits in an insured bank ... Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of Guam, of American Samoa, of the Virgin Islands, of any county, or any municipality, or any other political subdivision thereof, herein called "public unit," having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity...

Definition of the term "State" is particularly important as use of the term in the United States Code and State codes clearly demonstrates fraud engaged at both levels. Again, Rule 54(a) of the Federal Rules of Criminal Procedure provides clarification:

> "State" includes District of Columbia, Puerto Rico, territory and insular possession.

Approximately the same definition appears in the Buck Act at 4 USCS § 110(d):

> (d) The term "State" includes any Territory or possession of the United States.

These definitions of "State", consistent with the general application definition in the Internal Revenue Code, are exclusive of the several States, meaning the States party to the Constitution. As will be demonstrated, uniform laws adopted by legislatures of the several States presume that the States are federal States under Congress' Article IV legislative jurisdiction, on a par with the District of Columbia and Puerto Rico, rather than being State republics subject only to Congress' Article I delegated authority. This is the fraud accommodated by first-level courts of the several States, and has been the means by which State and United States governments have made an end run around common law indigenous to the States and have for all practical purposes aborted constitutional rule at

State and local levels. However, there are a number of barriers to Governments of the several States abandoning state and national constitutions. In 1992, the United States Supreme Court addressed two of the more significant in New York v. United States, et al, 505 U.S. ___, 120 L.Ed.2d 120, 112 S.Ct. 2408: In the Constitution for the United States of America, the Separation of Powers Doctrine and the Tenth Amendment provide absolute barriers that preclude (1) Congress assuming power in the several States which is not specifically delegated by the Constitution, and (2) prevent officers of the several States from accommodating a federal power which is not delegated without first securing a constitutional amendment.

The nation's high court reiterated principles understood from the beginning: In the American system of government, all governments can legitimately exercise only powers delegated by applicable constitutions. When and if public servants exercise powers not delegated, they invariably do so for self-serving ends. The question in our system isn't what power government should have, but what has been delegated to it by the sovereign people.

American founders laid the foundation for our system of law and government in the Declaration of Independence when they justified severance from British rule by the "laws of Nature and Nature's God."

In other words, physical and moral law, otherwise known as natural law, is the fundamental law of the land both in the United States and the several States. If the intent wasn't articulated clearly enough by American Founders in the various discourses and addresses generated prior to the American Revolution, the "Ordinance of 1787: The Northwest Territorial Government", constructed the same years as the Constitution and adopted by Congress after the Constitution was established as the governing instrument for the United States, set the matter in stone. This intent was manifestly demonstrated in the Organic Act for Oklahoma Territory, in § 9 vesting territorial courts with competence in chancery (equity) and common law, and § 11, which authorized common law as framed in Nebraska statutes. The first session of the Oklahoma Legislature affirmed the common law, and today Oklahoma Statutes which preserve common law generally reference the 1910 edition of Oklahoma statutes, the first published by the State following territorial days, as the point of demarcation.

To date, there has not been a grant of any other form of law in the Oklahoma republic. At Article VII § 4 of the Oklahoma Constitution, the Oklahoma Supreme Court has appellate jurisdiction coextensive with borders of the State "at law and in equity," and the State constitution nowhere authorizes any other form of law -- "at law" presumes the common law indigenous to Oklahoma from territorial days. This is the case for forty-nine of the fifty State republics, Louisiana being the exception (as a French colony, Louisiana retained French Civil Law as State fundamental law).

It is useful to consider the U.S. Constitution at Article III § 2 to understand the type and application of law within the several States (reproduced from Black's Law Dictionary, 6th edition):

> Article III
>
> Section 2. [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; -- to all Cases affecting Ambassadors, other public Ministers and Consuls; -- to all Cases of admiralty and maritime Jurisdiction; -- to Controversies to which the United States shall be a Party; -- to Controversies between two or more States; -- between a State and Citizens of another State; -- between Citizens of different States; -- between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.
>
> [2] In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases

> before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.
>
> [3] The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

These provisions with respect to the States were to a certain extent modified by the Eleventh Amendment, adopted in 1798, but Article III provisions concerning United States judicial authority is otherwise pretty well the same as in the beginning. The Supreme Court has concluded that there are three case categories in the above provisions: Other than judicial authority pertaining to the geographical United States (District of Columbia, Puerto Rico, etc.), cases at law (common law) or in equity may be construed as in the scope of the "arising under" clause, under admiralty and maritime provisions, or relating to ambassadors, consuls, etc. Admiralty and maritime matters relate to international contracts, the law of nations, and affairs at sea, they are not within the scope of the "arising under" clause (see analysis pertaining to the "arising under" clause in the United States Code Service, and under "Admiralty", American Jurisprudence, 2d).

In the Judicial Act of 1789, Congress carried out constitutional intent by vesting courts of the United States with original cognizance in admiralty exclusive of the several States, and further protected interests of the American people by incorporating the saving to suitors clause which permits parties to suits to remove to common law when the common law is competent to provide a remedy. More or less the same exclusive provisions are retained in the Judicial Act of 1911, which is the present source law for United States courts, particularly district courts.

When Oklahoma and other States admitted to the Union since the Civil War were yet Territories, territorial courts had distinct territorial and federal characters (see Robinson v. Peru Plow & Wheel Co., 1 Okl. 140, 31 P. 988 (1893) and similar cases) as the Territories were under Congress' Article IV legislative jurisdiction and therefore were subject to United States judicial authority. However, once the Territories were admitted to the Union as States, State courts could no longer retain a federal character. Aside from Tenth Amendment and Separation of Powers Doctrine limitations of the U.S. Constitution, the prohibition is made clear in the Oklahoma Constitution at Article II § 12:

> § 12. Officers of United States or other states -- Ineligibility to office
>
> No member of Congress from this State, or person holding any office of trust or profit under the laws of any other State, or of the United States, shall hold any office of trust or profit under the laws of this State.

The provision above, along with Article IV § 1 of the Oklahoma Constitution, cover both ends of the Separation of Powers Doctrine as interpreted by the U.S. Supreme Court in New York v. United States, et al, supra. Article IV articulates the Separation of Powers which preserves the republican form of government assured by the national constitution:

> § 1 Departments of government -- Separation and distribution
>
> The powers of the government of the State of Oklahoma shall be divided into three separate departments: The Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others.

These provisions must be maintained in order to preserve the substance and integrity of constitutional government. However, just as Congress has authority to establish special courts under Article I, the Oklahoma Legislature has authority to establish

administrative courts for special purposes relating to government operation, regulation of subject classes such as corporations, and administration of State properties. This authority is prescribed at Article VII § 1, and where the district courts are concerned, articulated at Article VII § 7:

> ... The District Court shall have unlimited original jurisdiction of all justiciable matters, except as otherwise provided in this Article, and such powers of review of administrative action as may be provided by statute...

Judicial sections of the Oklahoma Constitution were amended in 1967 and 1968 to accommodate various illicit measures in elections which were held at odd times. This has generally been the case for the several States in the last three to four decades, as tacitly acknowledged in the 1992 Maine Bar Association centennial report. However, consolidation of the State's courts, and districting in particular, does not stretch available law beyond that which is prescribed and permitted by United States and State constitutions. Courts of the United States retain original cognizance where admiralty and maritime law are concerned, and there is no grant of authority for the several States to impose admiralty or maritime law -- particularly there is no grant to impose Civil Law. This is where legislative authority for district courts to review administrative action is relevant -- "special" jurisdiction of the district court extends only to administrative matters relating to subject classes, not to the population at large.

There is seemingly a conflict in the Oklahoma Constitution which was created by adoption of Article VII. This is clearly seen by comparing jury trial provisions at Article II § 19, the Oklahoma Bill of Rights (also perverted to some extent in 1968/69), and the provision for jury trial verdicts at Article VII § 15:

> § 15. Jury trials -- Verdicts
>
> In all jury trials the jury shall return a general verdict, and no law in force nor any law hereafter enacted, shall require the court to direct the jury to make findings of particular questions of fact, but the court may, in its discretion, direct such special findings.

Contrast Article VII § 15 with jury instructions given by Chief Justice John Jay to the jury in the first jury trial held in the United States Supreme Court (State of Georgia v. Brailsford, 3 Dal. 1: "... it is presumed that juries are the best judges of fact; it is, on the other hand, presumed that the courts are the best judges of law. But still both objects are within your power of decision..."

The common law, dating from signing of the Magna Charta in 1215 as the first foundation document (see particularly, Magna Charta §§7, 38, 39 & 40), determines that a jury of peers, and in the case of criminal indictment, a grand jury, is vested with authority both in law and fact. This applies as much to civil as criminal matters, and parties to any given action cognizable in common law are entitled to present matters of law and fact to the jury, whether a grand jury or trial jury. These common law principles are preserved in Article III § 2.3 and the Fourth, Fifth, Sixth, Seventh and Fourteenth Amendments to the United States Constitution, and Article II §§ 2, 6, 7, 15, 17, 19 and other provisions of the Oklahoma Constitution. Article VII § 15 of the Oklahoma Constitution appears to contradict traditional jury authority, but when it is understood that special findings apply only to special matters such as administrative determinations relating to subject classes, the dilemma is easily resolved. In all cases, the appearance of conflict must favor the people, yielding to substantial rights secured by State and national constitutions.

The Oklahoma Constitution establishes the order of power and authority as follows:

> Preamble
>
> Invoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; to secure just and rightful government; to promote our mutual welfare and happiness, we, the people of the State of Oklahoma, do ordain and establish this Constitution.

Article I -- Federal Relations

§ 1. Supreme law of land

The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

Article II -- Bill of Rights

§ 1. Political power -- Purpose of government -- Alteration or reformation

All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it: Provided, such change be not repugnant to the Constitution of the United States.

§ 2. Inherent rights

All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.

§ 3. Right of assembly and petition

The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress of grievances by petition, address, or remonstrance.

§ 33. Effect of enumeration of rights.

The enumeration in this Constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

The people of Oklahoma are sovereign, and government agencies, via public servants such as judicial officers, may exercise only those powers delegated. They cannot exceed powers specifically articulated, and as demonstrated above, officers of the State cannot function in a federal capacity. If district courts are going to function as administrative law courts, then they do not have jurisdiction over the sovereign people except as people function in some special capacity subject to administrative law -- officers of corporations, officers of State agencies, etc.

State district courts cannot operate under admiralty rules to impose Civil Law except where administrative law reaches subject classes. In other words, when operating as a statutory or legislative court, the district court is incompetent at law, meaning the common law which is premised on "the laws of Nature and Nature's God," proven over something in excess of eight hundred years of British-American experience. In the administrative law court, the judicial officer, rather than being a judge of the independent judicial branch of government, as required at Article IV § 1 of the Oklahoma Constitution, functions as a legislative or administrative magistrate, and he in effect imposes bills of attainder, prohibited at Article II § 15 of the Oklahoma Constitution and corresponding provisions of the United States Constitution, any time he deprives the sovereign people of life, liberty or property. The magistrate carries out legislative and/or administrative functions as opposed to independent judicial functions, and in this framework, the court operates under principles of procedural rather than substantial due process, elevating government interest over that of the sovereign people.

A second aspect of the court when operating in statutory rather than common law capacity is that of a *nisi prius* or contract court which accommodates private international law (see "statutes" under subcategory "conflict of law" in Am.Jur. 2d.). This is admiralty where the administrative law court is vice-admiralty. The sovereign people of Oklahoma aren't subject to either.

Presumption of Federal Character Under Uniform Laws

What the United States Supreme Court occasionally refers to as "Cooperative Federalism" has evolved since approximately the Civil War. The history won't be covered

in detail here as it is treated in memorandums addressing jurisdiction of United States district courts and related matters.

Where the several States are concerned, they were increasingly drawn under Congress' Article IV legislative jurisdiction in the geographical United States during Reconstruction, the Monroe Doctrine playing an important role, with the period following establishment of the Federal Reserve System (1913) being particularly significant. From the time of the Julliard decision in 1884 through 1913, Americans were conditioned to accept and use United States paper money, which was backed by gold, then in the period from 1913 to 1933, Federal Reserve Notes were debauched to the point they were backed only by 40% gold with the other 60% backed by United States obligations (debt). Dilution of the monetary system gave America the first inflation in a hundred years, and contributed significantly to unsustainable speculation which resulted in the 1929 equities crash and ten years of hard depression.

Two days after taking office, Franklin Roosevelt declared a banking emergency and scheduled a special session of Congress, held March 9, 1933. Via H.R. 1491, Congress authorized scrip currency known as "Federal Reserve bank notes" backed exclusively by United States obligations (debt), gave preliminary approval for Roosevelt to seize privately held gold, and effectively turned the United States Government into an executive dictatorship. The subject has been treated extensively by Dr. Eugene Schroeder of Campo, Colorado and various others.

Beginning in late spring 1933, State legislatures were convened in special session or States were simply put under emergencies declared by governors (the North Dakota Legislature, which did not meet in 1933, was not called into special session). In Oklahoma, a special session of the Legislature commenced in May and ran into July 1933. New Deal banking, industrial, and agricultural stabilization and recovery acts fueled fires at both state and national levels as government was reorganized to operate outside constitutional bounds. The common thread was declaration of economic emergency -- exercise of power which is nowhere authorized in State or United States constitutions.

For the first few years after the Roosevelt takeover, the United States Supreme Court attempted to hold the line by declaring much of the New Deal legislation unconstitutional. However, by 1938, Roosevelt made two appointments to the Court and threatened to expand the number of justices sufficiently to secure a majority who favored his political philosophy. The court capitulated via Erie Railroad v. Tompkins (1938) by proclaiming that there is no national or general common law. The Erie Railroad case opened flood gates -- in the next several years, both State and United States courts closed the door on common law by moving under procedural due process provisions of Code law. This was in the wind for many years, as evidenced by the Maine Bar Association 1992 centennial report, with California and New York having promulgated early Civil Law provisions as early as 1872, but change prior to 1938 was relatively mild compared to that which was implemented from 1938 to approximately 1970, with a few States, such as North Dakota, delaying revision of constitutional provisions relating to courts until the early part of the current decade.

Through the 1930s, the unconstitutional arrangement between the several States and the geographical United States under Congress' Article IV legislative jurisdiction was referred to as "corporatism" -- the United States Government is a corporate entity (1871), bankrupt and effectively put in receivership with the Federal Reserve as trustee (fiscal agent) in 1933. The several States signed on in order to receive benefit of allocations distributed by way of federal grants (the director of the U.S. Department of Transportation serves as leading authority over the federal grant-making process).

This arrangement, now known as Cooperative Federalism, works in somewhat the fashion a pregnant woman feeds her unborn baby: While the expectant mother's blood carries oxygen and nutrition to the unborn baby, and vacates waste, the mother's blood and the baby's blood never mix. They maintain the integrity of independent systems.

The Buck Act, implemented in 1940, which contains statutes promulgated by "Act of Congress" from as early as 1933, is the federal-side centerpiece. Although not all are formally in the Buck Act, statutes included in 4 USC §§ 101-117 all play a role. By referencing the Parallel Table of Authorities and Rules, supra, it is evident that there are no implementing regulations applicable to the several States and the population at large for any of the statutes in title 4 of the United States Code.

The State side of the scam is carried out through Uniform Laws also known as "adopted acts." These Acts presume the several States are federal States subject to Congress' Article IV legislative jurisdiction rather than solely to Article I delegated authorities. This matter was treated earlier by referencing statute authority for the Federal Reserve Act and the Banking Acts of 1933 and 1935 -- there are no implementing regulations applicable to the several States and the population at large for any of these Acts.

One of the more serious concerns for researchers focused on the emergency declared March 9, 1933 was incorporation of Section 5b of the Trading with the Enemy Act of 1917, as amended. By removing two exclusionary clauses, the provision appears to change application so Government emergency powers reach the several States. The amendments, drafted by the New York Federal Reserve Bank board of directors, eliminated two phrases which exempted control of trade and exchange, particularly in gold, in the several States. Subsequent to passage, banks and the Government seized privately held gold, with Roosevelt later converting the seized gold at a higher price than paid to the people. However, implementing regulations demonstrate that this provision, today codified at 12 USC § 95a, is under Customs authority and is applicable only outside the several States. In other words, there is documented proof the scam was engaged without constitutional authority and the Act, whether constitutional or not, was applicable only in the geographical United States under Congress' Article IV legislative jurisdiction and as might be applicable to foreign entities. This conclusion is reinforced by the absence of regulations extending authority of Congress' retroactive approval of Roosevelt's emergency proclamation (12 USC § 95b).

Federally chartered financial institutions, inclusive of national banking "associations" established to provide financial services for officers, agents and employees of the United States, serve in the intermediate role for transfer in the capacity of federal tax and loan depositaries (31 CFR §§ 202 et seq.).

These entities, whether national banks, converted State banks (banks of the several States cannot legitimately participate in the Federal Reserve scam), federal savings and loan associations, federal credit unions, Farm Credit System banks, FHA, FmHA, or whatever else, traffic in only three mediums: Funds generated via fractional reserve banking that monetize private assets by way of Federal Reserve "book entry" credit (see 1 CFR § 462, "Federal Home Loan Mortgage Corporation (Book-Entry Regulations)" as example), the Federal Reserve [bank] Note, backed by obligations of the United States, and "Public Money", (31 CFR, Chapter 10).

These three mediums deserve individual attention:

First, the Federal Reserve [bank] Note, authorized at 4 USC §§ 411 & 412, has never been supported by regulations applicable to the several States (verify by reference to the Parallel Table of Authorities and Rules, supra). Further, the Federal Reserve [bank] Note is questionable for any other application. Since March 3, 1971, the Internal Revenue Service hasn't been authorized to accept Federal Reserve [bank] Notes and other such instruments in payment of assessed taxes (see repeal of 26 USC § 6312, March 3, 1971, via Public Law 92-5, § 4(a)(2)). In other words, the Federal Reserve [bank] Note has about the same legitimacy in the several States as Confederate money, Monopoly money or clam shells -- it has only perceived, no intrinsic or inherent value.

Next is the matter of bank credit issued against private assets which are fractionalized via Federal Reserve book-entry credit. Authority for this scheme was at 12

USC § 101, and there were never regulations applicable to the several States, but today this fraud is further compounded by the fact that §§ 101 et seq. were repealed in 1994. In other words, even the illusion of authority no longer exists -- federally chartered financial institutions today monetize American assets without so much as a semblance of legal authority.

Public money is defined in regulations at 31 CFR § 202.1:

> § 202.1 Scope of regulations.
>
> The regulations in this part govern the designation of Depositaries and Financial Agents of the Government (hereafter referred to as depositaries), and their authorization to accept deposits of public money and to perform other services as provided ... Public money includes, without being limited to, revenue and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees. The designation and authorization of Treasury Tax and Loan Depositaries for the receipt of deposits representing payments for certain United States obligations and of internal revenue taxes are governed by the regulations in part 203 of this chapter.

Further insight is provided at 31 CFR § 209.1, relating to payment to financial institutions for credit to accounts of federal employees and beneficiaries:

> § 209.1 Scope of regulations.
>
> (a) The regulations in this part govern the regular remittance to financial institutions of Federal payments which are for credit to the accounts of employees and beneficiaries, as defined herein, including payment for:
>
> (1) Full amounts of salaries and wages of civilian employees, and pay and allowances of members of the uniformed services;
>
> (2) Allotments of pay for savings accounts (available hereunder only to civilian employees); and
>
> (3) recurring annuities and benefits.

To reiterate, there is no regulation published in the Federal Register making any of these three mediums "for payment of debt" applicable within the several States. The Federal Reserve [bank] Note is merely private-issue scrip that is not supported by regulation applicable to the several States, and is so far out of favor that it has not been accepted for payment of internal revenue taxes since March 3, 1971. There has never been implementing regulations authorizing fractional reserve banking in the several States, and statutory authority applicable in the geographical United States was even repealed in 1994. Finally, "public money" is merely an arrangement whereby the United States Government transfers credit (debt obligations) to its officers, agents and employees. There is no authority for the several States or the population at large to participate in this scheme perpetrated via federally chartered financial institutions.

One example of the State of Oklahoma presuming the character of a federal State rather than maintaining status as one of the several States is contained in legislation relating to judgments denominated in foreign money. Note that the definition of "State" in this section lists states of the United States, naming the District of Columbia and Puerto Rico, but fails to name any of the several States. The definition corresponds to those in Rule 54(a) of the Federal Rules of Criminal Procedure and the Buck Act (unless otherwise stipulated, sections from Oklahoma Statutes were downloaded in September 1995 from the BBS maintained by the State of Oklahoma):

> 12 O.S. § 729.2. Definitions.
>
> As used in this act:
>
> 1. "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim;

2. "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate;

3. "Conversion date" means the banking day next preceding the date on which money, in accordance with this act, is:

a. paid to a claimant in an action or distribution proceeding,

b. paid to the official designated by law to enforce a judgment or award on behalf of a claimant, or

c. used to recoup, set-off or counterclaim in different moneys in an action or distribution proceeding;

4. "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes, but is not limited to, an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust or other fund;

5. "Foreign money" means money other than money of the United States of America;

6. "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money;

7. "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement;

8. "Money of the claim" means the money determined as proper pursuant to Section 5 of this act;

9. "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, limited liability company, two or more persons having a joint or common interest or any other legal or commercial entity;

10. "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim;

11. "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account or by an agreed delayed settlement not exceeding two days; and

12. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States.

Added by Laws 1994, c. 165, ' 2, eff. Jan. 1, 1995.

12 O.S. § 729.3. Application of act.

A. This act applies only to a foreign-money claim in an action or distribution proceeding.

B. This act applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

Added by Laws 1994, c. 165, ' 3, eff. Jan. 1, 1995.

12 O.S. § 729.4. Variation of act by agreement of parties.

A. The effect of this act may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

B. Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the

transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.
Added by Laws 1994, c. 165, ' 4, eff. Jan. 1, 1995.

12 O.S. § 729.5. Determining proper money of claim.

A. The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

B. If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

1. Regularly used between the parties as a matter of usage or course of dealing;

2. Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

3. In which the loss was ultimately felt or will be incurred by the party claimant.

Added by Laws 1994, c. 165, ' 5, eff. Jan. 1, 1995.

12 O.S. § 729.6. Determining amount to be paid in foreign money.

A. If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

B. If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty (30) days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

C. A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.
Added by Laws 1994, c. 165, ' 6, eff. Jan. 1, 1995.

12 O.S. § 729.7. Assertion of claim or defense using a foreign money.

A. A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

B. An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

C. A person may assert a claim as a defense, set-off, recoupment or counterclaim in any money appropriate for the claim without regard to the money of other claims.

D. The determination of the proper money of the claim is a question of law.
Added by Laws 1994, c. 165, ' 7, eff. Jan. 1, 1995. (emphasis added)

The Uniform Commercial Code provides a similar definition of "money" as those set out above at 12A O.S. § 1-201(24):

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

As previously noted, the U.S. Constitution, at Article I § 10, prohibits the several States from making any thing but gold and silver coin a tender for payment of debt. These

Acts stand in clear contradiction to the constitutional prohibition, so must be premised on something other than State and United States constitutional authority. This is seen in the definition of "State", naming the District of Columbia and Puerto Rico to identify the class of federal States, without identifying any of the several States, thus deviously stripping Oklahoma of its status as a State republic subject only to Congress' Article I legislative jurisdiction. It will also be noted that particulars in statutes set out above tacitly distinguish between money of the United States of America, and United States dollars -- as already demonstrated, United States "dollars" are as foreign to the several States as the Japanese Yen or the Swiss Mark.

A variation of the federal State definition appears in title 22, the Oklahoma Code of Criminal Procedure:

> 22 O.S. § 721. Definitions.
>
> "Witness" as used in this act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.
>
> The word "state" shall include any territory of the United States and the District of Columbia.
>
> The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.
>
> Laws 1949, p. 205, ' 1.

> 22 O.S. § 729. Definitions.
>
> As used in this act:
>
> 1. "Penal institution" means a jail, prison, penitentiary, house of correction, or other place of penal detention or place where the prisoner is required to reside or report in lieu of penal detention, including, but not limited to house arrest, half-way houses, community or treatment centers;
>
> 2. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory of the United States;
>
> 3. "Witness" means a person who is confined in a penal institution in a state and whose testimony is desired in another state by a grand jury or other criminal proceeding before a court.

Another variation of the definition is located in the Interstate Agreement on Detainers. This particular Act is important as it falls directly under Buck Act authority, the original Act of Congress implemented in 1933, and even then applicable only in the federal States exclusive of the several States:

> Article II
>
> As used in this agreement:
>
> (a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.
>
> (b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.
>
> (c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

The Oklahoma Code of Civil Procedure, as the Code of Criminal Procedure, the Traffic Code, Uniform Commercial Code, and many other Acts published as Oklahoma Statutes are among the uniform laws adopted by the several States, with all of these laws presuming the federal character, as demonstrated above. Most are identified by statute such as the following:

12 O.S. § 107. Uniform law.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Laws 1965, c. 98, ' 4, emerg. eff. May 12, 1965.

These various uniform acts are defined in Oklahoma statutes as being "adopted acts", and are distinguished from foundation law at 75 O.S. § 11:

75 O.S. § 11. Statutes defined.

The Statutes of Oklahoma are hereby defined to be:

First. Original acts enacted by the Legislature.

Second. Statutes taken from other sources and adopted and enacted by the Legislature as statutes of this state.

Uniform laws adopted by the Legislature are inferior to fundamental law, and under rules governing conflict of law, must in all cases yield to fundamental law:

75 O.S. § 12. Original acts shall govern.

In all cases where there is a conflict between the original acts and adopted statutes, the original acts shall govern, and the adopted statutes shall be deemed as repealed, amended, or modified thereby, without reference to the date of the approval of such original acts. For purposes of this section, "original acts" means the enrolled documents of the acts as produced by the house of origin.

R.L. 1910, ' 8148; Laws 1983, c. 164, ' 1, emerg. eff. June 6, 1983.

Along with the other States which adopted English-American common law, Oklahoma recognizes the Magna Charta as the first significant document establishing common rights and remedies, and as the Preamble to the Oklahoma Constitution clearly demonstrates, the people of Oklahoma responsible for establishing the State constitution recognized "Almighty God" as being the fountain and source of authority and liberty. Documents recognized as being elements of Oklahoma law are listed as follows:

75 O.S. § 172. Contents.

The Statutes as provided for in Section 171 of this title shall contain the Magna Carta, Declaration of Independence, the Constitution of the United States with its amendments, the Organic Act of Oklahoma, the Enabling Act of Oklahoma, the Constitution of the State of Oklahoma with its schedule and amendments, and all laws of the State of Oklahoma of a general and permanent nature now in force, including all laws and amendments of a general and permanent nature passed by the First Regular Session of the Forty-third Legislature, 1991, with all repealed laws and those held unconstitutional by the highest courts eliminated.

Laws 1971, c. 117, ' 2, emerg. eff. May 1, 1971; Laws 1981, c. 91, ' 2, emerg. eff. April 20, 1981; Laws 1991, c. 27, ' 2, emerg. eff. March 29, 1991.

Finally, existing rights and remedies, meaning those of a substantive or substantial nature (an inherent or unalienable right or remedy has substance) are preserved in the savings statute:

75 O.S. § 178. Adoption as general and public laws - Saving clause.

The Oklahoma Statutes 1991, prepared by West Publishing Company and in six (6) volumes as above provided for, after the same shall have been approved by the Justices of the Supreme Court of the State of Oklahoma as hereinabove provided, shall be as provided in Section 179 of this title, and are hereby adopted as the general and public laws of the State of Oklahoma and the official Statutes of the State of Oklahoma, as to all laws therein contained. Provided, however, that this act shall not be construed to repeal or in any way affect or modify any special or local laws or any

> law making an appropriation or any law relating to any special election or validating act, or any law affecting any bond issue or by which any bond issue may have been authorized, nor to affect any pending proceedings or any existing rights or remedies, nor the running of the statutes of limitations in force at the time of the approval of this act; but all such local and special laws, laws making appropriations, laws relating to special elections, validating acts, and laws relating to or authorizing bond issues, pending proceedings, and existing rights and remedies, and statutes of limitations running and in force at the time of the approval of this act shall continue and exist in all respects as if this act had not been passed. Provided, further, that this act shall not be construed to alter, change, impair, disparage, vest or divest, or in any way affect any right or interest in the United States, the State of Oklahoma, any of the Five Civilized Tribes, or other Tribes or Nations of Indians within the State of Oklahoma, nor shall the same be construed to repeal any act of the Legislature of the State of Oklahoma enacted subsequent to the adjournment of the First Regular Session of the Forty-third Legislature of the State of Oklahoma.
>
> Laws 1971, c. 117, ' 8, emerg. eff. May 1, 1971; Laws 1981, c. 91, ' 8, emerg. eff. April 20, 1981; Laws 1991, c. 27, ' 7, emerg. eff. March 29, 1991. (emphasis added)

An existing right or remedy is antecedent to, or comes before that which is done later. In the Declaration of Independence, American founders appealed to the "laws of Nature and Nature's God" to justify severance from British rule. They then proclaimed that all men are created equal, endowed by their Creator with certain unalienable or inherent rights. Only then was government mentioned as an entity to be established among men for the purpose of securing unalienable rights, thereby providing an environment in which those rights might be enjoyed.

God, not government, endows man with basic dignities, and man thereafter creates government with certain enumerated responsibilities, delegating only those powers specified.

The right is antecedent to the remedy -- those who have no rights have no remedies. In the American system, those vested with unalienable rights enjoy the status of sovereign just as the English king was sovereign prior to the American Revolution. The American sovereign is no more subject to incidental law created by government than the English king was. Government can impose such authority only on subject classes. The sovereign can be indicted and otherwise put upon only by peers, with his peers having authority over law and fact in both the indictment and prosecution process.

"Existing rights and remedies" were first set to paper as a fundamental document in the Magna Charta after English barons subdued King John for domestic tyranny. The Popular Rebellion of 1640, due largely and primarily to Star-Chamber and convoluted ecclesiastical courts, ended the tyranny of Charles I. And the American Revolution was fought largely because of vice-admiralty courts imposed by George III. These three historic events, along with numerous less significant clashes, proved the necessity of substantial due process.

Throughout American colonial and early national development, the Bible was the primary handbook of common law, and at least through the last century, courts acknowledged that Christian principles are an integral part of the English-American common law, viewed in the framework of state and national constitutions and general laws of the several States.

The notion that the people are self-governing and government is self-regulating is a foundation principle in the American system. This is visibly demonstrated through an English concept of law: People indigenous to the land are subject only to the law of the land, meaning the heritage common law, while the king exercises admiralty rule at sea. The king's authority via admiralty rule spreads inland only in the event of national peril which threatens survival. This is described as the "high water mark" -- the rule of necessity prevails. Natural and human resources, production, distribution and all other national

assets may then be organized to support survival need. Then, and only then, can the people be subjected to admiralty authority. During the emergency, procedural due process may for a time displace substantive due process.

This is precisely what happened in 1933: On March 6, two days after he was inaugurated, President Roosevelt declared an emergency, and under the rule of necessity, ordered the bank holiday (closed federally chartered banks; State banks for the most part followed suit), and called the special session of Congress for March 9.

Roosevelt and Herbert Hoover presidential papers demonstrate that the New York Federal Reserve Bank board of directors first submitted the suggested emergency proclamation to Hoover, but Hoover refused to endorse the order as he believed it was unconstitutional. The Congressional Record for March 9, 1933 discloses that concerned House members wanted to know the source of H.R. 1491, the banking relief act which was read in emergency session without printed copies being distributed. Comments in Roosevelt's presidential papers reflecting his concerns demonstrate that even the President didn't know particulars of H.R. 1491 as he believed it would be necessary to issue warehouse receipts or some other scrip to serve as interim currency. He was not aware of the Federal Reserve [bank] Note, backed exclusively by obligations of the United States, or how it would operate.

Governors of the several States declared emergencies subsequent to Roosevelt declaring what today is known to have been an exclusively United States emergency, the geographical United States being only that subject to Congress' Article IV legislative jurisdiction (District of Columbia, Puerto Rico, etc.). There are no state or national constitutional provisions which authorize proclamation of emergencies except in the event of invasion, war, or civil uprising, with all such provisions having limited duration (Congress must renew appropriations for military enterprise every two years).

Hoover later charged that bank runs supposedly justifying the Roosevelt emergency were initiated by New Deal insiders who withdrew massive amounts of gold and shipped it abroad, eventually enjoying windfall profits when Roosevelt established an elevated price.

The March 9 House Record reflects that bank officers were largely responsible for industry woes as they engaged in the speculative period leading to the depression by leveraging assets to the point that collectively they had $44 on loan for every dollar on deposit. Since the federally chartered banking system, attached to the Federal Reserve System, was simply a United States intergovernmental system devised to provide financial services to agencies of the United States and officers, agents and employees of those agencies (departments), the illusion had to be accommodated on the State side by corresponding fraud. This has been accomplished via uniform adopted acts (1) accommodating private international law, and/or (2) administrative law applicable only to subject classes such as government agencies and corporations.

The character of State courts in the framework of various uniform laws is disclosed in the Oklahoma Code of Criminal Procedure via the designation of State judges at all levels as "magistrates" --

> 22 O.S. § 161. Magistrate defined.
>
> A magistrate is an officer having power to issue a warrant for the arrest of a person charged with a public offense.
>
> R.L.1910, ' 5627.

> 22 O.S. § 162. Who are magistrates.
>
> The following persons are magistrates:
>
> First. Justices of the Supreme Court.
>
> Second. Judges of the Court of Criminal Appeals.
>
> Third. Judges of the Court of Appeals.

Fourth. Judges of the district court, including associate district judges and special judges.

R.L.1910, ' 5628; Laws 1968, c. 162, ' 7; Laws 1970, c. 247, ' 16, emerg. eff. April 15, 1970.

To date, the underlying character of State magistrate judges (Special Judges) has not been traced, but Federal Magistrate Judges are national park commissioners (28 USCS § 631-639) who have concurrent jurisdiction with U.S. district courts where they are assigned (18 USCS §§ 7(3) & 3231; in the several States, jurisdiction is limited to forts, magazines, arsenals, dockyards, and other needful buildings ceded to the United States for constitutional purposes). When serving in magistrate capacity, the State judicial officer is operating in somewhat the same role as an Article I judge of the United States under Congress' Article IV legislative jurisdiction to impose administrative law (admiralty/vice-admiralty). Administrative due process is procedural, not substantive or substantial, with the court reserving authority to determine law while submitting only matters of fact for jury determination:

12 O.S. § 2201. Judicial Notice of Law.

A. Judicial notice shall be taken by the court of the common law, constitutions and public statutes in force in every state, territory and jurisdiction of the United States.

B. Judicial notice may be taken by the court of:

1. Private acts and resolutions of the Congress of the United States and of the Legislature of this state, and duly enacted ordinances and duly published regulations of governmental subdivisions or agencies of this state or the United States; and

2. The laws of foreign countries.

C. The determination by judicial notice of the applicability and the tenor of any matter of common law, constitutional law or of any statute, private act, resolution, ordinance or regulation shall be a matter for the judge and not for the jury.

Laws 1978, c. 285, ' 201, eff. Oct. 1, 1978.

12 O.S. § 2202. Judicial Notice of Adjudicative Facts.

A. This section governs only judicial notice of adjudicative facts.

B. A judicially noticed adjudicative fact shall not be subject to reasonable dispute. It shall be either:

1. Generally known within the territorial jurisdiction of the trial court; or

2. Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

C. A court may take judicial notice, whether requested or not.

D. A court shall take judicial notice if requested by a party and supplied with the necessary information.

E. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed. (emphasis added)

In the admiralty or vice-admiralty court, the magistrate commands law, as well as evidence, so whether by direct or indirect means, has the power to secure what amounts to directed verdicts, whether by a jury or the Court. This is further demonstrated by the following provision in the Oklahoma Code of Civil Procedure:

12 O.S. § 2104. Rulings on Evidence.

A. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of a party is affected, and:

1. If the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

2. If the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked.

B. The court may add any statement which shows the character of the evidence, the form in which it was offered, the objection made and the ruling thereon. It may direct the making of an offer in question and answer form.

C. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being presented to the jury by any means, including making statements or offers of proof or asking questions within the hearing of the jury.

D. Nothing in this section precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court. (emphasis added)

The nature of uniform laws is disclosed in the very beginning of the Oklahoma Code of Civil Procedure:

12 O.S. § 2. Force of common law.

The common law, as modified by constitutional and statutory law, judicial decisions and the condition and wants of the people, shall remain in force in aid of the general statutes of Oklahoma; but the rule of the common law, that statutes in derogation thereof, shall be strictly construed, shall not be applicable to any general statute of Oklahoma; but all such statutes shall be liberally construed to promote their object. (emphasis added)

The term "derogation" is defined in the Sixth Edition of Black's Law Dictionary as follows:

Derogation. The partial repeal or abolishing of a law, as by a subsequent act which limits its scope or impairs its utility and force. Distinguished from *abrogation*, which means the entire repeal and annulment of a law.

That which is in derogation of something does not abrogate it, but in some way encumbers or limits application. In a December 1994 letter, Justice Marian P. Opala of the Oklahoma Supreme Court described operation of legislative or statutory State courts as "non-constitutional." In other words, they operate outside constitutional bounds, and as statutes cited above demonstrate, the magistrate judge is obliged to take judicial notice of constitutional and common law when introduced by a party to an action, but he reserves the right to determine relevance and application of fundamental law when and if a case is submitted for jury consideration -- the "special jury" authorized at Article VII § 15 of the Oklahoma Constitution.

Operation of original and adopted acts is somewhat on the order of Yin and Yang in the Chinese infinity circle: Black and white together fill all available space but do not share space. Black is passive, white is active. When light penetrates, darkness flees. Thus, the rule governing "conflict of law" at 75 O.S. § 12: Procedural due process cannot deprive the de jure people of substantial rights, as secured by State and national constitutions, whether in civil or criminal actions.

Adopted uniform acts do not abrogate fundamental law; man cannot author or amend the laws of Nature and Nature's God, and for that which stands contrary to historically proven rights and remedies to prevail would be to abandon even the semblance

of constitutional rule. It is one thing to beguile, but another to oppress when the truth is known and is presented to the Court.

Political Takeover; Preservation of Common Law Remedies

In 1933, brave souls in Oklahoma, Colorado and several other State legislatures issued resolutions demanding that Congress supply the States with constitutionally legitimate gold and silver coin. The initiatives were ignored, and the legislatures went on to accommodate the absurd. In 1933, Oklahoma and other State legislatures enacted legislation proclaiming that virtually all activity is commercial in nature. This has been the vehicle for general fraud perpetrated under the guise of "Cooperative Federalism" for something in excess of six decades. Supposedly, Congress' authority spreads inland under the constitutional commerce clause. However, the United States Code defines "interstate commerce" as commercial activity between the federal States and, as identified in the Uniform Commercial Code via definition previously cited, international affairs. United States administrative agreements, including the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, do not have implementing regulations applicable to the several States. But governments of the several States clamor to accommodate sweeping fraud that undermines national sovereignty and solvency, thereby visiting destruction on national resource industries and exporting American manufacturing.

By 1990, United States Government employed more people than all American manufacturing combined. In Oklahoma and other interior States, government has been the only consistent growth industry since approximately 1981. The effect will be cataclysmic: The nation's combined public and private debt long ago crossed the $25 trillion mark, with no way to service "book-entry" credit (blue-sky "debt", being the obligation of the issuing entity) from gross domestic product that languishes below $6 trillion.

The Congressional Record for the House on March 9, 1933 contains an acknowledgment of import -- Representatives responsible for promoting H.R. 1491 were fully aware the bill would institutionalize inflation. By the end of the decade, Karl Wilkins and other analysts projected the approximate timeframe when compounding interest would threaten the nation with general economic meltdown. The first Grace Commission Report, released in August 1980, accurately forecast debt spiral acceleration after 1985.

Economy is based on physical law -- "the laws of Nature and Nature's God" -- and there is no way to avoid adverse consequence when departing underlying principles such as, "Nothing comes from nothing."

Common law is rooted in historically proven truth, such as physical law governing economy, recognizing that truth ultimately prevails, whether as benefit or consequence, and in the American common law lineage, where the people are sovereign, the people reserve the right to judge law and fact, whether in political or judicial forums. One avenue is as important as the other -- jury powers in particular safeguard against tyranny under color of law. The matter was addressed by the Honorable Theo. Parsons in the Massachusetts convention in 1788 when answering the objection that the proposed Constitution for the United States did not contain a Bill of Rights. Parsons recited a principle of English-American common law lineage:

> The People themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory; it is not law; and any man may be justified in his resistance. Let him be considered as a criminal by the general government, yet only his fellow citizens can convict him; they're his jury, and if they pronounce him innocent, not all the powers of Congress can hurt him; and innocent they certainly will pronounce him if the supposed law he resisted was an act of usurpation. (2 Elliot's Debates, 94, Bancroft, History of the Constitution, p. 267)

As demonstrated, the admiralty/administrative law court operating in the context of Code law seeks to frustrate and remove the common law authority of juries, and by procedural, as opposed to substantive due process, perpetuate the absurd. However, in order for procedural/code law to remain non-constitutional, as opposed to unconstitutional, procedural due process must provide avenues to secure substantial rights. This is done variously in titles of the United States Code and codes of the several States.

Oklahoma is fortunate to have an excellent constitution which in many ways condemns procedural due process where State agencies such as courts assume a federal character and accommodate the absurd. Provisions below provide one of several avenues for condemning fraud on the part of various federally chartered financial institutions.

At Article I § 1 of the Oklahoma Constitution, the Constitution of the United States is recognized as the supreme law of the land. This is consistent with provision made in the Constitution for the United States -- it must be incorporated as the law of the land in the several States. Therefore, the prohibition against making any thing but gold and silver coin a tender for payment of debt at Article I § 10.1 of the national constitution is the law of the land in Oklahoma and other States party to the constitution. At Article II § 15, the Oklahoma Constitution articulates other provisions found in Article I § 10 of the national constitution, specifically stipulating that the State cannot pass law which impairs the obligation of contracts.

Theoretically, the right to contract might permit the outrageous and thereby legitimize "non-constitutional" Code law. However, the United States Supreme Court has time and again ruled that anyone who enters a contract which infringes on constitutionally assured rights must be informed and knowingly endorse such contracts. The Oklahoma Constitution takes this a step further in Article XXIII §§ 8 & 9:

WAIVER OF RIGHTS

§ 8. Contracts waiving benefits of Constitution invalid

Any provision of a contract, express or implied, made by any person, by which any of the benefits of this Constitution is sought to be waived, shall be null and void.

§ 9. Notice or demand, stipulation for

Any provision of any contract or agreement, express or implied, stipulating for notice or demand other than such as may be provided by law, as a condition precedent to establish any claim, demand, or liability, shall be null and void.

In Oklahoma, contracts that do not comply with provisions of the Constitution for the United States, and with historical principles of common law, do not exist. They are nullities, and are therefore unenforceable, from the beginning -- they are *nunc pro tunc*, as though they never were.

As the self-interested United States emerged, Congress implemented measures to bind loyalty under Article IV authority. This was accomplished by way of a two-oath system. Many elected and appointed officers of the United States first take the constitutional oath prescribed by the national constitution, then a second oath to the geographical United States prescribed by separate statute. The second oath for United States justices and judges is located at 28 USC § 453.

Many of the several States, including Oklahoma, have adopted this same mechanism. The official constitutional oath to state and national constitutions is located at Article XV § 1 of the Oklahoma Constitution. Elected and appointed State and local officials then take a statutory oath described as a "Loyalty Oath" that accommodates constitutions and laws. This second oath, while appearing relatively innocent, accommodates de facto (unlawful) operation of the State as a federal State rather than one of the several States.

Technically, any official who takes the second oath and is aware that it accommodates the federal character of State and local government has abridged the prohibition against simultaneously serving in state and federal capacities (Article II § 12 of the Oklahoma Constitution), and could be immediately removed under penalties of perjury, prescribed at Article XV § 2 of the Oklahoma Constitution.

The principle is scriptural: No man can serve two masters. It's one thing to innocently serve in a de facto capacity contrary to fundamental law, but quite another to knowingly accommodate tyranny.

With this overview, we can move into Code law itself to see how constitutional and common law are preserved. The following should be framed in the context of 12 O.S. § 2, that speaks to the Code of Civil Procedure being in "derogation" of the common law, 75 O.S. § 11, which distinguishes between original acts (Magna Charta, Declaration of Independence, etc., through the constitutions and English-American lineage common law) and adopted acts, 75 O.S. § 12, which under conflict of laws doctrine stipulates that original acts will in all cases prevail, and 75 O.S. § 178, which preserves all "existing rights and remedies."

Substantial due process and common law governing conduct of various State and county officers is preserved in Oklahoma Statutes, but is hidden well enough that it is difficult to find. The common law action is preserved as follows:

12 O.S. §1051. Causes of action that survive.

In addition to the causes of action which survive at common law, causes of action for mesne profits, or for an injury to the person, or to real or personal estate, or for any deceit or fraud, shall also survive; and the action may be brought, notwithstanding the death of the person entitled or liable to the same.

R.L.1910, ' 5279. (emphasis added)

The county court clerk is required to comply with statutory and common law, with 12 O.S. § 12 governing conduct:

12 O.S. § 35. Powers and duties of clerks - Statistical and other information for Supreme Court, President Pro Tempore of Senate and Speaker of House.

The clerks of each of the courts shall exercise the powers and perform the duties imposed upon them by the statutes of this state and by the common law. The clerks of each of the courts of record shall furnish without cost to the Supreme Court of Oklahoma and to the President Pro Tempore of the Senate and the Speaker of the House of Representatives such statistical and other information as the court or Legislature may require, including, but without being limited to, the number and classification of cases:

1. Filed with the court;
2. Disposed of by the court, and the manner of such disposition; and
3. The number of cases pending before the court, at each term of the court.

R.L.1910, ' 5335; Laws 1951, p. 23, ' 2; Laws 1981, c. 272, ' 3, eff. July 1, 1981. (emphasis added)

The county sheriff is under the same obligation:

12 O.S. §55. Sheriff may adjourn court, when.

If the judge of a court fail to attend at the time and place appointed for holding his court, the sheriff shall have power to adjourn the court, from day to day, until the regular or assigned judge attend or a judge pro tempore be selected; but if the judge be not present in his court, nor a judge be assigned or a judge pro tempore be selected, within two (2) days after the first day of the term, then the court shall stand adjourned for the term. The sheriff shall exercise the powers and duties

conferred and imposed upon him by the statutes of this state and by the common law. (emphasis added)

R.L.1910, ' 5338.

Unfortunately, there is no docket provision that presently accommodates common law actions. The Oklahoma Supreme Court has authority to add common law to the docket, but State courts will not have a common law capacity to the point the docket is expanded. Both civil and criminal dockets, as well as small claims, accommodate statutory Civil Law which presumes the federal character and operates under admiralty rules. In all cases, this law applies to subject classes, whether in the administrative or private international law framework. This is demonstrated by definitions of the term "person" in both the Code of Civil Procedure and the Uniform Commercial Code:

12 O.S. § 113. "Person" defined.

As used in this act, the term "person" shall mean an individual, corporation, partnership, business trust, unincorporated organization, association or joint stock company.

Laws 1967, c. 360, ' 5, emerg. eff. May 22, 1967.

12A O.S. § 1-201

(30) "Person" includes an individual or an organization (See Section 1-102 of this title).

Natural-born, moral people are principals, they are not subjects. The definitions above define "person" as an individual on the same level as humanly created entities such as private corporations, government entities, etc. In other words, all are subject classes, including the "individual."

This is another tie to the "federal State" as opposed to the de jure State republic. The term "individual" is defined as "a citizen of the United States or an alien lawfully admitted for permanent residence." (5 USC § 552(a)(2)). This "citizen of the United States" is tied to the geographical United States via Section 1 of the Fourteenth Amendment to the Constitution for the United States, as follows:

Amendment XIV [1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside...

The de jure people of the several States, who are not citizens of the geographical United States, are not "subject to the jurisdiction thereof [the United States]" except as prescribed in Article I of the Constitution. But the matter can be narrowed even further -- the Fourteenth Amendment was never properly ratified, as concluded by the Utah Supreme Court and the Utah Legislature, and acknowledged in the Congressional Record in the 1940s. The link between federally chartered financial institutions and "persons" is shored up in the Uniform Commercial Code:

12A O.S. § 4-105. "Bank"; "Depositary Bank"; "Payor Bank"; "Intermediary Bank"; "Collecting Bank"; "Presenting Bank".

"BANK"; "DEPOSITARY BANK"; "PAYOR BANK"; "INTERMEDIARY BANK"; "COLLECTING BANK"; "PRESENTING BANK"

In this article:

(1) "Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company;

(2) "Depositary bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter;

(3) "Payor bank" means a bank that is the drawee of a draft;

(4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depositary or payor bank;

(5) "Collecting bank" means a bank handling an item for collection except the payor bank; and

(6) "Presenting bank" means a bank presenting an item except a payor bank.

Laws 1961, p. 122, ' 4-105; Laws 1991, c. 117, ' 98, eff. Jan. 1,

12A O.S. § 1-201

(4) "Bank" means any person engaged in the business of banking.

As already demonstrated via 44 USC § 1505(a), 31 CFR § 202 et seq. (§ 209.1 in particular), FDIC definitions, and various other statutory and regulatory authorities, federally chartered financial institutions are established to accommodate agencies of the United States, agencies of federal States under Congress' Article IV legislative jurisdiction, and officers, agents and employees of those agencies. The fiat credit and monetary systems were not established to serve the several States and the population at large, as evidenced by the lack of implementing regulations for the Federal Reserve Act and the Banking Acts of 1933 & 1935. Therefore, the term "person", which includes "individual" on a par with corporations, government agencies, etc., must be (1) the Fourteenth Amendment citizen of the United States, "subject to the jurisdiction thereof," (2) people who serve in public office subject to Congress' Article IV legislative jurisdiction, and/or (3) someone who isn't a Fourteenth Amendment citizen of the United States but happens to live or be in the geographical United States (District of Columbia, Puerto Rico, etc., or on a federal enclave ceded to the United States for constitutional purpose). In any case, the several States and Citizens of the several States are not subject to admiralty/vice-admiralty authority of legislative courts, whether of the States or the United States.

If a natural person, meaning a member of the sovereign people, is intended to be subject to any given Adopted Act statute, the statute or an implementing rule or regulation must specifically articulate that intent. Each of the several States has an administrative procedures act comparable to the Federal Administrative Procedures Act (5 USC § 552 et seq.), and the same general rules apply: If implementing rules or regulations are not published in the State equivalent to the Federal Register, application of any given statute is limited to government agencies and employees. The Oklahoma Administrative Procedures Act is at 75 O.S. § 250.1 et seq.

Without an implementing rule or regulation which has been published in the State Register, Code statutes are not sustainable in civil or criminal actions. Further, all courts which operate in derogation of common law, in the character of Article I courts of the United States, are courts of limited jurisdiction -- when jurisdiction is challenged, it must be proven on the record. And as several statutes already cited demonstrate, statutory law can never abridge substantial rights.

Codes of civil and criminal procedure provide protection under rules governing judicial notice and presumed fact. When pleadings introduce matters of constitutional and common law, the magistrate is required to take judicial notice -- the mandate is not optional. Under rules governing presumed fact, the opposing party has the opportunity to rebut, but if he doesn't overcome legal authorities which reflect elements and principles of constitutional and common law, the cause cannot be sustained. The rule governing conflict of law (12 O.S. § 12) in all cases preserves existing rights and remedies (75. O.S. § 178) in the face of adopted acts. Key governing statutes for judicial notice and presumed fact are as follows:

12 O.S. § 2201. Judicial Notice of Law.

A. Judicial notice shall be taken by the court of the common law, constitutions and public statutes in force in every state, territory and jurisdiction of the United States.

B. Judicial notice may be taken by the court of:

1. Private acts and resolutions of the Congress of the United States and of the Legislature of this state, and duly enacted ordinances and duly published regulations of governmental subdivisions or agencies of this state or the United States; and

2. The laws of foreign countries.

C. The determination by judicial notice of the applicability and the tenor of any matter of common law, constitutional law or of any statute, private act, resolution, ordinance or regulation shall be a matter for the judge and not for the jury.

Laws 1978, c. 285, ' 201, eff. Oct. 1, 1978.

12 O.S. § 2202. Judicial Notice of Adjudicative Facts.

A. This section governs only judicial notice of adjudicative facts.

B. A judicially noticed adjudicative fact shall not be subject to reasonable dispute. It shall be either:

1. Generally known within the territorial jurisdiction of the trial court; or

2. Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

C. A court may take judicial notice, whether requested or not.

D. A court shall take judicial notice if requested by a party and supplied with the necessary information.

E. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

12 O.S. § 2203. Determining Propriety of Taking Judicial Notice.

A. In determining the propriety of taking judicial notice of a matter:

1. The court may consult and use any source of pertinent information, whether or not furnished by a party; and

2. No exclusionary rule except a valid claim of privilege shall apply.

B. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the scope of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

C. Judicial notice may be taken at any stage of the proceeding.

Laws 1978, c. 285, ' 203, eff. Oct. 1, 1978.

12 O.S. § 2301. Definitions.

1. A "presumption" is a rule of procedure which means that when a basic fact exists the existence of another fact must be assumed, whether or not the basic fact has any probative value of the existence of the assumed fact;

2. "Basic fact" means the fact or group of facts giving rise to a presumption;

3. "Presumed fact" means the fact which must be assumed; and

4. "Inconsistent presumptions" means the presumed fact of one presumption is inconsistent with the presumed fact of another presumption.

Laws 1978, c. 285, ' 301, eff. Oct. 1, 1978.

12 O.S. § 2302. Establishment of Basic Fact.

The basic fact of a presumption may be established in an action by the pleadings, or by stipulation of the parties, or by judicial notice, or by evidence.
Laws 1978, c. 285, ' 302, eff. Oct. 1, 1978.

12 O.S. § 2303. Effect of Presumptions in Civil Cases.

Except when otherwise provided by law, when the basic fact of a presumption has been established as provided in Section 302 of this Code:

1. If the basic fact has any probative value of the existence of the presumed fact, the presumed fact shall be assumed to exist and the burden of persuading the trier of fact of the nonexistence of the presumed fact rests on the party against whom the presumption operates; or

2. If the basic fact does not have any probative value of the existence of the presumed fact, the presumed fact is disregarded when the party against whom the presumption operates introduces evidence which would support a finding of the nonexistence of the presumed fact and the existence of the fact otherwise presumed is then determined from the evidence in the same manner as if no presumption had been operable in the case.
Laws 1978, c. 285, ' 303, eff. Oct. 1, 1978.

12 O.S. § 2304. Presumptions in Criminal Cases.

A. Except as otherwise provided by law, presumptions against an accused, in a criminal case, recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this Code.

B. The court shall not direct the jury to find a presumed fact against the accused. The court may only submit the question of the existence of the presumed fact to the jury, if a reasonable juror considering the evidence as a whole, including the evidence of the basic facts, could find the presumed fact beyond a reasonable doubt.

C. Whenever the existence of a presumed fact against the accused establishes guilt or is an element of the offense or negatives a defense and is submitted to the jury, the judge shall give an instruction explaining that the jury may regard the basic facts as sufficient evidence of the presumed fact but is not required to do so. Where the presumed fact establishes guilt, is an element of the offense or negatives a defense, the judge also shall instruct the jury that its existence must be proved beyond a reasonable doubt.
Laws 1978, c. 285, ' 304, eff. Oct. 1, 1978.

12 O.S. § 2305. Inconsistent Presumptions.

If two conflicting presumptions arise the court shall apply the presumption which is founded on the weightier considerations of policy and logic. If there is no such preponderance both presumptions shall be disregarded.
Laws 1978, c. 285, ' 305, eff. Oct. 1, 1978.

When pleadings under provisions of 12 O.S. § 2012 challenge jurisdiction over person or subject matter, venue, etc., the Court is governed by Rule 4 of the District Court rules (1989 edition, Oklahoma Court Rules and Procedure, State and Federal, West Publishing Co., pp. 556 & 557):

RULE 4. MOTIONS

a. Where various objections and defenses have been consolidated pursuant to Section 2012(E) of Title 12, Oklahoma Statutes, the court should hear jurisdictional objections and defenses first. If the court grants a motion on one of the grounds stated therein, the court may pass over other grounds...

> c. [para. 2] Every motion shall be accompanied by a concise brief or a list of authorities upon which movant relies...
>
> e. Any party opposing a motion ... shall serve and file a brief or a list of authorities in opposition within fifteen (15) days of the service of the motion, or the motion shall be deemed confessed.
>
> h. Motions may be decided by the court without a hearing, and where this is done, the court shall notify the parties of its ruling by mail.

Rule 4(h) is important in this context as once venue and jurisdiction are challenged, the Court is immobilized and cannot command appearance or anything else to the point these preliminary matters are resolved with concrete evidence of legitimate authority. It isn't sufficient for a Magistrate to claim, "Yeah, I noticed that, now let's get on with the trial."

If a court doesn't have jurisdiction or venue authority, the party who has not been properly joined has no more concern for what happens in the court than what happens at the Grand Order of Moose, unless he happens to be a Moose member. In other words, it makes no difference if a party is present or not, a court cannot unilaterally act without proof of authority in record. If and when it does, the magistrate sheds his cloak of judicial immunity -- unless or until he can prove authority, he acts at his own peril.

One of the underlying facts concerning the legislative/statutory court is that it does not have *res judicata* authority -- all actions may be raised again on matters of both fact and law.

This matter was indirectly addressed in Wortham v. Walker, 128 S.W.2d 1138: No act of de facto government is ever of binding consequence. This is particularly relevant where State officers have abandoned the proper constitutional role of the State as an independent republic subject only to Congress' Article I legislative jurisdiction -- there is no provision either in State or United States constitutions authorizing State or United States officials to acquiesce sovereignty of the State and Citizens of the State.

This message was eloquently articulated by justices of the United States Supreme Court in New York v. United States, et al (1992), supra: The Tenth Amendment and the Separation of Powers Doctrine prohibit Congress from exercising power not delegated, and simultaneously prevent officers of the several States from accommodating federal powers not delegated before securing constitutional amendments.

In the context of the Oklahoma Constitution, if and when the legislative/statutory court deprives any of the sovereign people of life, liberty or property by way of procedural due process, it has done so without substantial due process, as contemplated at Article II § 7, and it has effected a bill of attainder, prohibited by the United States Constitution at Article I § 10 and the Oklahoma Constitution at Article II § 15. The magistrate, being a legislative rather than a true judicial officer, has abridged the Separation of Powers Doctrine, preserved at Article IV § 1; when acting in a federal capacity, has transgressed the constitutional prohibition against serving in State and United States capacities simultaneously (Okla. Constitution, Article II § 12); and is subject to penalties of perjury prescribed in the Oklahoma Constitution at Article XV § 2. He is also subject to removal under Article VII-A § 1(b) and other provisions of the Oklahoma Constitution.

Admiralty/Civil Law v. Common Law

The 1914 edition of Corpus Juris provides a decent background and history of Admiralty and Civil Law under "Admiralty" (p. 1248 et seq.):

> I. DEFINITION
>
> [§ 1] Admiralty is that branch or department of jurisprudence which relates to and regulates maritime property, affairs, and transactions, whether civil or criminal. In a more limited sense it is the tribunal exercising jurisdiction over maritime causes and administering the maritime law by a

procedure peculiar to itself and distinct from that followed by courts either of equity or of common law.

II. ORIGIN AND GROWTH

[§ 2] A. Under the Civil Law. Admiralty courts owe their origin and procedure largely to the civil law, which prevailed in Italy and along the north coast of the Mediterranean, where naval commerce was originally most active, and where, after the fall of the Western Empire, the merchants and traders by sea brought about the establishment of a court of consuls in each of the principal maritime cities to hear causes arising out of maritime commerce and property. The judges of these counslar courts were chosen on Christmas of each year by the chief merchants, and they enforced and applied to controversies the customs of the sea, whose origin is long anterior to the civil law itself. These courts gradually developed and extended their jurisdiction, as maritime commerce became more profitable and important, until ultimately, in most states, they were merged into, and became known as, courts of admiralty.

[§ 3] B. In England. The admiralty is a court of ancient origin, traceable back in English jurisprudence to the reign of Edward I, and exercising a jurisdiction coeval and coextensive with that of other foreign maritime courts; indeed, by some authorities it is said to have existed long before that time. But owing to the hostility which, from historic causes, gradually developed in England against the civil law, the jurisdiction of admiralty was there generally restricted and limited, both by statute and by decisions of the common-law courts interpreting the same. A reaction in favor of the admiralty courts has now taken place, however, and by acts of parliament they have regained much of their lost jurisdiction, and have acquired jurisdiction over all claims for damages done by any ship, whether on land or water.

[§ 4] C. In the United States. It is now well settled, after much controversy, that the jurisdiction of the courts of admiralty in the United States is not limited to that of the English admiralty at the time of the Revolution, but is derived from the early usages of the states and the federal laws and decisions.

III COURTS OF ADMIRALTY

[§ 5] A. In the United States -- 1. General. The United States constitution provides that the judicial power shall extend to all cases of admiralty and maritime jurisdiction.

[§ 6] 2. District Courts. The judicial code of 1911 gave the district courts of the United States exclusive original jurisdiction of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it; of all seizures on land or waters not within admiralty and maritime jurisdiction; of all prizes brought into the United States; and of all proceedings, for the condemnation of property taken as prize.

[§ 11] 7. Territorial Courts. Although admiralty jurisdiction can be exercised in the states in those courts only which are established in pursuance of the third article of the constitution, the same limitation does not extend to the territories, and congress may vest admiralty jurisdiction in courts created by a territorial legislature as well as in territorial courts created by act of congress, and it has exercises this power in both instances.

IV. JURISDICTION

[§ 16] A. In General -- 1. Nature and Scope. The jurisdiction of admiralty courts in the United States includes only maritime causes, or such as arise out of commerce and navigation upon the high seas or the navigable waters of the United States. The test of such jurisdiction is the nature of the claim on which the suit is founded, and not the form of remedy resorted to. The jurisdiction is complete in its nature, extending to the person as well as to the res.

[§ 17] 2. By What Law Governed -- a. In General. While the admiralty courts of the United States are governed in general by the same principles as maritime law as the courts of the maritime nations of continental Europe, their jurisdiction does not extend to all cases which would fall within the jurisdiction of such courts, and the exact nature and extent thereof must be determined by the law of congress and the decisions of the United States supreme court and by the usages prevailing in the courts of the states at the time the federal constitution was adopted.

> [§ 19] c. Federal Statutes. The jurisdiction of the federal courts in admiralty rests solely upon the constitution of the United States, and such jurisdiction is not dependent upon and cannot be enlarged or abridged by congress under its power to regulate commerce between the states and foreign nations.
>
> [§ 20] d. State Statutes. The states of the Union have no power to enlarge or diminish the admiralty jurisdiction of the federal courts by statute. Nor have the states the right to prescribe the rules by which the courts of the United States shall act, or the jurisprudence which they shall administer. And any state statute which undertakes to provide a common-law remedy in a state court by a proceeding in rem for a maritime cause of action is void...
>
> [§ 36] 3. Territorial Extent of Jurisdiction -- A. In General. Jurisdiction only attaches over the res when it comes or is brought within the control or submits to the jurisdiction of the court and not till then. Therefore the process of admiralty courts cannot be executed by the seizure of vessels outside their districts, nor can a vessel be considered as constructively within the district for the purpose of a libel in rem because she did not clear on leaving port, nor because her master consents or stipulates that she shall be so considered, but process may be executed or served anywhere within the district, upon property or persons there present, regardless of their nationality or residence.

The closely entwined history of Admiralty and Civil Law, with few distinctions between the two, demonstrates the private nature of admiralty. Merchants rather than civil governments established admiralty courts, and in many cases, extended authority into maritime communities and nations. This "law of the sea," premised on contract liabilities and conditions where ship owners and masters were quite literally private dictators, was severe beyond endurance so far as English-speaking peoples in the British Isles were concerned. English Barons took King John I to task because of what amounted to inland admiralty rule; the Popular Rebellion of 1640 was due to the Star-Chamber (admiralty) and severe ecclesiastical courts under Charles I; and the American Revolution was largely in response to vice-admiralty courts of George III. Admiralty and vice-admiralty courts cater to the self-serving ends of entrenched powers without consideration for fundamental law or the rights of those subjected to admiralty rule.

American Founders considered this form of law repugnant, and because of grievances, limited admiralty jurisdiction to spheres of commercial activity where the laws and customs of the sea prevailed. It wasn't until after the Civil War that Congress spread admiralty law and rule to Territories that were yet to be admitted to states, and vested Territorial courts with the Admiralty/Civil Law character.

The history above demonstrates that both the United States Constitution and, in the beginning, Congress, intended to reserve admiralty jurisdiction exclusively to the United States, and thereby prohibit admiralty authority in courts of the several States. This was first accomplished in the judicial act of 1789, and subsequently in 1911, with the latter establishing United States district courts as having original and exclusive jurisdiction over admiralty affairs (18 USC § 3231), except where Territorial courts were granted concurrent jurisdiction (18 USC § 3241).

Courts of the several States cannot legitimately operate in Admiralty (Oklahoma Constitution does not mention and therefore does not authorize admiralty or Civil Law), as the British-American lineage common law is the law of the land. The properly constituted jury, comprised of Citizens of the State, determine law and fact under rules of the common law.

Traditionally, the common law court, or court of common pleas, was not under government authority, particularly where civil matters were concerned. This was made clear in the Magna Charta at §17: "Common pleas shall not follow our court, but shall be holden in some place certain."

After the Norman Invasion of 1066, William the Conqueror established an appellate system which ended at the King's bench, thus providing a forum which brought about uniformity in the English common law system, but the people were left to handle most affairs in local courts without government infringement.

When operating in admiralty capacity, as opposed to functions as administrative law, courts of both the States and the United States accommodate private international law (see "Statutes", subcategory "Conflict of Law", American Jurisprudence, 2d.), and thereby assume inland authority not constitutionally delegated. The common law prevails in the several States, as opposed to federal Territories also defined as States under Congress' Article IV legislative jurisdiction.

One of the visible affirmations of Admiralty courts, and operation of admiralty rule in general, are gold-fringed flags displayed in courtrooms and elsewhere in public buildings. Address of this matter has gotten to the point of being comical: The official flag of the United States, prescribed at 4 USC § 1, does not have gold fringe. Likewise, official flags of the several States, save North Dakota, do not have gold fringe. Yet it is a subject judicial officers and other public officials refuse to address.

The situation is somewhat like a certain woman who caught her husband in bed with another woman. The man remained calm, pulled on his pants, then asked the wife, "Are you going to believe me or your lying eyes?"

In other words, public officials, particularly judicial officers, appear to have adopted policy embraced by Adolph Hitler: Never confess. Make the adversary prove tyranny, then continue to deny the truth even in the face of conspicuous facts.

Operation of State and United States courts under Admiralty rules provides judicial officers the opportunity to control, and many times suppress law and fact, thereby shielding the outrageous.

Admiralty accommodates captures on land and sea -- it is the law of prize, legitimate only in times of war. The history and evolution of American inland admiralty rule dates to the Civil War, with the Monroe Doctrine adopted during Reconstruction providing an early framework for eventual domestic takeover by State and United States admiralty courts.

The common law, which is the law of the land in the several States, acknowledges and preserves the right of the people to ultimately and finally determine matters of law and fact. Admiralty accommodates the *noblesse oblige* by placing control of law and fact in the hands of judicial officers who cater to, and seemingly profit from, plunder of the very people they are pledged by oath to serve. This silent war against the people can hardly be described more accurately than to call it inland piracy.

The Oklahoma Code of Civil Procedure clearly gives away the character of the statutory court in the following statute:

> 12 O.S. § 2002. One form of action.
>
> ONE FORM OF ACTION
>
> There shall be one form of action to be known as "civil action".
>
> Added by Laws 1984, c. 164, ' 2, eff. Nov. 1, 1984.

Common law and equity are two distinct systems: Common law has both civil and criminal aspects, where equity is civil only, and parties must voluntarily participate. As demonstrated in the selection from Corpus Juris, Admiralty and Civil Law, which are for all practical purposes indistinguishable so far as procedure is concerned, have both civil and criminal characters. The Oklahoma Constitution does not authorize Admiralty or Civil Law, and the intent of the United States Constitution prohibits these forms of law in the several States.

Summary and Conclusion

Judicial officers of the United States and the several States have for years shielded the Internal Revenue Service, an agency Congress never created and has been proven to be a branch of the Department of the Treasury of Puerto Rico.

No taxing statute in the Internal Revenue Code reaches the several States -- no implementing regulations extend authority to establish revenue districts in the several States; there are no regulations or delegations of authority granting authority of the Department of the Treasury [Puerto Rico], the Commissioner of Internal Revenue, or any other Treasury personnel authority in the several States.

Federally chartered financial institutions are created under "Act of Congress" as "associations" to provide financial services to agencies of the United States and officers, agents and employees of the United States. They deal exclusively in (1) public money premised on obligations of the United States, (2) bank-created credit, (book-entry or ledger debt) which has no legitimate value, and (3) Federal Reserve [bank] Notes, none having legitimate value in the several States.

Operation of State courts must be considered against this backdrop of proven law and fact. Only then does the distinction between procedural vs. substantive or substantial due process begin to make sense to ordinary people who are befuddled by convoluted and hidden law and ritual magic which masquerades as due process.

Uniform laws known as adopted acts accommodate operation of state and local governments as "instrumentalities of the United States" (26 USC § 301(c)) subject to Congress' Article IV legislative jurisdiction rather than agencies of independent republics subject only to Congress' Article I delegated powers. The benefactors are obvious: The system of de facto government, particularly through State and United States courts, caters to and serves entrenched powers hostile to American sovereignty and solvency, intent on global conquest for self-serving ends. Those who knowingly accommodate this long-standing tyranny are quite literally in rebellion against man, nature and God -- they disdain not only the roots of liberty, but condemn even their own posterity, thus fulfilling the scriptural maxim, "The sons shall inherit the sins of the fathers..."

It is the right and responsibility of the sovereign people to restore constitutional rule (Magna Charta; Declaration of Independence; Constitution for the United States of America, Amendments 1, 2 & 9; Oklahoma Constitution, Article II § 1, 3 & 33). The same principles endorsed by the United States and nations throughout the Free World via the Nuremberg trials following World War II apply: Those who perpetrate tyranny by intent and those who accommodate tyranny by consent are equally accountable to fundamental law.

By my signature, I attest that to the best of my knowledge and understanding, all matters of law and fact presented herein are accurate and true.

Dan Meador

August 8, 1996
Date

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June 4, 1996

Alma Wilson, Chief Justice
Oklahoma Supreme Court
Oklahoma State Capitol
Oklahoma City, Oklahoma 73105

Enclosure: IRS/IRC Public Notice Memorandum

Dear Justice Wilson,

I appreciate the willingness of you and Justice Opala to answer questions, and because of your consideration, have attempted to avoid going to the well too often. However, there are a couple of pressing matters I feel compelled to submit for your consideration, and if it wouldn't be too much trouble, ask you to solicit responses from other justices.

In order to frame the questions, I am going to use the character of the Internal Revenue Service and application of the Internal Revenue Code as a backdrop. Enclosed you will find a public notice memorandum which indicts the Service as being an agency of the Department of the Treasury, Puerto Rico, and demonstrates that the Internal Revenue Code has mandatory application solely in the geographical United States, exclusive of the several States. IRS principals have already acquiesced to most of the material.

The IRS memorandum is relevant as I recently helped Paul Graham file a petition for writ of habeas corpus against a United States district court judge and an assistant United States attorney in a matter relating to criminal prosecution via the U.S. district court for the Western District of Oklahoma. In addition to demonstrating that IRS doesn't have legal standing in Oklahoma, I alleged, with considerable legal authority behind the allegation, that the Department of Justice, via the U.S. Attorney, is representing the Central Authority, established by United States treaties on private international law (see 28 CFR § 0.49), and via various court cases, demonstrated that the principals of interest are the so-called World Bank and International Monetary Fund. Additionally, I demonstrated that the U.S. district court is operating under admiralty authority (18 USC § 3231), and that it doesn't have jurisdiction in the several States save on federal enclaves (Eleventh Amendment to the U.S. Constitution, the second paragraph of 18 USC § 3231, and 18 USC § 7(3)). Yet the Oklahoma Supreme Court, evidently with all justices concurring, elected not to execute the writ of habeas corpus on behalf of Mr. Graham.

I haven't sent the Graham petition for the writ of habeas corpus on to the United States Supreme Court. It was my opinion that there is too much at stake, for too many people, to botch the job. I wanted to complete the IRS/IRC memorandum, which was in the works when the Graham situation came up, and begin publishing it in county legal newspapers state-by-state before joining the matter in courts again. People in approximately 15 states have made commitments to sponsor publication.

The Graham situation is incidental to queries in this letter, and I am merely using IRS as an example, so responses don't need to address any pending case or even IRS, merely underlying principles. Consider the Graham situation as incidental. It frames the first question, but only as an example.

Suppose I moved the Graham petition for writ of habeas corpus to the United States Supreme Court, with attending evidences, and justices of the United States Supreme Court elected not to issue the habeas corpus.

At that juncture, would Mr. Graham's judicial remedies be exhausted? And implicitly, since approximately 10 million Americans in the several States are at any given time being subjected to IRS tyranny, would judicial remedies for the American people as a whole not be exhausted? That's the first question.

Forgive my shallow understanding of law as I only began the serious study in March 1993, slightly over three years ago. Even though I came to Oklahoma as a university freshman in September 1963, I confess that I hadn't read the Oklahoma Constitution, and was as lost as a goose in a snow storm when I began searching through statutory law and court cases. Aside from being a publishing writer since 1969, my background was in English, with emphasis on literature, with a broad background and formal study in philosophy, and economics. I've always worked for a living; I enjoy work, and for the most part, have been willing to leave government alone if government would leave me alone.

An Albert Carter video titled *IRS Investigated* prompted me to begin legal research. We had what appeared to be a recoverable deficit tax situation, but Carter allegations sent me to the Kay County Courthouse law library -- Special Judge Pam Legate and two of the assistant district attorneys at the time helped me muddle through volumes of law and court decisions. We began challenging IRS authority and trying to secure particulars of IRS legal standing and application of law at that point. Then in March 1994, two IRS agents and a fleet of wreckers converged at our house west of Ponca City while I was at work -- they didn't have a court order or any other legal authority, but commenced to seize automobiles. In the process, one of the wreckers rammed my wife, and the whole affair traumatized two of our pre-school grandchildren.

It was at that point that I made the uncompromising commitment to end the tyranny once and for all -- my family and neighbors, and people throughout America, simply cannot be exposed to government-sanctioned terrorism, particularly if it is perpetrated on behalf of foreign principals.

Needless to say, the attack on family and home intensified my focus on legal research and strategies. You can understand my consternation when I learned, by experience, that judicial officers in State and United States statutory courts almost unanimously refuse to comply with rules governing conduct of the courts, particularly with respect to mandates pertaining to judicial notice and presumed fact. In the case of the Oklahoma Supreme Court, I was particularly disappointed when justices elected to wink at treason. I was sickened by disdain the U.S. district court judge articulated.

At first blush, my conclusions of law may appear a little off base, but I helped Mr. Graham file the petition for writ of habeas corpus in the Oklahoma Supreme Court for what I still believe are legitimate reasons. Thomas Jefferson is among those who have addressed the issue.

In the Kentucky Resolutions, Jefferson pointed out that the Constitution places only four categories of crime under United States jurisdiction. Ratification of the Eleventh Amendment in 1798 the same as set the matter in stone. Courts of the United States have precious little authority in the several States. Examination of the Judicial Act of 1911 confirms the limited jurisdiction, and the second paragraph of 18 USC § 3231 specifically reserves authority of the laws and courts of the several States.

The Constitution, the Judicial Act of 1911, and the Federal Code of Criminal Procedure are in agreement: The laws and courts of the several States are superior to United States courts within the territorial bounds of the States -- United States admiralty and maritime jurisdiction does not extend inland to the several States except on federal enclaves ceded to the United States for constitutional purposes, as specified at 18 USC § 7(3).

In the Kentucky Resolutions, Jefferson addressed another situation where Congress exceeded constitutionally delegated authority via the Alien and Sedition Acts.

Jefferson argued that when Congress exceeds constitutionally delegated authority, the several States have both the right and responsibility for correcting federal government.

Unfortunately, most Americans are at least as ignorant as I was three years ago. But I don't believe you folks are. Everything in law is premised on dominion. Original authority resides somewhere -- nothing comes from nothing. So there must be a beginning. In the American system, founders laid our foundation in the Declaration of Independence. From the beginning, they concluded that there are certain self-evident truths. One of those truths is that man was created by God, God being the original authority, and another of the truths they proclaimed is that man is endowed by certain unalienable rights, rights to life, liberty, and property, or in the poetic, pursuit of happiness, the most conspicuous. They then went on to say that governments are established among men for certain specific purposes. And they made the entire scheme accountable to, "the laws of Nature and Nature's God" -- natural and moral law. This foundation of order and authority is antecedent to the very existence of government.

God is the grantor, man the grantee. Man is the beneficiary who is directly endowed by God, and is therefore directly accountable to God, with natural and moral law set in place by God providing a framework for individual and collective conduct.

The American Revolution secured independence of the colonies within the territorial bounds of original charters and acquired lands. Independent state governments were subsequently affirmed by the people, then the people, by representative delegation and by way of the new States, established the United States via the Constitution, the United States being successor to the Confederacy in 1789.

An underlying principle tells us that the created is never greater than the creator. Preambles to United States and State constitutions uniformly credit the People for establishing government in the American system, and in the constitutional framework, governments so established can exercise only delegated or enumerated powers. If a power isn't prescribed by any given constitution, the government created by that constitution cannot exercise it.

Article II § 1 of the Oklahoma Constitution acknowledges that all political power is inherent to the people, and sections 1 & 3 provide means for correcting, altering or abolishing existing government.

Ninth and Tenth Amendments to the United States Constitution preserve the order of power: The Ninth reserves rights of the people even though they are not enumerated in the Constitution or the Bill of Rights, then the Tenth specifies that powers not delegated to the United States by the Constitution are reserved for the States and the People respectively.

The problem where the instant matter is concerned should be obvious: Not exercising authority is no better than not having it. If the parent tells a child, "Don't do that!" but never uses parental authority to discipline the child, the child eventually ignores the parent, and will likely treat the parent as a nag rather than legitimate authority.

I have two grown sons who managed to get through high school and into adult lives without being arrested or having serious difficulties other than what is routine for young adults establishing themselves. When the oldest was about 25, I asked why he and his brother were never into mischief common for contemporaries. "We weren't worried about the cops," he said, "but we knew we'd have to call home."

The analogy frames the Jefferson theme: In the order of things, the several States are antecedent to the United States, and when the United States exceeds delegated authority, the States have the right, even the responsibility, to correct unconstitutional exercise of power. Likewise, when Government people posing under color of law to exercise alleged United States authority that is not legitimate in the several States, State judicial and enforcement officers are obligated to prosecute them.

Suppose a renegade contingent of Army personnel stationed at Ft. Sill took arms into Lawton and robbed a bank under auspices of United States military authority. Lawton police would lock the perpetrators up in a heartbeat, as they should.

Several years ago we had the situation in Kay County where a Native American Indian allegedly killed a baby by way of infant shaking syndrome (brain damage from shaking). The family lived in Ponca City at the time. The man was tried in the Kay County district court but there was a mistrial due to a hung jury. A year or two later, a second infant died in approximately the same fashion, but the family then lived on the Ponca Tribe reservation at White Eagle. The district attorney once again elected to prosecute charges for the first infant death, but the second, because the alleged incident resulting in death took place on Indian land, was prosecuted through the Bureau of Indian Affairs in the United States district court.

Given these examples of exercise of proper jurisdictional authority, it's difficult to grasp why people exercising bogus United States judicial and enforcement authority in the several States should be any more immune from accountability to State law and police power than those in uniformed service or any other person who blatantly and brazenly defies fundamental law. The grant of immunity makes a mockery of the Tenth Amendment, the Separation of Powers Doctrine, other underlying constitutional principles, and common sense. Jefferson's admonition that it is the right and responsibility of the State to correct United States government when Congress crosses the line with respect to constitutionally delegated authority reinforces the mandate for State governments individually to enforce the laws of the State against those who operate within any given State under color of law, whether of the United States, some other State, or the host State.

Unless officers of the several States are willing to carry out this charge, the Tenth Amendment and the Separation of Powers Doctrine are of no effect -- they mean nothing. The nation becomes as a seamless garment under Congress' unrestricted Article IV jurisdiction rather than being a patchwork of fifty republics subject only to Congress' Article I delegated powers.

The purpose of this clear division was to protect the people from consolidated Government power and tyranny, not serve the convenience of Government. In fact, the chief argument of those who opposed the Constitution and formation of the United States was the potential for concentrating power that might usurp sovereignty of the States and the People -- an eventuality which has obviously materialized.

The law itself is clear on the subject of specifically delegated power. But we have a problem. We're in trouble the day of the big race if we go to the barn and find mules substituted for our horses.

Mules are amiable critters, and are even capable of enormous amounts of work, but they don't run with Thoroughbreds on race day. And they have the additional problem of being sterile. If the barn is filled with mules, the last generation is at hand.

You see the difficulty: If the Constitutional Republic governed by fundamental law is threatened by the avarice of ambitious men, and those responsible for maintaining the Republic are impotent, where do we the People turn?

To resolve the dilemma, we must turn to the source and original relationships: If God endowed man with certain unalienable rights, he simultaneously imposed unavoidable responsibilities. Those responsibilities are framed by natural and moral law -- where physical law operates in the framework of cause and effect, moral law operates in the framework of cause and consequence.

The People ultimately pay the price. They bear the consequence of tyranny. When we as sovereigns neglect responsibilities for maintaining the domain established as our heritage, it will invariably be threatened and we ourselves subdued. The evil of the day will consume us.

In 1992, the United States Supreme Court touched these matters in New York v. United States, et al: Those in public service who exercise power not delegated invariably do so for self-serving ends. In the American system, the question is not what power government should have, but it is what power applicable constitutions specifically delegate.

It is here that we return to the instant matter, and can understand core issues addressed in the Nuremberg trials following World War II: Tyranny never stands on one leg. Perpetrators by intent rely on accommodation. Thus, those who fail to fulfill obligations imposed by fundamental law are joined to tyranny by consent. In other words, failure to perform a duty bestowed is as destructive to liberty as exercise of power which is not delegated. The system of checks and balances built into American government assures that complicity of intent and consent must be in place or tyranny cannot prevail -- it is stunted in infancy when usurpation is not accommodated by those who profit or fear and thereby fail to fulfill duties.

Venue for the United States district court is prescribed at 18 USC § 3231:

> The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.
>
> Nothing in this title [18 USCS §§ 1 et seq.] shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.

The second paragraph, as verified by the jurisdiction statute at 18 USC § 7(3), preserves the authority of courts and law in the several States:

> § 7. Special maritime and territorial jurisdiction of the United States defined
>
> The term "special maritime and territorial jurisdiction of the United States", as used in this title [18 USCS §§ 1 et seq.], includes:
>
> (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

Article VII § 4 of the Oklahoma Constitution vests the Oklahoma Supreme Court with appellate jurisdiction and jurisdiction over common law writs coextensive with borders of the State:

> § 4. Jurisdiction of Supreme Court -- Writs
>
> The appellate jurisdiction of the Supreme Court shall be coextensive with the State and shall extend to all cases at law and in equity ... and in the event there is any conflict as to jurisdiction, the Supreme Court shall determine which court has jurisdiction and such determination shall be final ... The Supreme Court, Court of Criminal Appeals, in criminal matters and all other appellate courts shall have power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and such other remedial writs as may be provided by law and may exercise such other and further jurisdiction as may be conferred by statute...

Article II § 10 of the Oklahoma Constitution provides as follows:

> The privilege of the writ of habeas corpus shall never be suspended by the authorities of this State.

The territorial bounds of authority couldn't be clearer, and the instrument for execution couldn't be better defined and compelling -- the delegated responsibility couldn't be articulated in more precise terms. Authority of State and United States courts is divided

according to the law of legislative jurisdiction -- courts of the United States, United States enforcement people, et al, are guests in the territorial state of Oklahoma, and the several States collectively, except on federal enclaves. As guests, they are subject to correction, censure and even expulsion. Those responsible for assuming bogus authority to impose tyranny against Citizens of the State are subject to State criminal prosecution and civil remedies just as certainly as my former neighbor, who was a pipe fitter, is subject to fundamental law indigenous to the State. Wearing badges, black robes or whatever, and claiming, "I'm from the United States Government," doesn't mean a thing in Oklahoma except in the framework of Congress' Article I authority as constitutional government for the several States.

The whole purpose of segregated and clearly defined authority in the American system, as articulated in the Separation of Powers Doctrine and the Tenth Amendment, is to prevent consolidation of power. The State and the United States have clearly defined roles. But when one yields, conspiracy is joined -- the Republic, governed by fundamental law, is dead.

Jefferson spoke to the issue: Let's hear no more of confidence in men, but bind them one and all with constitutional chains. The Kentucky Resolutions successfully intervened on the Alien and Sedition Acts, and the Eleventh Amendment articulating limitation of United States judicial authority in the several States was put in place in 1798, but public servants in the several States at that time had sufficient moral substance to turn back the tide of tyranny -- they ended the siege by refusing to consent, to accommodate, to acquiesce.

We are very near the second question -- a question I do not want to ask, and you do not want to answer, but we are compelled by circumstance to address the matter: Clearly, the People suffer the effects of tyranny. Our labor and wealth, our very substance, along with our posterity, are the objects of avarice and ambition. So when redress is not available through the courts; when the State has abdicated vested powers and responsibilities, and we have exhausted judicial remedies, are the sovereign People of the several States not entitled to employ whatever means are necessary to restore constitutional government?

Regards,

Dan Meador