12-30-2011

State v. L'Abbe Appellant's Brief Dckt. 39376

Stephen D. L'Abbe,' *sui juris*
% 1614 Manitou Avenue
Boise, Idaho 83706
Special Appearance
Under Protest and Objection

In the Supreme Court of the State of Idaho

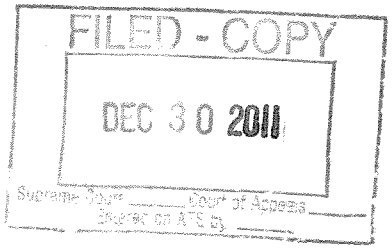
STATE OF IDAHO	)	Citation No: 1423510
Unconstitutional	)	CASE # CR-MD-2010-17572
Respondent/ Plaintiff	)	**Docket No. 39376-2011**
vs.	)	
Stephen D. L'Abbe'	)	**APPELLANT'S BRIEF**
Apparent Appellant/defendant,	)	

To the Fourth District Court: **Christopher D. Rich, CLERK OF THE COURT**
cc: **Daniel L. Steckel, MAGISTRATE JUDGE**
cc: **Theresa Gardunia, MAGISTRATE JUDGE**
cc: **Jennifer Pitino, PROSECUTOR**
cc: **Kathryn Sticklen, DISTRICT COURT JUDGE**

I. OPENING STATEMENT

The Supreme Court has said the De Jure Government offices still exist.

We need to recognize that and organize Grand Juries and put our officials back under De jure rule and out of the Corporate (or Military) Rule that they are currently operating under. Our elected officials are required to operate under the limits of their Oath of office to uphold the U.S. and State Constitutions, circa 1860. When they violate the Oath it's a capital crime.



(1) The reason we go back to 1860 is because that is the last time we had lawful laws in this country.

(2) The people have the power to convene a Grand Jury under the Magna Carta, 1215.

Our Founding Fathers looked to history for precedent when they decided they wanted to change their government. What they found was the Magna Carta Liberatum, the Great Charter of Freedoms. It set a precedent that changed the face of England forever, by establishing that the King was not above the law.

(3) This is not a question of whether I was drinking wine from a white plastic kitchen cup, moreover its squarely a question of the Corporate Administrative Court's jurisdiction over appellant/defendant Stephen D. L'Abbe's sovereign condition.

(4) L'Abbe is not an Attorney; and is acting in his own Unalienable Right to self defense at all times and places whatever, as generally guaranteed by the Constitution for the United States of America and by the Constitution of Idaho, as well as by numerous Supreme Court Rulings that must be treated with appropriate considerations.

(5) L'Abbe is standing Proper Person with assistance; therefore is proceeding from curiosity and may need assistance to understand the nature and cause of these proceedings.

(6) Appellant/defendant L'Abbe Demands an Article III section 2 - 7th Amendment Court as an absolutely essential venue for determining questions of law, hereby securing his Constitutional guarantee of free access to the right of due process, whereby a fully informed jury is the final check.

(7) On a number of occasions L'Abbe has demanded that his Constitutionally secured unalienable rights be safeguarded throughout these administrative proceedings, at all times.

II. Table of Contents

III. TABLE of CASES

CASES **QUOTE**

(1) **[Attorney v. United States 52 L. ED. 2d. 651 (1977)]**
"all purported party(s) have a right to know the nature and cause, and right not to be denied due process in law."

(2) **[Basso v. Utah Power + light Co., 495 F. 2d 906, AT 910]**
"jurisdiction can be challenged at any time, even on final determination,"

(3) **[Billings v. Hall, 7 CA. 1]**
Under our form of government, the legislature is not supreme. It is only one of the organs of that Absolute Sovereignty which resides in the whole body of the People; like other bodies of the government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts...are utterly void."

(4) **Bradley v. Fisher, 13 Wall 335, 351, 352.]**
"A distinction must be here observed between excess of jurisdiction and the clear absence of all jurisdiction over the subject-matter any authority exercised is a usurped authority and for the exercise of such authority, when the want of jurisdiction is known to the judge, no excuse is permissible."

(5) **[Brady v. US, 397 US, 742 at 748]**
Recent studies have convinced me [the Defendant] of the above, and that as such Defendant is not "subject to" the territory-limited "exclusive Legislation" and its foreign jurisdiction mandated for the State of Idaho, etc. in our U.S. Constitution's Article 1:8:17-18, including its "internal" government organizations therein or by contract adhesion thereto across America. Unless such "one of the people" have provided "WAIVERS of constitutional Rights" with "knowingly intelligent acts" (contracts with such government[s]) "with sufficient awareness of the relevant circumstances and likely consequences," as ruled by the 1970 U.S. Supreme Court.

(6) **[Chisholm v. Georgia, 2 Dall. (U.S. 471,1L Ed. 440]**
"Strictly speaking, in our republican forms of government the absolute sovereignty of the nation; is the people of the nation; and the residuary sovereignty of each state not granted to any of its Public Functionaries, is in the people of the state."

(7) **[Coffin v. Ogden 85 U.S. 120, 124]** "Uncertain things are held for nothing, "Maxim of law" the law requires, not conjecture, but certainty,"
Where the law is uncertain, there is no law.

(8) **[Cruden v. Heale 2 N.C. 338 (1972), 2 S.E. 70]** - "By being a part of society ...they [the People] and claimants had not entered into engagement to become subject to any ...Form [of Government]"
Every mankind by his natural state is independent of all laws, except those prescribed by nature. L'Abbe is not bound by any institutions formed by his fellow men without his consent.

(9) [Downes v. Bidwell, 182, U.S. 244 1901]
"Two national governments exist; one to be maintained under the Constitution, with all its restrictions; the other to be maintained by Congress outside and Independently of that Instrument."

(10) [Dyett v. Turner, 439 Pac. 2d 266 (1968)]
The case against the Fourteenth Amendment was forcibly stated by the Utah Supreme Court.

(11) [Ferrill v. Keel 151 S. S.W. 269, 272, 105 ARK. 380 (1912)]
"The object of an enactment clause is to show that the act comes from a place pointed out by the Constitution as a source of power,"

(12) **[Georgia v. Brailsford U. S. Supreme Court]** ... *"The jury has the right to determine both the law as well as the fact in controversy. "*

(13) [HARTFORD v. DAVIS, 13 U.S. 273, 16 S. CT. 1051]
"There is no presumption in favor of jurisdiction, and the basis for jurisdiction must be affirmatively shown,"

(14) [Herman v. Herman, 136 Idaho 781, 41 P.3d 209 (2002).]
[Rule 103 of Idaho Rules of Evidence] – *"Error is disregarded as harmless unless the ruling affects a substantial right of the party."*

(15) [Hooven and Allison Co. v. Evatt, 324 U.S. 652, (1945)]
The supreme Court affirmed that there are **Two (2)** distinctly different United States with **Two opposite forms of Governments.** Both United States have the same Congress. This supreme Court case **officially** defined the two distinct and separate meanings of the **term** "United States" "In exercising its constitutional power to make all needful regulations respecting territory belonging to the United States, Congress [under Art. I, §8, Cl. 17 and Article IV §3, Cl. 2. Of the Constitution] **is not subject to the same constitutional limitations as when it is legislating for the United States** [the 50 states]."

(16) **[Luther v. Borden, 48 US 1, 12 Led 581]**

U.S. Supreme Court – *"The governments are but trustees acting under derived authority and have no power to delegate what is not delegated to them. But the people, as the original foundation might take away what they have delegated and intrusted to whom they please... The sovereignty in every state resides in the people of the state and they may alter and change their form of government at their own pleasure."*

(17) **[Main v. Thiboutot 100 S. CT. 250 Z (1980)]**

"The law provides that once state and federal jurisdiction has been challenged, it must be proven,"

(18) **[Miranda v. Arizona 380 U.S. 436 (1966)] U.S. Supreme Court**

"Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them."

(19) **Perry v. U.S. 249 US 330**

U.S. Supreme Court – *"In the United States, sovereignty resides in the people... the Congress cannot invoke the sovereign power of the people to override their will as thus declared."*

(20) **[Reid v. Covert, 354 U.S. 1, 1L. Ed. 2nd. 1148 (1957)]**

"The United States is entirely a creature of the Federal Constitution. Its power and authority has no other source and it can only act in accordance with all the limitations imposed by the Constitution."

(21) **[IN RE SELF v. RHAY, 61 WIN. 2d 261, 246 -265 (1963)]**

To be a law in compliance with the Constitution, the law must show its authority "ON IT'S FACE" which is mandatory, not directory. "Quoting Justice Davis, *"the Revised Code of Washington...is not law,"*

(22) **[Scott v. Sandford, 19 How. (U.S.) 404, 15L. Ed. 691.]**

"Sovereignty itself is, of course, not subject to the law, for it is the author and source of law..." L'Abbe as one of the people of a Sovereign state, jurisdiction has to first be proven before sanctions take place against him.

(23) **Spooner v. McConnell, 22F 939, 943**

"The sovereignty of a state does not reside in the persons who fill the different departments of its government, but in the people, from whom the government emanated; and they may change it as their discretion. Sovereign, then in this country, abides with the constituency, and not the agent; and this remark is true, both in reference to the federal and the state government."

(24) **[Stanard v. Olsen 74 SCt. 768(1954)].**

[jurisdiction] ***"has to first be proven before sanctions take place against Defendant." "No sanctions can be imposed absent proof of jurisdiction,"***

(25) **[Texas v. White, 7 Wall (U.S.) 700 19L. Ed. 227].**

"A republican form of Government to every "state" means to its people and not to its Government

(26) **THOMPSON v. TOLMIE, 17L. ED. 381 (1829)**

"Where there is absence of jurisdiction all administrative and judicial proceeding are a nullity, and confer no right, offer no justification, and may be rejected upon direct collateral attack"

(27) **U.S. v. Cruikshank, 92 U.S. 542, 23 L. Ed 588**

"We have in our political system [two governments] a Government of the United States and a government of each of the several [50] states. **Each is distinct from the other and each has citizens of its own..."**

(28) **UNITED STATES v. LEE, 106 U.S. 204 (March 3rd, 1989)**

"Under our system, the people, who are there [IN ENGLAND] CALLED SUBJECTS, ARE HERE THE SOVEREIGN. Their rights, whether collective or individual, are not bound to give way to sentiment of loyalty to the person of Monarch. The citizens here [IN AMERICA] knows no person, however near to those in power, or however powerful himself to whom he need yield the rights which the law secures to him."

(29) **UNITED STATES v. NEVERS, 7F. 3d 59 (5th CIR. 1993)**

Under the 'Fair Notice Doctrine' *" to Prosecute any people for the conduct alleged under an invalid [color of] law, and by an information herein, would be denial of due process."*

(30) **[Yick Wo v. Hopkins 118 U.S. 356, 370]**

"Sovereignty itself remains with the people, by whom and for whom all government exists and acts."

(31) **Wilson v. Omaha Indian Tribe, 442 US 653, 667 ('79)**

U.S. Supreme Court – *"In common usage, the term 'person' does not include the sovereign, and statutes employing the word are ordinarily construed to exclude it."*

(32) **Powell v. McCormack, 395 U.S. 486 at 546-550 (1969),**

But it has since been judicially settled in that neither the House nor the Senate may exclude a member-elect if he is of sufficient age, has been a citizen for the prescribed number of years, is an inhabitant of his State, has received enough votes in a lawful election, and presents a good return.

(33) **[Burkes v. Laskar 441 (U.S.) 471 (1979)]**

The CHALLENGE of delegated jurisdiction ***"When jurisdiction is not squarely challenged, the subject matter is presumed to exist."***

Defendant has challenged jurisdiction on this action from the beginning.

IV. TABLE of DEFINITIONS

(1) Personal Natural Higher Law – ***The sovereign personal individual human being's unalienable rights unwritten self explanatory principles of autonomy privacy, equality, dignity, life, liberty, pursuit of happiness and respect for others creating no liability, it would over rule all implied or expressed laws enacted by any Government within the form force and affect of the 9th, 10th and 7th Amendments from the Organic Constitution for the United states of America.***

(2) Amendments: First 10 from the original "organic" Constitution
Bill of Rights A formal and public declaration of popular rights and liberties.
Bouvier's Law Dictionary, Baldwin's Students Edition (1948) Page 128

(3) **Amendment: 14th** – "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 State; nor shall any State deprive any **person** of life, liberty or property without due process of the law; nor deny to any **person** within **its jurisdiction** to equal protection of the laws."

(4) Appearance ....An answer constitutes an "appearance." Wieser v. Richter, 247 Mich. 52, 225 N.W. 542, 543. A party who answers, consents to a continuance, goes to trial, takes an appeal, or does any other substantial act in a cause, although he has not been served with summons, is deemed to have entered his "appearance" unless he objects and preserves his protests to the jurisdiction of his person. Robinson v. Bossinger, 195 Ark. 445, 112 S.W.2d 637, 640. Acts of an attorney in prosecuting an action on behalf of his client constitute an "appearance." Pacillo v. Scarpati, 300 N.Y.S. 473, 165 Misc. 586.
Black's Law Dictionary 4th Edition Page 125 & 126:

(5) Article III court (1949) A federal court that, deriving its jurisdiction from U.S. Const. Art. III § 2, hears cases arising under the Constitution and the laws and treaties of the United States, cases in which the United States is a party, and cases between the states and between citizens of different states. – Also termed *constitutional court.* Cf. Article I Court

(6) **Article III judge** (1937) A U.S. Supreme Court, Court of Appeals, or District Court judge appointed for life under Article III of the U.S. Constitution.
Black's Law Dictionary 9th Edition Page 127

(7) Color of authority The appearance or presumption of authority sanctioning a public officer's actions. The authority derives from the officer's apparent title to the office or from a writ or other apparently valid process the officer bears.

(8) Color of law The appearance or semblance, without the substance, of a legal right. The term usu. Implies a misuse of power made possible because the wrongdoer is clothed with authority of the state. *State action* is synonymous with *color of [state] law* in the context of federal civil-rights statutes or criminal law.

(9) Color of process The appearance of validity and sufficiency surrounding a legal proceeding that is later found to be invalid.

Black's Law Dictionary 9th Edition Page 302

(10) Common Law That system of the form of the science of jurisprudence which has prevailed in England and in the United States of America, in contradistinction to other great systems, such as the Roman or civil law.

The common law is reason dealing by the light of experience with human affairs. One of its merits is that it has the capacity to reach the ends of justice by the shortest paths. 100 U. S. 584. See Coutume.

Those principles, usages, and rules of action applicable to the government and security of persons and property, which do **not** rest for their authority upon any express and positive declaration of the will of the legislature. 1 Kent 492

The body of rules and remedies administered by the courts of law, technically so called in contradistinction to those of equity and to the canon law.

The law of any country, to denote that which is common to the whole country, in contradistinction to laws and customs of local application.

The most prominent characteristic which marks this contrast, and perhaps the source of the distinction lies in the fact that under the common law neither the stiff rule of a long antiquity, on the one hand, nor, on the other, the sudden changes of a present arbitrary power, are allowed ascendency, but, under the sanction of a constitutional government, each of these is set off against the other; so that the will of the people, as it is gathered both from long established custom and from the expression of the legislative power, gradually forms a system – just, because it is the deliberate will of a free people – stable, because it is the growth of centuries – progressive, because it is amenable to the constant revision of the people. A full idea of the genius of the common law cannot be gathered without a survey of the philosophy of England and American history. Some of the elements will however, appear in considering the various narrower senses in which the phrase "common law" is used.

Perhaps the most important of these narrower senses is that which it has when used in contradistinction to statute law, to designate unwritten law. It is that law which derives its force and authority from the universal consent and immemorial practice of the **people**. **It has never received the sanction of the legislature by an express act, which is the criterion by which it is distinguished from the statute law.**

Bouvier's Law Dictionary, Baldwin's Students Ed. (1948) Page 196

In Common Law, contracts must be entered into knowingly, voluntarily, and intentionally.

(11) **Complaint** 1. The initial pleading that starts a civil action and states the basis for the plaintiff's claim, and the demand for relief. In some states, this pleading is called a *petition.* 2. *Criminal law.* A formal charge accusing a person of an offense.

Black's Law Dictionary 9th Edition Page 323

(12) **Constitutional law** The field of law dealing with aspects of constitutional provisions, such as restrictions on government powers and guarantees of rights. **Black's Law Dictionary 9th Edition Page 354**

(13) Constitutional freedom (1822) A basic liberty guaranteed by the Constitution or Bill of Rights, such as the freedom of speech. Also termed *constitutional protection; constitutional liberty.* **Black's Law Dictionary 9th Edition Page 354**

(14) corporate citizenship. (1889) Corporate status in the state of incorporation, though a corporation is not a constitutional citizen for the purposes of the Privileges and Immunities Clauses in Article IV § 2 and in the 14th Amendment to the U.S. Constitution. . **Black's Law Dictionary 9th Edition Page 390 L'Abbe has shone himself not to be a corporate citizen.**

(15) (16) corporation An entity (usu. A business) having authority under law to act as a single person distinct from the shareholders who own it and having rights to issue stock and exist indefinitely; a group or succession of persons established in accordance with legal rules into a legal or juristic person that has legal personality distinct from the natural persons who make it up, exists indefinitely apart from them, and has the legal powers that its constitution gives it – Also termed ***corporation aggregate; aggregate corporation; body corporate; corporate body.***

-incorporate, ***vb.*** **-corporate,** ***adj.***

"A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. . . . [I]t possesses only those properties which the charter of its creation confers upon it." *Trustees of Dartmouth College v. Woodward,* 17U. S. (4 Wheat.) 518, 636 (1819) (Marshall, J.).
Black's Law Dictionary 9th Edition Page 391

(16) Consent jurisdiction Jurisdiction that parties have agreed to, either by accord, by contract, or by general appearance. Parties may not, by agreement, confer subject-matter jurisdiction on a federal court that would not otherwise have it.
Black's Law Dictionary 9th Edition Page 928

(17) constitution "corporate" – Necessarily requires varying degrees of interpretations which carry with it a duty to perform a liability which violates due process.

(18) "Due Process" does not rest upon interpretation by any government entity.

(19) **Constitution "organic"** – Self evident truth does not need interpretation. Common sense takes precedent in light of human experience throughout the ages..

(20) Constructionism "liberal" Broad interpretation of a text's language, including the use of related writings to clarify the meanings of the words, and possibly also a consideration of meaning in both contemporary and current lights. – also termed *broad constructionism; loose constructionism.* – **the Long arm of General Welfare.**

(21) Constructionism "strict" (1892) The doctrinal view of judicial construction holding that judges should interpret a document or statute (esp. one involving penal sanctions) according to its literal terms, without looking to other sources to ascertain the meaning. – also termed *strict construction; liberal canon; liberal rule; textualism.* Strict constructionist, *n.* **– Black's Law Dictionary 9th Edition Page 356**
read the "BORN AGAIN REPUBLIC" By M. J. "RED" Beckman

(22) **Declaration of Independence** The formal proclamation of July 4, 1776, in the name of the people of the American colonies, asserting their independence from the British Crown and announcing themselves to the world as an independent nation.
Black's Law Dictionary 9th Edition Page 468

(23) **De Facto** [Law Latin "in point of fact"] 1. Actual; existing in fact; having effect even though not formally or legally recognized <de facto contract> 2. Illegitimate but in effect <a de facto government>. Cf. De jure.
Black's Law Dictionary 9th Edition Page 479
Corporate Law operates under De Facto terms.

(24) **De Jure** [Law Latin "as a matter of law"] Existing by right or according to law **Black's Law Dictionary 9th Edition Page 490**
Common law operates under De jure terms.

(25) Democracy Easily perverted when you own the media.

(26) Enact, *vb.* 1. To make into law by authoritative act; to pass <the statute was enacted shortly before the announced deadline>. 2. (Of a statute) to provide <the statute of frauds enacts that no action may be brought on certain types of contracts unless the plaintiff has a signed writing to prove the agreement>. – enactor, *n.*
Black's Law Dictionary 9th Edition Page 606

(27) **Enacted Law** Law that has its source in legislation; written law.
Black's Law Dictionary 9th Edition Page 963

(28) Exoteric 1. of the outside world; external 2. Not limited to a select few or an inner group of disciples; suitable for the uninitiated 3. That can be understood by the public; popular opposed to esoteric – **New World Dictionary 2nd College Edition Page 492**
The people were considered exoteric by the British Monarchy see Magna Carta and declaration of independence.

(29) Esoteric 1. *a)* intended for or understood by only a chosen few, as an inner group of disciples or initiates: said of ideas, doctrines, literature, etc. *b)* beyond the understanding or knowledge of most people; recondite; abstruse 2. Confidential; private; withheld *[an esoteric* plan*]* – **New World Dictionary 2nd College Edition Page 478 &**
The Constitution is the manifestation of (a sovereign condition)

(30) ***Expression unius est exclusion alterius*** [Law Latin] A canon of construction holding that to express or include one thing implies the exclusion of the other, or of the alternative. **Black's Law Dictionary 9th Edition Page 661**

(31) **fraud**. ...Fraud is either *actual or constructive.* ....Constructive fraud consists in any act of commission or omission contrary to legal or equitable duty, trust, or confidence justly reposed, which is contrary to good conscience and operates to the injury of another. ....Fraud is also classified as *fraud in fact* and *fraud in law.* The former is actual, positive, intentional fraud. Fraud disclosed by matters of fact, as distinguished from constructive fraud or fraud in law. McKibbin v. Martin, 64 pa. 356, 3 Am.Rep. 588; Cook v. Burnham, 3 Kan,App. 27, 44 P. 447. Fraud in law is fraud in contemplation of law; fraud implied or inferred by law; fraud made out by construction of law, as distinguished from fraud found by a jury from matter of fact; constructive fraud *(q. v.).* See 2 Kent, Comm. 512-532; Delaney v. Valentine, 154 N.Y. 602, 49 N.E. 65; Lovato v. Catron, 20 N.M. 168, 148 P. 490, 492, L.R.A. 1915E, 451; Furst & Thomas v. Merritt, 190 N.C. 397, 130 S.E. 40, 43. .....*Statute of frauds.* This is the common designation of a very celebrated English statute, (29 car. II. c. 3,) passed in 1677, and which has been adopted, in a more or less modified form, in nearly all of the United States. Its chief characteristic is the provision that no suit or action shall be maintained on certain classes of contracts or engagements unless there shall be a note or memorandum thereof in writing signed by the party to be charged or by his authorized agent. Its object was to close the door to the numerous frauds and perjuries. It is more fully named the "statute of frauds and perjuries." Smith v. Morton, 70 Okl. 157, 173 P. 520, 521; Housley v. Strawn Merchandise Co., Tex.Com.App., 291 S.W. 864, 867; Norman v. Bullock County Bank, 187 Ala. 33, 65 So. 371, 372; Garber v. Goldstein, 92 Conn. 226, 102 A. 695, 606. **Black's Law Dictionary 4th Edition page 789**

(32) Fundamental law The organic law that establishes the government principles of a nation or state; esp., Constitutional law. **Black's Law Dictionary 9th Ed. Page 744**

(33) **Human** **"*adj.*** 1. Of belonging to, or typical of mankind *[the human race]* 2. Consisting of or produced by people *[human society]* 3. Having or showing qualities, as rationality or fallibility, viewed as distinctive of people ***[a human act, a human failing] – n.*** a person: the phrase **human being** is still preferred by some." **New World Dictionary 2nd College Edition Page 683**

(34) **Incorporate** **3.** To make the terms of another (esp. earlier) document part of a document by specific reference <the codicil incorporated the terms of the will>; esp., to apply the provisions of the Bill of Rights to the states by interpreting the 14th Amendment's Due Process Clause as encompassing those provisions.

(35) **Incorporation** **2.** *Constitutional law.* The process of applying the provisions of the Bill of Rights to the states by interpreting the 14th Amendment's Due Process Clause as encompassing those provisions. In a variety of opinions since 1897, the Supreme Court has incorporated the First, Fourth, Sixth, and Ninth Amendments into the 14th Amendment's Due Process Clause. [Cases: Constitutional Law 3850.]

(36) ***selective incorporation.*** Incorporation of certain provisions of the Bill of Rights. Justice Benjamin Cardozo, who served from 1932 to 1938, first advocated this approach. [Cases: Constitutional Law 3850.]

(37) *total incorporation.* Incorporation of all of the Bill of Rights. Justice Hugo Black, who served on the U.S. Supreme Court from 1937 to 1971, first advocated this approach. [Cases: Constitutional Law 3850.]

Black's Law Dictionary 9th Edition Page 834

(38) **Incorporationism.** The philosophical view that (1) law is made possible by an interdependent convergence of behavior and attitude, esp. in agreements that take the form of social conventions or rules; (2) authoritative legal pronouncements must distinguish some situations from others; and (3) the legality of norms can depend on their substantive moral merit, not just on their pedigree or social source. See Jules Coleman, *Inclusive Legal Positivism* (2001); W.J. Waluchow, *Inclusive Legal Positivism* (1994). – Also termed *soft positivism; inclusive legal positivism.*

(39) **Incorporator.** (1883) A person who takes part in the formation of a corporation, usu. By executing the articles of incorporation. – Also termed *corporator.*

"An 'incorporator' must be sharply distinguished from a 'subscriber.' The latter agrees to buy shares in the corporation; in other words, a subscriber is an investor and participant in the venture. An 'incorporator' on the other hand serves the largely ceremonial or ministerial functions described in this section. At one time many states required that an incorporator also be a subscriber of shares; however, such requirement appears to have disappeared in all states." Robert W. Hamilton, *The Law of Corporations in a Nutshell* 34 (3d ed. 1991). **Black's Law Dictionary 9th Edition Page 835.**

(40) **Individualism** 1. Individual character; individuality 2. An individual peculiarity 3. The doctrine that individual freedom in economic enterprise should not be restricted by government or social regulation; laissez-faire 4. The doctrine that the state exists for the individual and not individual for the state 5. The doctrine that self-interest is the proper goal of all human actions; egoism 6. *A)* action based on any of these doctrines *b)* the leading of one's life in one's own way without conforming to prevailing patterns. **World Dictionary 2nd College Edition Page 717**

(41) **Jury** A group of live autonomy human beings selected according to common law of the organic constitution [7th Amendment Jury] and given the sovereign power to decide questions of fact, law and nature and return a verdict in the case submitted to them.

John Jay, first Chief Justice of the U.S. Supreme Court, in *Georgia v. Brailsford* said: "The jury has the right to determine both the law as well as the fact in controversy." The founding fathers through the government was capable of overpowering the people. They have a responsibility to keep government in balance.

"The people are the masters of both Congress and the Courts, not to overthrow the Constitution, but to overthrow the men who pervert it." **Abraham Lincoln**

I demand a 7th Amendment jury.

(42) **Lawful** Not contrary to law. **Black's Law Dictionary 9th Edition Page 965 [A term used in Common Law.]**

(43) **Law of nature** That law which God, the sovereign of the universe, has prescribed to all men, not by any formal promulgation, but the internal dictate of reason alone. It is discovered by a just consideration of the agreeableness or disagreeableness of human actions to the nature of man; and it comprehends all the duties which we owe either to the Supreme Being, to ourselves, or our neighbors: as, reverence to God, self-defense, temperance, honor to our parents, benevolence to all, a strict adherence to our engagements, gratitude, and the like; Erskine, Pr. Sc. Law 1. 1. 1. See Ayliffe, Pand. Tit. 2, p. 2; Cicero, de Leg. Lib. 1.
Bouvier's Law Dictionary, Baldwin's Students Edition (1948) Page 871

(44) Legal Established, required, or permitted by law.
Black's Law Dictionary 9th Edition Page 975
A term used in the UCC which applies to Corporate Law.

(45) **Legal Positivism** (1939) The theory that legal rules are valid only because they are enacted by an existing political authority or accepted as binding in a given society, not because they are grounded in morality or in natural law. Legal positivism has been espoused by such scholars as H.L.A. Hart. See positive law. Cf. logical positivism. – Legal positivist, *n.*

".....Its program of research is to chart the regularities discernible in the phenomena of nature at the point where they become open to human observation, without asking – as it were – how they got there. In the setting of limits to inquiry there is an obvious parallel between scientific and legal positivism. The legal positivist concentrates his attention on law at the point where it emerges from the finally made law itself that furnishes the subject of his inquiries. How it was made and what directions of human effect went into its creation are for him irrelevancies." Lon L. Fuller, *Anatomy of the Law* 177-78 (1968). **Black's Law Dictionary 9th Edition Page 978**

(46) **Magna Carta** The English charter that King John granted to the barons in 1215 and that Henry III and Edward I later confirmed. It is generally regarded as one of the great common-law documents and foundation of constitutional liberties. The other three great charters of English liberty are the **Petition of Right** (3 Car. (1628)), the **Habeas Corpus Act** (31 Car. 2 (1679)), and the **Bill of Rights** (1 Will & M. (1789)).
Black's Law Dictionary 9th Edition Page 1037

(47) natural law 1. Rules of conduct supposedly inherent in the relations between human beings and discoverable by reason; law based upon man's innate moral sense. **New World Dictionary 2nd College Edition Page 947**

(48) natural rights A right that is conceived as part of natural law and that is therefore thought to exist independently of rights created by government or society, such as the right to life, liberty, and property. See natural law.
Black's Law Dictionary 9th Edition Page 1437

(49) **non pros.** Abbreviation of non prosequitur. Bucci v. Detroit Fire & Marine Ins. Co., 109 Pa. Super. 167,67 A. 425, 427. At common law, a judgment entered at instance of defendant when plaintiff at any stage of proceedings fails to prosecute his action, or any part of it, in due time. Steele v. Beaty, 215 N.C. 680, 2 S.E.2d 854, 856.

(50) non prosequitur. Lat. He does not follow up, or pursue.
If, in the proceedings in an action at law, the plaintiff neglects to take any of those steps which he ought to take within the time prescribed by the practice of the court for that purpose, the defendant may enter judgment of *non pros.* against him, whereby it is adjudged that the plaintiff does not follow up *(non prosequitur)* his suit as he ought to do, and therefore the defendant ought to have judgment against him. Smith, Act. 96; Com. v. Casey, 12 Allen, Mass., 218.
Black's Law Dictionary 4th Edition Page 1204

(51) **Organic** 2. Of or involving the basic makeup of a thing; inherent; inborn; constitutional. 5. Of , having the characteristics of, or derived from living organisms *7. *Law* designating or of the fundamental, or constitutional, law of a state
World Dictionary 2nd College Edition Page 1002

(52) (53) Organic law (1831) The body of laws (as in a constitution) that define and establish a government; Fundamental law. **Black's Law Dictionary 9th Ed. Page 1209**

(53) Person A human being. – Also termed natural person.
Black's Law Dictionary 9th Edition Page 1257

(54) **personal** Of or constituting personal property <personal belongings> See in personam – Involving or determining the personal rights and objections of the parties.
Black's Law Dictionary 9th Edition Page 1258 and 862

(55) **Prima Facie** ***adv.*** At first sight on the first appearance but subject to further evidence or information <the agreement is prima facie valid>
Adj. Sufficient to establish a fact or rise a presumption unless disproved or rebutted <a prima facie showing>

(56) Prima Facie case 1. The establishment of a legally required rebuttable presumption. 2. A party's production of enough evidence to allow the fact-trier to infer the fact at issue and rule in the party's favor.
Black's Law Dictionary 9th Edition Page 1310

(57) **Prima Facie evidence.** Evidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's chain or defense, and which if not rebutted or contradicted, will remain sufficient. State v. Burlingame, 146 Mo. 207, 48 S.W. 72
Black's Law Dictionary 4th Edition Page 1353

(58) Prima Facie Right. – Belongs to the sovereign individual "We the People" Formed in the 9th Amendment; enforced in the 10th Amendment; and Affected by the 7th Amendment.

(59) Private law that branch of the law dealing with the relationships between individuals: cf. PUBLIC LAW
New World Dictionary 2nd College Edition Page 1131

(60) Privilege A special legal right, exemption or immunity granted to a person or class of persons; an exception to a duty. A privilege grants someone the legal freedom to do or not to do a given act. It immunizes conduct that, under ordinary circumstances, would subject the actor to liability.
Black's Law Dictionary 9th Edition Page 1316

(61) **Prize** 1. Something of value awarded in recognition of a person's achievement. 2. A vessel or cargo captured at sea or seized in port by the forces of a nation at war, and therefore liable to being condemned or appropriated as enemy property. [Cases: War and National Emergency 28.]
Black's Law Dictionary 4th Edition Page 1321

(62) Pro se ***n.*** **(1857) One who represents oneself in a court proceeding without the assistance of a lawyer <the third case on the court's docket involving a pro se>**
Black's Law Dictionary 9th Edition Page 1341
It appears that a pro se litigant is held to the same standard as an Attorney therefore submitting to jurisdiction as an exoteric by coercion.

(63) **Proper person** - ***("in propria persona*** *– In one's own proper person. .....a rule in pleading that pleas to the jurisdiction of the court must be plead in propria persona, because if pleading by attorney they admit the jurisdiction, as an attorney is an officer of the court, and he is presumed to plead after having obtained leave, which admits the jurisdiction.")* **Page 1221** ***("pro se*** *– For one's own behalf; in person. Appearing for oneself,...")*
Black's Law Dictionary, Sixth Edition page 792:

(64) **Republic** A system of government in which the people hold sovereign power and elect representatives who exercise that power.

> *"A republic is a government which (a) derives* ***all of its powers directly or indirectly from the great body of the people*** *and (b) is administered by persons holding their office during pleasure, for a limited period, or during good behavior."* Robert A. Dahl, *A Preface to Democratic Theory* 10 (1956)

Black's Law Dictionary 9th Edition Page 1418

(65) **Sovereign.** A chief ruler with supreme power; a king or other ruler with limited power. An action is not maintainable against a foreign sovereign. 44 L.T.Rep. n.s. 199.

Courts of England will take judicial notice of the status of a foreign sovereign and will not take jurisdiction over him, unless he voluntarily submits to it; [1894] 1 Q. B. 149.

A foreign sovereign brought suit to restrain the defendants from using a fund in a certain way, and the defendants set up a claim for damages; it was held that the court had no jurisdiction over such claim; [1898] 1 Ch. 190.

"When a foreign sovereign comes into court for the purpose of obtaining a remedy, then, by way of defense to that proceeding (by counter-claim, if necessary), To the extent of defeating that claim, the person sued may file a cross claim... for the purpose of enabling complete justice to be done between them." 29 W. R. 123, per James, L. J.

It is a general rule that the sovereign cannot be sued in his own court without his consent; and hence no direct judgment can be rendered against him therein for costs, except in the manner and on the condition to his prescribed: 40 La. Ann. 856

Bouvier's Law Dictionary, Baldwin's Students Edition (1948) Page 1120 – 1121
According to the original "organic" Constitution, All government comes from the Sovereign Individual. Without the Sovereign Individual, there is no government.

(66) **State police power** (1849) The power of a state to enforce laws for the health, welfare, morals, and safety of its citizens, if enacted so that the means are reasonably calculated to protect those legitimate state interests.

Black's Law Dictionary 9th Edition Page 1541

(67) **Subject to.** Liable, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for.

(68) **Substantive law** The part of the law that creates, defines, and regulates the rights, dutes, and powers of parties. Cf. procedural law.

> "So far as the administration of justice is concerned with the application of remedies to violated rights, we may say that the substantive law defines the remedy and the right, while the law of procedure defines the modes and conditions of the application of the one to the other." John Salmond, *jurisprudence* 476 (Glanville L. Williams ed., 10th ed. 1947).

Black's Law Dictionary 9th Edition Page 1567

(69) Substantive Law One of the two kinds of rules constituting law, namely, those rules which give recognition to rights and duties, which rules are the very foundation and substance of the law. These are static, immobile and lifeless until set in motion by genetic remedial rules embodied in adjective law (*q. v.*). Hicks, Mater. & Meth. Leg. Res. 35.

In Statute Law; All statutes of a general nature, *i. e.*, all except those regulating administrative and court procedure. *Id. 52.*

In Case Law; The greater part of case law is substantive law, *i. e.*, all except those decisions interpreting administrative regulations, codes of procedure and court rules. *Id. 77.*

Bouvier's Law Dictionary, Baldwin's Students Edition (1948) Page 1145

(70) Substantive right A right that can be protected or enforced by law; a right of substance rather than form. Cf. *procedural right.*
Black's Law Dictionary 9th Edition Page 1438

(71) sui juris [Latin *"of one's own right;* independent"] 3. *Roman Law.* Of or relating to anyone of any age, male or female, not in the *postestas* of another, and therefore capable of owning property and enjoying private law rights. As a status, it was not relevant to public law.
Black's Law Dictionary 9th Edition Page 1572

(72) **supreme** highest; superior to all others.

(73) Supremacy The position of having the superior or greatest power or authority.

(74) Supreme law of the land The U. S. Constitution. [Cases: Constitutional Law 502]

(75) Supremacy Clause (1940) The clause in Article VI of the U. S. Constitution declaring that the Constitution, all laws made in furtherance of the Constitution, and all treaties made under the authority of the United States are the "supreme law of the land" and enjoy legal superiority over any conflicting provision of the state constitution or law.
Black's Law Dictionary 9th Edition Page 1578 – 1579

(76) **UCC UNIFORM COMMERCIAL CODE**: A uniform law that governs commercial transactions, including sales of goods, secured transactions, and negotiable instruments. The code has been adopted in some form by every state and the District of Columbia. **Black's Law Dictionary 9th Edition Page 1661 & 1668**

(77) Unalienable Incapable of being transferred. The natural rights of life and liberty are unalienable. **Bouvier's Law Dictionary, Baldwin's Students Ed. (1948) Page 1198**

(78) **United States** This term has several meanings. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in family of nations, it may designate territory over which sovereignty of United states extends, or it may be collective name of the states which are united by and under the Constitution. Hooven & Allison Co. v. Evatt, U.S. Ohio, 324 U.S. 652, 65 S. Ct. 870, 880, 89 L Ed. 1252.
Black's Law Dictionary 6th Edition Page 1533

(79) **Verify** To prove to be true; to confirm or establish the truth or truthfulness of; to authenticate.
Black's Law Dictionary 9th Edition Page 1698

(80) **void judgment.** One which has no legal force or effect, in validity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. Reynolds v. Volunteer State Life Ins. Co. Tex.Civ.App., 80 S.W.2nd 1087, 1092. One which, from its inception null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Ex parte Myers, 121 Neb. 56, 236 N.W. 143, 144. One that has merely semblance without some essential elements, as want of jurisdiction or failure to serve process or have party in court. Wellons v. Lassiter, 200 N.C. 474, 157 S.E. 434, 346. It is subject to collateral attack. Owens v. Cocroft, 14 Ga.App. 322, 80 S.E. 906, 907."
Black's Law Dictionary 4th Edition page 1745, 1746

V. TABLE of AUTHORITIES

AUTHOR **QUOTE**

(1) Arthur Sydney Beardsley Legal Bibliography and the use of law books, Part IV books of reference XVII Uniform Laws and Restatements, Sec. 122 The Restatement and the Courts, Paragraph 7 , Page 216 (1937)

> ....."The great number of books, the enormous amount of litigation, the struggles of the courts to avoid too strict an application of the rule of stare decisis, the fact that the law has become so vast and complicated that the conditions of ordinary practice and ordinary judicial duty make it impossible to make adequate examinations – all these have tended to create a situation where the law is becoming guesswork." page 211.
>
> "....Notwithstanding the prediction of Mr. Elihu Root (see Supra) that we shall have "a statement of common law of America which will be prima facie basis on which judicial action will rest," Professor Corbin remarks that , it will always remain open for individual courts to find themselves as competent as the Institute to analyze and classify and to select among competing rules and practices. page 216 .

As evidence that our judicial system has been under attack for quite some time prior to this publication in 1936:

> "...Courts will not be reluctant to cite the Restatement when its full worth is appreciated and that the lawyer owes it to the courts to cite it whenever applicable." 2 Detroit L. Rev. 120 (1932); 23 A.B.A.J. 517 (1937) Page 217

A blatant violation of the Constitutional principles of checks and balances under threat, duress and coercion.

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> "....It is hoped that Restatements, when finally put forth, with the authority of the Institute, may be accepted by the Bench as at least prima facie authoritative, and as Mr. Root has suggested, "any lawyer whose interest in litigation requires him to say that a different view of the law shall be taken, will have upon his shoulders the burden of overthrowing the restatement."

Prima facie Right belongs only to the sovereign [We the people].

(2) John H. Wigmore, A Students' Texbook of the Law of Evidance [1935] Page 237 states in Sec. 239 (2) "The legislature branch may create an evidential presumption, or rule of "prima facie" evidence, i.e., a rule which does not shut out evidence, but merely declares that certain conduct shall suffice as evidence until the opponent produces contrary evidence (post, sec. 448). On the other hand, if the legislature goes further than this, and declares that the conduct shall in itself create a liability, it may be violating the constitutional requirement of "due process of law."

(3) John Remington Graham, (Justice) FREE, SOVEREIGN *and* INDEPENDENT STATES – The Intended Meaning of the American Constitution (2009). :"

Page 326 1st Paragraph – ***Baron de Montesquieu in Book XI Chapter 6 of L'Esprit des Lois, wherein he taught (in translation from the original French):***

"The political liberty of citizens is a tranquility of mind arising from the opinion which each of his own safety. In order to have such liberty, it is necessary that the government should be constituted that one man need not be afraid of others.

"When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, then execute them in a tyrannical manner.

"Again there can be no liberty if judicial power not be separated from legislative powers. Where the judiciary joined to the legislative power, the lives and liberties of citizens would be subject to arbitrary control, for then judges would be legislators. Where the judiciary joined to executive authority, the judges would be inclined to violence or oppression.

"There would be an end of everything if the same man or the same body, whether of noble or the people, were to exercise all three powers, that of enacting laws, that of executing public resolutions, and that of trying causes."

Page 625 middle of the 2nd Paragraph to end of Page 630 – ". . . The work of the Framers has been upstaged by what is officially reputed to be Amendment XIV of the United States Constitution. The study of American constitutional law in conventional law schools has been reduced to not much more than the study of judicial decisions which purport to interpret this alleged article of fundamental law, but actually use it as a pretext for social engineering by whatever fragile majority controls the highest court of the land at any particular time.

The destined extinction of slavery in the United States was already determined by geography, economics, and technology when the Compromise of 1850 was adopted by the Thirty-First Congress. Had there been no secessions of Southern States in 1860-1861, and no American Civil War, there would certainly have been a general liberation of the race held in bondage not long delayed as history is reckoned, probably by constitutional modifications such as are today known as Amendment XIII, which abolished slavery and involuntary servitude in every State and throughout the Union, and Amendment XV, which prohibited denial by the United States or by any State of the right to vote on account of race, color, or previous condition of servitude. In both of these amendments, Congress was given power to enact laws for the protection of the rights secured. The right to vote, like the capacity to serve as a juror, traditionally fell into a higher class of privileges reserved to those freemen who themselves held freeholds yielding a certain annual income. Hence, in light of legal tradition, the right to vote preserves all other rights of freemen, and, under principles of republican government as established at the time of the American Revolution, any discrimination under color of law against any defined category of citizens enjoying the right to vote by operation fundamental law must be presumed unconstitutional. By operation of such provisions and principles, those liberated from slavery would have enjoyed the full benefits of citizenship under the United States Constitution without the article which has been designated Amendment XIV.

In any event, Amendment XIV, as it has been called, was never necessary, and the country could have done without it, yet accomplished social justice.

The first section declares that a person born or naturalized in the United States is a citizen. This clause was meant to reverse the erroneous decision in Dred Scott v. Sandford, 19 Howard 393 at 404-427 (U.S. 1857), where it was held that nobody held in slavery or descended from one held in slavery could become citizens, either by natural birth or by naturalization. This error was already remedied by Amendment XIII, especially in light of Amendment XV.

The first section also prohibits any State from denying a citizen the privileges and immunities of a citizen of the United States, which was surely meant to reverse the decision of the Supreme Court in Barron v. Baltimore, 7 Peters 243 at 247-251 (U.S. 1833), and to apply the entire Federal Bill of Rights as a limitation on the powers of the several States, as was never necessary, since the guarantee of a republican form of government already required the several States to concede the basic equivalent of the same rights to citizens.

The first section also prohibits any State from denying equal protection of the laws, which was undoubtedly meant to restrain unjust legislation against new freedmen, yet such wrongdoing was independently prohibited by Amendments XIII and XV, which in time and under the right circumstances could even have generated decisions like Brown v. Board of Education, 347 U.S. 483 (1954), insofar as they have prohibited exclusion of persons from public institutions on account of race. Unwarranted extrapolations by the judicial power in attempting to implement such decisions have, it is true, destabilized society, injured education, and incited needless antagonisms. To whatever extent such excess has prevailed, it has been the result of poor administration of justice which is a distinct problem, for judges must always be wise, disciplined, and prudent under any body of fundamental law. Yet Amendment XIV, as it has been officially referenced, was never required to sustain beneficial and sensible judicial interventions to prevent invidious discrimination.

Likewise the first section of the same purported article prohibits any State from denying due process of law, as was evidently meant to overrule Satterlee v. Matthewson, 2 Peters 380 at 407-414 (U.S. 1829), yet again this clause was not required, because due process of law comes from Magna Carta and so is part of the republican form of the government of every State as guaranteed by the United States Constitution. Sound construction is required for every Constitution, and in the future it may be possible to frame effective provisions to avoid misinterpretation by judges and other public officers.

The second section purported to modify the population index of every State for representatives and direct taxes, as was not required since with the abolition of slavery there were no longer any persons to be counted at three-fifths of their number, and any remaining deficiency was supplied by assuring freedmen the right to vote.

The third section punished, without trial for supporting secession, Southerners previously serving as public officers and taking an oath to support the United States Constitution by denying them the right to hold any public office under the United States, unless the disability was removed by two-thirds of both chambers of Congress. As such, it was a bill of attainder. This provision explains why Southern States voted against the proposed amendment.

The fourth section provided that public debt from conquering the seceding States could not be repudiated. It obstructed proper settlement of the claims of creditors of the government. It was a favor to money lenders who would surely not have been thus benefited without consideration, hence they probably bought members of Congress for the accommodation. It further explains Southern opposition to the proposed amendment.

In any event, the sonorous phrases in the first section, whatever they were supposed to mean, were merely window dressing to conceal the vindictiveness in the third section and the bribery behind the fourth.

The fifth section conferred power upon Congress which was available under the second section of Amendment XIII and the second section of Amendment XV, not to mention the power of Congress to guarantee every State a republican form of government.

"The so-called Fourteenth Amendment, therefore, served no legitimate objective which might not otherwise have been accomplished by proper means. It emitted the stench of political hated and raw corruption. Moreover, it was framed to assure rejection by the Southern States, without which it could never be lawfully adopted. And it was never lawfully laid before the country in a resolution of Congress nor was it ever lawfully ratified by the several States. The published scholarship on this astonishing truth is impressive, and, although various contributions differ with each other on details of fact and analysis, certain main points are undeniable. ."

Amendment XIII was adopted on December 18, 1865, by three-fourths of the States of the Union, including nine of the thirteen which had been represented in the Congress of the Confederate States, and of these nine, four had independently abolished slavery, and two others not ratifying had by then also ended the peculiar institution. The Southern States were certainly then considered as part of the Union, for their assent was deemed necessary, and duly given for this critical modification in the fundamental law of the United States. And because these States were indispensable to ratification of Amendment XIII, they were also entitled to representation in Congress and to free participation in the ratification of subsequent constitutional amendments.

-The thirty-Ninth Congress met on the first Monday in December 1865, including duly elected representatives and senators from eleven Southern States which had earlier withdrawn from the Union, and also Missouri and Kentucky, each of which had governments on both sides of the war. These eleven then had functioning governments acknowledged by the President, and eight of them had ratified Amendment XIII. On December 13, 1865, a joint committee of the House and Senate was established to inquire whether these eleven, derisively mentioned as the "so-called Confederate States of America, " were entitled to representation in Congress, and, on June 20, 1866, this committee reported, with approval of both chambers, that, because they had "voluntarily deprived themselves of representation in Congress for the criminal purpose of destroying the Union," the so-called Confederate States are not, at present, entitled to representation in Congress."

But it has since been judicially settled in *Powell v. McCormack,* 395 U.S. 486 at 546-550 (1969), that neither the House nor the Senate may exclude a member-elect if he is of sufficient age, has been a citizen for the prescribed number of years, is an inhabitant of his State, has received enough votes in a lawful election, and presents a good return. This principle of constitutional government had been definitively established in England before the American Revolution, and the Philadelphia Convention intended to confirm it. And it was also settled in the same case that the judiciary may inquire and grant remedy if an exclusion has not been based on want of constitutional qualifications of the member aggrieved. There can be no question, therefore, that the Thirty-Ninth Congress was a factious and lawless body, and could not validly enact any statute or propose a conditional amendment. And so, laying aside all questions whether there were actually majorities of two-thirds in the House and the Senate, the joint resolution proposing Amendment XIV on June 16, 1866, was unconstitutional.

At the time the resolution proposing Amendment XIV went out from Congress, there were thirty-seven States, twenty-eight ratifications were required for adoption, and ten were sufficient to defeat the measure. By March 23, 1867, exactly twenty-one States ratified, and twelve States, all below the Mason-Dixon Line, the Ohio river, or the southern boundaries of Missouri and Kansas, definitely rejected. Under the principles governing ratification of the United States Constitution by the original thirteen States and of the Federal Bill of Rights after the resolution of the First Congress, the Fourteenth Amendment was defeated with finality, and there was no way it could ever thereafter be lawfully adopted in a constitutional manner, except by renewed proposal by Congress, as never occurred.

On March 2, 1867, the Thirty-Ninth Congress purported to enact over veto of President Andrew Johnson the First Reconstruction Act, which put ten of the former Confederate States under martial law. The first section portentously began, *"Be it enacted that said rebel States shall be divided into military districts and made subject to the military authority of the United States,"* then followed provisions to substitute courts martial for regular courts of justice and military government for republican government.

The fifth section ordained that when the people of any of "said rebel States" shall have reorganized their governments by convention of delegates elected for such purpose, and, among other things, *"shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become part of the Constitution of the United States, said State shall be declared entitled to representation in Congress."* Then followed an ominous proviso that *"no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of the said rebel States, nor shall any such person vote for members of such convention."*

The Act was manifestly unconstitutional, not only because the Thirty-Ninth Congress had been unlawfully formed and could enact nothing, but because it imposed martial law in time of profound peace, contrary to the opinion of the court in Ex Parte Milligan, 4 Wallace 2 at 107-131 (U.S. 1866), which limited the power of Congress in imposing martial law to the theatre of war in time of invasion or rebellion, and the opinion of the concurring minority in 4 Wallace at 132-142, which allowed Congress somewhat broader discretion to impose martial law as a necessary and proper means of waging war, but disallowed it altogether where no war had been declared or existed.

And the Act was obviously unconstitutional also because it was a bill of attainder, insofar as it punished, not only individuals, but the people of the Southern States without presentment, indictment, or even information, and without the normal incidents of due process of law, contrary to the opinions of the court in Cummins v. Missouri, 4 Wallace 277 at 316-332 (U.S. 1866), and Ex Parte Garland, 4 Wallace 333 at 374-381 (U.S. 1866), which struck down professional disqualifications to penalize support of secession from the Union. The Act was as wrong in principle and impact as the five intolerable Statutes of 14 George III which triggered the American Revolution, and could never have met the approbation of the Framers.

Under the coercion of the First Reconstruction Act, and the statutes supplementing its provisions, seven Southern States which had previously rejected the Fourteenth submitted to the pressure and ratified, whereupon, notwithstanding the attempted rescissions of earlier ratifications by Ohio and New Jersey, the Fortieth Congress declared on July 21, 1868, that the Fourteenth Amendment had been adopted by twenty-eight of thirty-seven States, and the secretary of state followed through by proclaiming adoption a week later. Under continuing coercion of the First Reconstruction Act, three more Southern States ratified the amendment after it was proclaimed, and meanwhile Ohio attempted to rescind an earlier ratification. The process was irredeemably irrational.

See Table of cases Page 5 # 10, Dyett v. Turner, 439 Pac. 2d 266 (1968)

(4) West's Encyclopedia of America Law Civil procedure – "Civil court of the United States," paragraph 4 – ***"Therefore, the United States federal court system adopted standardized Federal Rules of Civil Procedure on September 16, 1938, which unified law and equity and replaced common law and code pleading with modern notice pleading. There are exceptions to the types of cases that the Federal Rules now control but they are few in number and somewhat esoteric (e.g., "prize proceedings in admiralty".)***

VI. TABLE OF STATUTES and CONSTITUTIONS

(1) IDAHO RULES OF EVIDENCE

RULE 303. Presumptions in criminal cases.

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

(2) IDAHO CODE, TITLE 73 § 116 Common Law in force

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

(3) United States Code, Title 42 USC § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

(4) Idaho Statute 1-2208 ASSIGNMENT OF CASES TO MAGISTRATES.

Subject to rules promulgated by the supreme court, the administrative judge in each district or any district judge in the district designated by him assign to magistrates, severally, or by designation of office, or by class or category of class, or in specific instances the following matters:

(1) Civil proceedings as follows:

(2) Proceedings in the probate of wills and administration of estates of decedents, minors and incompetents.

(3) The following criminal and quasi-criminal proceedings:

(4) Any juvenile proceedings except those within the scope of the provisions of section 1-2210, Idaho code.

(5) Proceedings under the Idaho traffic infractions act, chapter 15, title 49, Idaho Code.

(5) **Idaho Statute 50-201. CORPORATE AND LOCAL SELF-GOVERNMENT POWERS.** Cities governed by this act shall be bodies corporate and politic; may sue and be sued; contract and be contracted with; accept grants-in-aid and gifts of property, both real and personal, in the name of the city; acquire, hold, lease, and convey property, real and personal; have a common seal, which they may change and alter at pleasure; may erect buildings or structures of any kind, needful for the uses or purposes of the city; and exercise all powers and perform all functions of local self-government in city affairs as are not specifically prohibited by or in conflict with the general laws or the constitution of the state of Idaho.

[Page 27 of 48, Docket # 39376-2011 Appellant's Brief, Date Dec. 28, 2011.]

(6) **Idaho Statute 18-202. TERRITORIAL JURISDICTION OVER ACCUSED PERSONS LIABLE TO PUNISHMENT.** The following persons are liable to punishment under the laws of this state:

1. All persons who commit, in whole or in part, any crime within this state.
2. All who commit larceny or robbery out of this state, and bring to, or are found with the property stolen, in this state.
3. All who, being out of this state, cause or aid, advise or encourage, another person to commit a crime within this state and are afterwards found therein.

(7) **Idaho Statute 50-302. PROMOTION OF GENERAL WELFARE – PRESCRIBING PENALTIES.** (1) Cities shall make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry, Cities may enforce all ordinances by fine, including an infraction penalty, or incarceration; provided, however, except as provided in subsection (2) of this section, that the maximum punishment of any offense shall be by fine of not more than one thousand dollars ($1,000.) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(2) Any city which is participating in a federally mandated program, wherein penalties or enforcement remedies are required by the terms of participation in the program, may enforce such requirements by ordinance, to include a criminal or civil monetary penalty not to exceed one thousand ($1,000.), or imprisonment for criminal offenses not to exceed six (6) months, or to include both a fine and imprisonment for criminal offenses.

(8) CONSTITUITON OF THE STATE OF IDAHO
ARTICLE I DECLARATION OF RIGHTS

SECTION 18. JUSTICE TO BE FREELY AND SPEEDILY ADMINISTERED.
Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character, and right and justice shall be administered without sale' denial, delay, or prejudice.

SECTION 21. RESERVED RIGHTS NOT IMPAIRED.
This enumeration of rights shall not be construed to impair or deny other rights retained by the people.

SECTION 22. RIGHTS OF CRIME VICTIMS.
A crime victim, as defined by statute, has the following rights:

(1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.
(2) To timely disposition of the case.
(3) To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.
(4) To be present at all criminal justice proceedings.
(5) To communicate with prosecution.
(6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.
(7) To restitution, as provided by law, from the person committing the offense that caused the victim's loss.
(8) To refuse and interview, ex parte contract, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law.
(9) To read presentence reports relating to the crime.
(10) To the same rights in juvenile proceedings, where the offense is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

Nothing in this section shall be construed to authorize a court to dismiss a case, to Set aside or void a finding of guilt or acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute. This section shall be self-enacting. The legislature shall have the power to enact laws to define, implement, preserve, and expand the rights guaranteed to victims in the provisions of this section.

(9) **CONSTITUITON OF THE STATE OF IDAHO**
ARTICLE II DISTRIBUTION OF POWERS
SECTION 1. DEPARTMENTS OF GOVERNMENT.
The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

(10) **CONSTITUITON OF THE STATE OF IDAHO**
ARTICLE V JUDICAL DEPARTMENT
SECTION 25. DEFECTS IN LAW TO BE REPORTED BY JUDGES.
The judges of the district courts shall, on or before the first day of July in each year, report in writing to the justice of the Supreme Court, such defects or omissions in the laws as their knowledge and experience may suggest, and the justice of the Supreme Court shall, on or before the first day of December of each year, report in writing to the governor, to be by him transmitted to the legislature, together with his message, such defects and omissions in the constitution and laws as they may find to exist.

(11) **CONSTITUITON OF THE STATE OF IDAHO**
ARTICLE XII CORPORATIONS, MUNICIPAL
SECTION 1. GENERAL LAWS FOR CITIES AND TOWNS. The legislature shall provide by general laws for the incorporation, organization and classification of the cities and towns, in proportion to the population, which laws may be altered, amended, or repealed by the general laws. Cities and towns heretofore incorporated, may become organized under such general laws, whenever a majority of the electors at a general election, shall so determine, under such provisions therefore as may be made by the legislature.

(12) **Constitution For The United States of America**
Tenth Amendment – Reserved Powers
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or **(through)** the **people.**

VII. HISTORY OF EVENTS

Citation from Officer Jones # 590 and Officer Hernan # 624

CITY CODE: §6-01-15 Respondent/Plaintiff DATE	Idaho v. L'Abbe' IDENIFICATION	OPEN CONTAINER Appellant/Defendant DATE
October 9. 2010 }	<Charged Citation # 1423510	
	Demand verification or dismiss>	{ October 15, 2010
November 3, 2010 }	< Notice of Hearing (Argument)	
	Demand for hearing or dismiss>	{ Nov. 15, 2010
November 22, 2010 }	<Notice of Hearing new time	
December 6, 2010 }	<Arraignment	
December 7, 2010 }	<Notice of Hearing (Jury Trial)	
	Demand for discovery>	{ January 14, 2011
	Judicial notice>	{ January 14, 2011
	Motion to dismiss>	{ January 14, 2011
January 20, 2011}	<Public records	
	Judicial notice>	{ January 25, 2011
January 26, 2011 }	<Jury Trial (8:15 am)	
January 26, 2011 }	<Article XII Corporations, Municipal (City Attorney)	
January 26, 2011 }	<Fine/Cost - Stayed pending Appeal (Magistrate Judge)	
January 26, 2011 }	<Court Minutes - Defendant present	
January 26, 2011 }	Official Oath - Hon. Daniel L. Stickel	
	Notice of Appeal>	{ March 8, 2011
March 16, 2011 }	<Order (procedure on appeal)	
	Code of Judicial Conduct>	
See affidavit attached >>>	Affidavit from witness>	enter on exhibit
	First Appellant's Brief	{ March 22, 2011
	Motion for Indigence on fee and transcripts	{ March 22, 2011
March 30, 2011}	Amended Order Governing Procedure on Appeal	
	Notice to the Court	{ May 12, 2011
	Reply Brief	{ June 23, 2011
Oct. 11, 2011 }	Memorandum Decision & Order	

	Notice of Appeal	{ Nov. 14, 2011
Nov. 29, 2011 }	Supreme Court Order Conditionally Dismissing Appeal	
	Expanded Notice of Appeal	{ Dec. 15, 2011
	Payment of Fees under Protest	{ Dec. 15, 2011

VIII. STATEMENT OF ARGUMENTS

On the facts and the law

With regard to the remedy for these actions [Case # CR-MD-2010-17572] there is no issue with the "facts" or the "law," because they are irrelevant in determining whether L'Abbe's Constitutional Unalienable Rights have been violated.

IX. ISSUES on JURISDICTION

(1) L'Abbe has demanded proof of jurisdiction as is evidenced in his affidavit filed October 12, 2010 and November 15, 2010 in a Corporate Court.

(2) L'Abbe has the Constitutional Unalienable Right [6th Amendment] to face his accusers. No Mr. Idaho has appeared, nor any Corporate Contract has been evidenced.

(3) L'Abbe is not as evidenced in earlier affidavits a 14th Amendment slave as cited above.

X. Issues Presented on Appeal

ULTIMATE ISSUE is JURISDICTION

On October 9, 2010 Officers Jones and Hernan issued a citation # 1423510 for carrying a white plastic kitchen cup of fermented grape juice. L'Abbe, upon the process of receiving said citation questioned Officer Jones with regard to whether we had damaged anyone. He did not respond to the question and continued to complete the citation handed it to L'Abbe, then left. Supported by affidavit by Marty Walthour. [see affidavit attached]

During the arraignment December 6, 2010, Magistrate Theresa Gardunia attempted to coerce L'Abbe on at least several occasions to consider an Attorney for his defense. Such an action on L'Abbe's part would have placed him presumably under the jurisdiction of this so called court.

L'Abbe was quite clear both in his written October 15, 2010 affidavit and reinforced in his courtroom appearance; L'Abbe was standing proper person Special Appearance under protest. The jurisdiction of this court was squarely challenged from the commencement. L'Abbe was then, and he is here and now demanding Ratification of Commencement in this blatantly unconstitutional action.

In response to the analysis-Quoted from Judge Sticklen's Memorandum Decision and Order, "in any case, this crime does have a victim (the city or state) People v. Norman." As defendant L'Abbe' introduced into the hearing with Magistrate Steckel, a manifest damaged party **must by constitutional Law,** file a formal complaint (Title 18 complaint for damages). No summons was issued. A Citation claiming statute law is violated, is not in itself sufficient in initiating a criminal/civil action without a damaged party. See Rule 17(a) IRCP.

Magistrate Gardunia unconstitutionally and continuously overruled L'Abbe's objections to pro-se categorization, to L'Abbe's objection to the court's assumed not guilty plea, and all others. Furthermore, L'Abbe's demand for a Constitutionally secured Article III court was overruled, and all demands for jurisdiction were emphatically, summarily, and conclusively rejected most notably L'Abbe's demand for the enabling act. This event was clear evidence of this Magistrate acting well outside her Constitutional authority.

In spite of the fact that Magistrate Gardunia admittedly insured that L'Abbe's Constitutionally Secured Unalienable Rights would remain safeguarded, she instead appeared to presume that L'Abbe was a "14th Amendment Corporate Citizen" despite clear notifications to the contrary. Her administrative actions clearly bear witness to the fact that separation of powers was blatantly violated as she discussed further actions with the prosecuting Attorney Dingeldein.

Infringement on this organic document (Constitution for the United States) in any way, shape or form, is a **nullity.** Constitutional historical research points to the dubious circumstances under which the 14th Amendment was ratified. It is not only our right, but most importantly, our responsibility to address any and all matters concerning our personal freedom. Our divine creator, as recognized by our founding fathers', would expect no less. Is this not so?

Not only was this a violation of Article III Section 2 and 7th Amendment of the Federal Constitution, but of Article II of the Idaho Constitution as well.

A flagrant violation to We the People's right to due process, and adding substance to L'Abbe's claim # 5 of his January 14, 2010 Demand for Discovery which said Magistrate Gardunia's courtroom demeanor hardly reflected that of a public servant, and in fact greatly diminished his trust in that which characterizes the judicial code of ethics and the 4th Judicial courts mission statement.

My reason for this distrust is further evidenced:

(a) As per Senior District Judge Kathryn Sticklen's reference to State v. Miller under Standard of Review, it is apparent that she falsely assumes judicial enactment is an act of law, when in fact these acts are an attempt at usurpation of legislative and constitutional authority. All law must necessarily be pursuant to the organic constitution and enacted through constitutional process. State v. Miller is in fact a judicial enactment by a lower Idaho court, acting outside of its authority. Judge Sticklen's cite regarding Article V Section 2 of the Idaho Constitution appears to be grasping at straws, in that this action in no way involves impeachment proceedings. Furthermore, in State v. Wilder, the Supreme Law of the Land will not be argued, but must be maintained. Again, the Idaho courts of Appeals 2003 acted beyond its authority. **This is a land of law, not men** (judges.) These blatantly unconstitutional actions are a graphic example as to why a land of law is necessary. The Priddle v. Shankie and People v. Norman cases are lower California and lower N. Y. courts respectively. They carry with them no citable authority

and furthermore have no relevance, or are applicable with regard to the jurisdictional/constitutional questions made clear from the commencement in Idaho.

(b) Response to Analysis October 11, 2011, Quoting Judge Sticklen's Memorandum Decision and Order: "L'Abbe' was charged with a violation of Boise City Code 6-01-15. This is a misdemeanor offense. Thus, the magistrate court had jurisdiction to try (the defendant) in this proceeding."

This mind set presumes jurisdiction over the defendant through legislative enactment of a statute, brought to bare through the executive branch (unlawful, unconstitutional police harassment.) The judicial branch ultimately operates in concert with both the legislative and Executive branches when the prosecuting attorney and magistrate co-operate by attempting to systematically destroy due process. A rubber stamp jury judging only the facts is, by common sense, an attempt to ensure defendants constitutionally secured unalienable rights are plundered, thereby attempting to leave no place for thorough examination regarding questions of law. This is a blatant attempt to render our constitutional protections and our jurisdictional/constitutional questions as meaningless.

The result is the "judicial process" we witness today, attempting to force upon defendant L'Abbe' an unlawful conditional guilty conviction, unveiling the Magistrate and Prosecuting attorney's intention to co-operate in creating what is called a contrary action to a Legislative Statute. Curiously, Magistrate Steckel recognized the organic constitution as the Supreme Law of the Land, but not the only law of the land.

The word Superior means "Possessing larger power"-Black's Law 6th Edition Page 1437. The word Supreme means "Superior to all things"-Black's Law 6th Edition Page 1440.

By common sense, any other law of the land is pursuant to the Supreme Law of the Land. So you see, it should be understood why Defendant L'Abbe' was thoroughly confused when the Magistrate concurred with Prosecuting Attorney Patino that Idaho Code 73-116 "trumped" Supreme Law. So again, by common sense, how could such a court ruling, to include the October 11, 2011 Memorandum Decision and Order, make any sense? SEE TABLE of AUTHORITIES ***Page 21 to 25***

John Remington Graham, (Justice) FREE, SOVEREIGN *and* IND. Page 625-to-630

We the People's erosion of confidence in the integrity of the legislative process to lawfully enact amendments, compounded with the court's failure to fulfill its Constitutional duty to act as a check against unlawful legislative enactment, has arisen from an attitude of entitlement and superiority' and therefore a treasonous violation of their Oaths to support and defend our Constitution.

The Oath and office necessarily contain, by its organic nature, a sacred responsibility to safeguard the Unalienable Rights of We the People.

On January 26, 2011 a "De Facto" jury trial was set without regard to L'Abbe's objection. L'Abbe was then informed by Prosecuting Attorney Jennifer Pitino that he could select from one of several options, any of which according to his understanding would fulfill the appearance of the court's jurisdiction through coercion, an apparent bribe.

Upon demand that L'Abbe's Unalienable Rights remain secured, the prosecutor then acted in concert with Judge Daniel Steckel in what appeared to be a coordinated action in determining the direction of these proceedings without his involvement and consent. This is an unconstitutional action by a prosecutorial team – a blatant violation of separation of powers and the right to due process, thereby a violation of the Federal Constitution and Idaho Constitution Article II.

Defendant L'Abbe' was emphatically and repeatedly clear with regard to retaining **all of his rights.** Again, State v. Stricklen is a judicial enactment from lower Idaho courts acting outside of its authority. Robinson v. State Farm Mutual Automobile Insurance Co. (2002) was another attempted judicial legislation by a legislative Tribunal, and has no citable authority. Judicial procedure as revealed in this unconstitutional action exposes an attempt at manipulation through distortion and deception.

L'Abbe standing as Proper Person with assistance was again overruled by the court. Demand for Discovery was never completed, including no verified complaint. Again Mr. Idaho has not shown his face. The prosecutor's claim that L'Abbe was misreading Article III Section 2 is a distortion. Any such understanding would have to be repugnant to Article II and Article V Section 25 of the Idaho Constitution which requires Judges to report defects of law and provide no authority for interpretation. Judge Steckel's contention that Judges interpret and fill in the gaps in law are clearly a flagrant attempt to justify judicial enactment.

The Prosecuting Attorney's contention that states have rights according to the 10th Amendment is absolutely repugnant to the previous Nine Amendments, the Declaration of Independence, the Articles of Confederation, the Constitution for We the People and numerous supporting court rulings. (see cite cases on page 4 to 7)

Why would the Founding Fathers recognize and champion the rights of We the People, and capstone it with rights to overrule by government in the 10th Amendment!! That simply defies common sense, and would necessarily undermine the basic principles upon which these Divine Documents were created and for which many fought and died.

[Texas v. White, 7 Wall (U.S.) 700 19L. Ed. 227].

"A republican form of Government to every "state" means to its people and not to its Government

[Yick Wo v. Hopkins 118 U.S. 356, 370]

"Sovereignty itself remains with the people, by whom and for whom all government exists and acts."

The distortion of natural law has been an ongoing occurrence since Adam and Eve. Common Law is the ultimate channel through which the juror gives expression to Natural Law.

We the People are, with expanding recognition, witnessing this great nation's systematic collapse, perpetuated with full intention. Systematic collapse has manifested in global proportions with devastating consequences, eclipsing the imagination, perpetually escalating..

Refusal to recognize the distinction between the corporate and sovereign condition, has by nature created another defining chapter in world history consisting of a junkyard of failed empires. Blindly repeating the footsteps of the past. . . .

"It will be of little avail to the people that the laws are made of men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood."

James Madison,
Federalist #62

XI. "DEEP ISSUE"

Conflict of Interest eliminated jurisdiction.

The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992)
I – The Emergence of an Instrumental Conception of Law

PAGE 14 – 15 (1) "Though it was left to others to extend Swift's analysis to the whole of common law crimes, his preoccupation with the unfairness of administering a system of judge-made criminal law was a distinctly post-revolutionary phenomenon, reflecting a profound change in sensibility. For the inarticulate premise that lay behind Swift's warning against the danger of judicial discretion was a growing perception that judges no longer merely discovered law; they also made it." – Zepheniah Swift Connecticut State Chief Justice.

PAGE 20 2nd paragraph

(2) ". . Their common law," he declared, "was derived from the law of nature and of revelation; those rules and maxims of immutable truth and justice, which arise from the eternal fitness of things, which need only to be understood, to be submitted to; as they are themselves the highest authority." –Jesse Root in the Root's Connecticut Reports (1798).

PAGE 23 (3) "Theoretical[ly] courts make no law," they declared, "but in point of fact they are legislators." And after citing cases where courts had made law, they inquired: "How then could these laws have been prescribed by a supreme power in a state? By the acquiescence of the legislature, they impliedly consented to these laws, and it is immaterial whether this consent be subsequent or antecedent to there [sic] birth." Finally, with a dash of irony, they laid to rest the old conception of law. –James Wilson

As judges began to conceive of themselves as legislators, the criteria by which they shaped legal doctrine began to change as well.

PAGE 27-28

(1) The perception by American courts that the English admiralty courts were "governed . . . by ideas of political expediency" soon led American judges to see that it was necessary to adopt legal doctrines which in turn best promoted their own "solid interests."

This attitude reveals and defines the absolute necessity for the creation of our Declaration of Independence and the resulting revolution.

(5) Judges and Prosecuting Attorneys working together in an attempt to extort money [Title 18 § 1962] from "We the People" and as political appointees, Judges are beneficiaries of the extortion. It is apparent they have an undeniable conflict of interest in all controversies which guarantees their employment, therefore perpetrating the appearance of need for their "position." They are a party to the action.

(6) The "finding of fact" and "conclusion of law" cannot be determined until the important, convincing, and crucial evidence [the nature of the laws and government policies pertinent to the vested right of the defendant] is the insurmountable probandum.

(7) Judges: Magistrate; District; Appeal; Superior; Supreme Court Judges are not able to make any determinations (ruling) on the fact, law and nature of the law, because of their administrative "corporate" appointment. They are blatantly operating outside their jurisdiction. Because of the overwhelming evidence that there is a "conflict of interest" in the way the Judges and government personnel are receiving compensation and benefits from the revenue extorted, (directly or indirectly) by revenue agents (police, clerks and etc.) into the treasury of the government, we the people recognize that our constitution has been stolen by the very thieves that swore an oath to protect it.

XII. MATERIAL ISSUE ON THE MERITS

(a) Liability – Civil/Criminal Action as to the jurisdiction.

(1) Criminal action must verify the damaged party to establish the liability germane to the action pursuant to Constitutional common law principles. Otherwise there would be no remedy essential to Constitutional checks and balances.

(2) Civil action would come into play, when the action, maintained by the responsible party, cannot verify the damaged party and a liability is demanded. Therefore L'Abbe becomes the damaged party ripe for a Title 42 USC § 1983 action.

See page 20 [Table of Authorities - (# 2) John H. Wigmore, A Students' Texbook of the Law of Evidance [1935] Page 237 states in Sec. 239 (2).

(3) A liability has been created here as "due process of law" [A Constitutional requirement] has been blockaded and or ignored. This liability issue is paramount to the ultimate issue.

(b) Real party of interest Rule 17(a) IRCP as to jurisdiction.

(1) This action is "Civil" for reasons stated in section 2 (above). Therefore Idaho Rules of Civil Procedure do apply.

(2) L'Abbe's demand for ratification of commencement of the action, after a reasonable time, has demanded the dismissal of the action [on the merits].

(3) The reason the prosecutor [within its limited corporate powers] is not able to prosecute this action to its completion, is, there is no verification of a real party of interest. Therefore the lack of the real party of interest issue, points to the ultimate issue "no jurisdiction."

(c) Dismissal on the merits with prejudice as to jurisdiction.

(1) This action should have been dismissed on the merits for reasons as stated in section 3 (above), and on the grounds that the prosecutor [within its limited corporate powers] failed to verify the real party which was essential to the commencement of this action, as required under common law pursuant to the Constitution.

(2) The deprivation of L'Abbe's substantive secured rights, merit *dismissal with prejudice,* in light of his sovereign condition as expressed "Unalienable secured Rights" in the 9th and 10th amendments, of our Bill of Rights, and numerous supreme court decisions as referred to in cite pages 4-7.

(3) The issue of the dismissal is evidential to the ultimate issue "no jurisdiction."

(d) Common law principles as to the jurisdiction.

The reason for deciding *"ratio decidendi"* cases by Judges today are:

(1) The U.S. and STATE Administrative Corporate Judiciary formed and adopted "Legal Positivism," under *"prima facie action"* in 1938 [Eric v. Tompkins 304 U.S. 64, 58 S. Ct. 817 (1938)], forcing Judges and Attorneys to accept the premise behind closed doors.

(2) Creating a force over time, to Positive Law within a corporate regime, and effectively switching the burden of proof on the people, while stripping them of their unalienable secured rights. A Treasonous act upon We the People of the sovereign states.

(3) In affect making claim that common law as defined in the organic Constitution was no longer *"jus commune"* (common natural rules of right) general law of the land. "But only the residue of that law after deducting Equity and Statute Law." [John Salmond, Jurisprudence 97 (Glanville L. Williams ed., 10th ed. 1947)]

See page 25 [Table of Authorities - (# 4) West's Encyclopedia of America Law: Civil Procedure "Civil court in the United States" Paragraph 4]

(1) Prima facie is used within Legal Positivism as a remedy to circumvent the organic nature of the *common law principles* in the Constitution (the peoples sovereign condition) and the unalienable secured rights, acknowledged by the founding fathers declared in the Declaration. – "that all men are created equal, that they are endowed by their Creator with certain Unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

(e) Citizen, the issue of right in the 14th amendment as to jurisdiction.

(1) The 14th amendment derivative is questionable at best. The Confederacy's attempted succession was never recognized or accomplished. So how could the Union Army demand a duty to re-enter via a forced unconstitutional reconstruction enactment, thus, creating the appearance of an enactment of the 14th Amendment!! The Union's demand on the Confederate States to ratify the 14th under threat, duress and coercion violated their right to represent their constituents in the establishment of representative due process.

See page 5 Table of Cases #10 [Dyett v. Turner, 439 Pac. 2d 266 (1968)] and page 7 Table of Cases # 32 [Powell v. McCormack, 395 U.S. 486 at 546-550 (1969)]

(2) Southern Legislators were persecuted and replaced with unelected carpetbaggers imported by the Union occupation forces with Military oppressors in the legislature.

(3) See page 23 Table of Authorities – (# 3) John Remington Graham, (Justice) "FREE, SOVEREIGN *and* INDEPENDENT STATES" – The Intended Meaning of the American Constitution (2009). Page 628, 1st and 2nd Paragraph

(4) Rights can not be abrogated by any laws from the legislation. Time limits are included. See page 6 Table of Cases – (# 18) Miranda v. Arizona 380 U.S. 436 (1966).

(5) The Bill of Rights is the barrier from the applied "jurisdiction" on the participants within Article VI Sec. 3 of the Constitution.

Unconstitutional Judicial Take Over

The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992)

V – The Relation between the Bar and Commercial Interests

PAGE 140 First paragraph -"ONE of the phenomena that has puzzled historians is the extraordinary change in the position of the post-revolutionary American bar – "the amazing rise," Perry Miller called it, "within three or four decades, of the legal profession of political and intellectual domination." **In the period between 1790 and 1820 we see the development of an important new set of relationships that made this position of domination possible: the forgoing of an alliance between legal and commercial interests.** It is during this period that the mercantile classes shed a virulent anti-legalism often manifested during the colonial period by a resort to extralegal forms of dispute ***[Page 39 of 50, Docket # 39376-2011 Appellant's Brief, Date Dec. 29, 2011.]***

settlement. During this same period, the Bar first becomes active in overthrowing eighteenth century anti-commercial legal doctrines."

PAGE 141 Last paragraph -It should have come as no surprise to Story that in most cases **"merchants were not fond of juries,"** For one of the leading measures of **the growing alliance between bench and bar** on the one hand and commercial interests on the other is the **swiftness with which the power of the jury is curtailed after 1790.**

From The Southern Law Review. Vol. I] NASHVILLE, JULY, 1872. [No. 3.
Autobiographical Sketch of Chancellor Kent.

PAGE 387 – 3rd paragraph
". . . When I came to the bench there were no reports or state precedents. The opinions from the bench were delivered *ore tenus.* We had no law of our own, and nobody knew what it was. I first introduced a thorough examination of cases, and written opinions. In January, 1799, the second case reported in 1st Johnson's Cases, of Ludlow vs. Dale, is a sample of the earliest. **The Judges when we met all assumed that foreign sentences were only good *prima facie.* I presented and read my written opinion, that they were conclusive, and they all gave up to me, and so I read it in court as it now stands. This was the commencement of a new plan, and then was laid the first stone in the subsequently erected temple of our jurisprudence."**

FOREIGN OPERATION outside the American organic constitutional legal system.

The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992)
V – The Relation between the Bar and Commercial Interests
PAGE – 144 First paragraph "The identification of commercial law with a universal law of nations served several important functions. In both England and America, it allowed pro-commercial **judges to go outside the existing legal system** to import novel and congenial rules of law. It was also a profoundly anti-legislative conception of the nature and source of law. Since commercial rules were part of "the general law of nations," James Sullivan observed in 1801, judges were obliged to "depend" on the law of nations for "their origin and their expositions," rather than on any municipal regulations of particular countries. This meant that "the most important interests of mankind cannot be secured, directed and governed by the special acts of legislation in a country . . . ," but, rather, by judicial pronouncements on commercial law."
V – The Relation between the Bar and Commercial Interests
The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992)

Foreign operatives constitutionally cannot include we the people, all others are invasive perpetrators. These sort of judicial acts and attitudes are treason and must be dealt with accordingly.

7th Amendment jury, unconstitutionally ignored.

"The active involvement of lawyers in commercial affairs marks a major transformation in **the relationship between legal and mercantile interests**. By 1822 Daniel Webster "took the liberty" of informing Justice Story that commercial interests disapproved of a case he had recently decided. "The merchants are hard pressed," he wrote, "to understand why there should be so much good law, on one side, & the decision on the other." Nor was Story inattentive to the **desires of merchants**. After he extended the federal admiralty jurisdiction to marine insurance cases in *De Lovio v. Boit* (1815), he noted that "to my surprise . . . the opinion is rather popular among merchants. They declare that in **mercantile causes, they are not fond of juries;** and, in particular, the underwriters in Boston have expressed great satisfaction at the decision.

It should have come as no surprise to Story that in most cases **"merchants were not fond of juries,"** For one of the leading measures of **the growing alliance between bench and bar** on the one hand and commercial interests on the other is the **swiftness with which the power of the jury is curtailed after 1790.**

Three parallel procedural devices were **used to restrict the scope of the juries.** First, during the last years of the eighteenth century American lawyers vastly expanded the "special case" or "case reserved," **a device designed to submit points of law to the judges while avoiding the effective intervention of a jury**.

A second crucial procedural change – **the award of a new trial for verdicts "contrary to the weight of the evidence"** – triumphed with spectacular rapidity in some American courts at the turn of the century. The **award of new trials for any reason** had been regarded with profound suspicion by the revolutionary generation. "The practice of granting new trials," a Virginia judge noted in 1786, "was not a favorite with the courts of England" until the elevation to the bench **of Lord Mansfield, "whose habit of controlling juries** does not accord **with the free instructions of this country**; and ought **not to be adopted for slight causes."** Yet, not only had the new trial become a standard weapon in the judicial arsenal by the first decade of the nineteenth century; it was also **expanded to allow reversal of jury verdicts."**

These kinds of acts are a total reversal of constitutional principles, "Treason."

"These two important restrictions on the power of juries were part of a third more fundamental procedural change that began to be asserted at the turn of the century. The view that even in civil cases "jury [are] the proper judges not only of the fact but of the law that [is] necessary involved" was widely held even by conservative jurists at the end of the eighteenth century. "The jury may in all cases, where law and fact are blended together, take upon themselves the knowledge of the law . . . ," William Wyche wrote in his 1794 treatise on New York practice.

During the first decade of the nineteenth century, however**, the Bar rapidly promoted the view that there existed a sharp distinction between law and fact and a correspondingly clear separation of function between judge and jury.** For example, until 1807 the practice of Connecticut judges was simply to submit both law and facts to

the jury, without expressing any opinion or giving them any direction on how to find their verdict. In that year, the Supreme Court of Errors enacted a rule requiring the presiding **trial judge, in charging the jury, to give his opinion on every point of law** involved. This institutional change ripened quickly into an **elaborate procedural system for control of juries.**

In 1808 the Supreme Judicial Court required for **the first time that trial judges instruct the jury on every material point at issue.** Finally, between 1805 and 1810, the high court began **regularly to order new trial for errors** in the proceeding below.

By 1810, it was clear that the instructions of the court, originally advisory, had become mandatory **and therefore juries no longer possessed the power to determine the law.** Courts and litigants quickly perceived the transformation that had occurred and soon began to articulate **a new principle that "point[s] of law . . . should . . . be . . . decided by the Court," while points of fact ought to be decided by the jury."**

V – The Relation between the Bar and Commercial Interests
The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992)

(f) Separation of Powers as to jurisdiction.

(1) The National Government [U.S.] through congress, has created a corporation merely by virtue of its authority to legislate for a particular territory [District of Columbia (Article I, §8, Cl. 17), Possessions, Territories or other property (Article IV, §3, Cl. 2), belonging to the U.S.] foreign to [U.S. v. Perkins 163 U.S. 625] the 50 state governments where the people are Sovereign and our government (Federal or State] may only assume such powers as we specifically delegate to it, for the purpose of securing our Unalienable Rights [liberty, happiness and property].

(2) Within the jurisdiction of the U.S. Corporation, Judges were allowed to consider any case law prior to 1938 [Eric v. Tompkins 304 U.S. 64, 58 S. Ct. 817 (1938)], but since have been operating under "public policy" in the interest of the nations creditors – instead of public law in accord with the Constitution.

(3) All courts are Corporate Administrative tribunals, operating under a colorable admiralty jurisdiction called statutory jurisdiction and all Judges administer to the Corporate, and all Lawyers are officers of the colorable courts. **See page 8 [Table of Definitions] – (# 4) Black's Law Dictionary 4th Edition (appearance *special)* Page 125 & 126]** **Therefore the whole judiciary would be administering the bankruptcy of the U.S. declared by Roosevelt in 1933.**

(4) In order to have liberty, it is necessary that the government should be constituted that one man need not be afraid of others. When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty.

See page 23 Table of Authorities - (# 3) John Remington Graham, (Justice) "FREE, SOVEREIGN *and* INDEPENDENT STATES" – The Intended Meaning of the American Constitution (2009). Page 326 1st Paragraph

(g) Power of the 10th Amendment as to jurisdiction.

(1) The Tenth Amendment [created by the people (the sovereigns)] is a check and balance for the enforcement and the protection of the people's unalienable rights the entire constritution was written to secure. Where the federal granted powers are to secure the rights of sovereignty (the people) against the state encroachments, and the granted powers to the states, are, to safeguard the people's rights against the federal encroachments.

(2) The framers of the Constitution conceived the government was not of distinct sovereignties, but rather of a mixed sovereignty of checks and balances between the State and the Federal, to maintain the peoples secured rights; life, liberty and the pursuit of happiness. **See Pages 4 & 7 (Table of Cases): (# 3) [Billings v. Hall, 7 CA. 1]; (# 6) [Chisholm v. Georgia, 2 Dall. (U.S. 471,1L Ed. 440]; (# 25) [Texas v. White, 7 Wall (U.S.) 700 19L. Ed. 227].**

(h) Right to have evidence and authority as to jurisdiction.

(1) It would be the judges responsibility to correctly advise a defendant as to law, procedure, and Constitution when the issue of assistance is raised, this is the only reason for a judge.

(2) Objection to bar Attorney representation. See L'Abbe's affidavits dated October 15, 2010 and November 15, 2010.

XIII. CLOSING STATEMENT

(1) On January 26, 2011 Prosecuting Attorney Pitino referenced Idaho Statutes 50-301 and 50-302 as well Article 12 of the Idaho constitution.

It is L'Abbe's understanding that the referenced statutes and Article were a means of "justifying" her position that the court has supposed jurisdiction over him. These references contain absolutely no basis of constitutional authority over L'Abbe's constitutionally secured rights.

The aforementioned cites may apply to corporate entities, to which L'Abbe has repeatedly stated he is not.

(2) The prosecutor largely rests her argument on Idaho Code 73-116, however according to the record she misquoted the code, stating . . . inconsistent with, statutory law of (Idaho).

The Code 73-116 says . . . inconsistent with, the constitution or laws of the United States. Point being, even when her occupation is to know the law, she perhaps is not as well versed as she may have thought. In L'Abbe's sovereign condition the code's only relevance is whether it safeguards his Constitutionally secured unalienable rights. If not, it has no application, as is the reality with any corporate law.

(3) Judge Steckel, according to L'Abbe's understanding, did affirm the Constitution is the Supreme Law of the land, but he added – it was not the only law of the land. That other laws exist [see "Supreme" page 19 (# 72) Table of

Definitions] is in and of itself, obvious. His judicial opinion, if he believes other laws of the land provide for jurisdiction of the court over Appellant/Defendant, lacks principle and relevance. A blatant distortion of Constitutional principle. All law is pursuant to the protections and guarantees secured in our Constitution <u>for</u> We the People.

> ***"The facility and excess of lawmaking seem to be the diseases to which our governments are most liable."***
> **James Madison,**
> **Federalist #62**

Judge Steckel was on one hand stating <u>if</u> the court were to have Jurisdiction – yet on the other, <u>ruling against</u> L'Abbe's demand on evidence of jurisdiction. [See Table of Authorities page 22: (# 1) Beardsey – Legal Bibliography; (# 22) Wigmore – Textbook of the law of evidence, and Table of Cases Page5 (# 7) Coffin v. Ogden.] This is a blatant presumption on the part of the court that again violates due process.

(4) If L'Abbe understands Judge Steckel correctly, judges interpret the Constitution, when legislation is clear on its face, and the local police officer issues a citation in accordance to these administrative procedures, there are no gaps to fill. That, by common sense effectively negates remedy. Interpretation is attempted jurisdiction to change the constitution! Our constitution is written in English.

> ***"Let no more be heard of confidence in men, but bind him down from mischief by the 'Chains' of the CONSTITUTION."***
>
> **Thomas Jefferson**

(5) L'Abbe as a sovereign has the capacity to understand the higher Principles of law without judicial "interpretation." It is this understanding that defines his freedom.

> ***"The natural liberty of man is to be free from any superior power on Earth, and not to be under the will of the legislative authority of man, but only to have the law on nature for his rule."***
> **Samuel Adams, 1772**

(6) L'Abbe who chose his remedy in an Article III Section 2 court, was instead overruled and convicted in an unconstitutional de facto court focused on judging only the facts which were not at issue. The so called law arising out of unconstitutional legislative rhetoric, and unchecked by the judiciary was brought to bare by the police force, thereby completing the cycle of tyranny. Blatant violations of checks and balance, Separation of Powers, and Right to Due Process must be stopped here and now by the people – the final check.

The revenue generated by these unconstitutional acts of treason (administrative corporate procedures), reveal a very clear conflict of interest. Corporate government entities operating outside of their jurisdiction generate job security for court officials at the expense of We the oppressed People.

Corporations and Government entities have no rights in the Constitution for the United States, they do however have duties and responsibilities to We the People.

> ***"Our Constitution was made only for a moral, religious people. It is wholly inadequate to the government of any other."***
>
> **John Adams**

(7) L'Abbe's freedom does not come from the opinions of men, judges, legislatures or any other forms. They come from nature at birth – our "Unalienable Rights." Therefore freedom cannot be given nor taken by any form, but acknowledged in the Organic Constitution: by the form of the 9th Amendment; by the force of the 10th Amendment; and by the affect of the 7th Amendment.

In light of the proceeding, it is abundantly apparent that L'Abbe's choice of venue is the 7th Amendment with a Constitutional duly appointed judge and fully informed jury. **John Jay, Chief Justice of the U.S. Supreme Court, in *Georgia v. Brailsford* said: "The jury has the right to determine both the law as well as the fact in controversy."**

It appears that the court has assumed jurisdiction of a corporate entity state, which can't stand under Constitutional discretion as our forefathers wrote, to

contain out of control dictates of the King [British admiralty]. All the rights of the people must be secured, or our country has been dissolved and admiralty [Corporate] law dictates. At the time of their writing, our founding fathers could not have conceived any claim of such authority over our Constitution, the foundation of the U. S. law. If the foundation fails, the entire system falls and we must be living under rules of the biggest guns and control of the jails, used to intimidate We the People into submission. How long do you think that can last, with the people waking up?

These courts attempts to conspire against my unalienable secured rights given from birth, acknowledged in the Declaration and secured in the Organic Constitution, with threat, intimidation, oppression or injury to control my life is, has, and always will be futile. For the people are the sovereigns of the substantive law "the Organic Constitutional Supreme law." Therefore the power and control is in the minds of the people.

(8) "There are exceptions to the types of cases that the Federal Rules now control but they are few in number and somewhat esoteric" **– See Page 25 Table of Authorities (# 4) West's Encyclopedia of American Law, Civil procedure, "Civil court in the United States" paragraph four sentence two. In the words of the corporate regime "elite Banking Cartel," this appears to be one of those few in number, "esoteric."**

> ***"It may be affirmed, on the best grounds, that no small share of the present embarrassments of America is to be charged on the blunders of our government. What indeeds are all the repealing, explaining, and amending laws, which fill and disgrace our voluminous codes, but so many monuments of deficient wisdom."***
>
> James Madison,
> **Federalist #62**

(9) With regard to L'Abbe' proceeding pro se, it is readily apparent that Judge Sticklen is incompetent. Defendant has repeatedly, from the commencement of this action insisted that he be recognized as standing Proper Person with assistance.

Obviously, this is another attempt by the Administrative tribunal to coerce Defendant L'Abbe' to submit to the court's supposed jurisdiction.

All attempts with the use of the courts "corporate" color of law "statutes" to control my mind with the threat and Police Power, is a nullity. Therefore, do what you have to do quickly, then, I will proceed appropriately.

> ***"It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle."***
>
> **James Madison, "A Memorial and Remonstrance," 1785: Works 1:163**

XIV. Do request for relief:

(1) These alleged actions of this de-facto Lower Court be over turned and declared null and void due to their total lack of jurisdiction and blatant contempt of our Constitution. These judges must be removed, impeached, and prosicuted.

(2) Sanctions must be placed on the lower courts to guarantee they can not and do not exceed their jurisdiction, nor violate authority. Any court that refuses to stay within the Constitutional authorities and higher court rulings must be sanctioned and warned of the Title 42 USC §1983 Liabilities and Possibilities.

(3) Any time limit, on appeals or actions of the people, is a blatant abrogation of appellant/defendants Rights, including our 1st Amendment Right of redress.

(4) Appellant/defendant L'Abbe' Demands an Article III section 2 -7th Amendment Court as an absolutely essential venue for determining questions of law, hereby securing his constitutional guarantee of free access to the right of due process, whereby a fully informed jury is the final check. With respect to State v. Stricklen, Judge Steckel eventually coerced what was a "conditional guilty" judgment while preserving

not only my right to raise the jurisdictional question, but additionally and appropriately, my fully secured constitutional unalienable rights to a fully informed 7th Amendment jury. This action clearly demands that defendant L'Abbe's constitutional unalienable rights remain secured through the divine avenue of the 7th amendment-a fully informed jury of my peers.

Anyone can see, I am sure, that a Corporate Administrative Court is a blatantly inappropriate venue for exploring jurisdictional/constitutional questions. Senior District Judge Sticklen's Memorandum Decision and Order is a crystal clear case in point illustrating why judicial decision attempts to plunder our constitutional unalienable rights. God's greatest gift to mankind is our free agency, fully recognized and preserved through the jury decision process. Our founding fathers' understood how absolutely vital the 7th amendment jury was to our system of checks and balances, and would recommend we understand the same. The jurist is, in our Constitutional Republic, the highest officer in the court. The preservation of our Republic thoroughly depends on this knowledge. Again Defendant L'Abbe' hereby re-enters his demand for a Constitutional 7th amendment, fully informed jury of his peers. Whether the court construes an action as criminal or civil, has absolutely no relevance WHEN jurisdictional/constitutional questions are introduced.

"By the middle of the nineteenth century the legal system had been reshaped to the advantage of men of commerce and industry at the expense of farmers, workers, consumers, and other less powerful groups within the society."
The Transformation of American Law, 1780–1860 by: Morton Horwitz (1992) VIII The Rise of Legal Formalism – Page 252-253

(5) There may be further remedies under consideration.

DATED THIS 29th Day of December, 2011.

XV. Stephen L'Abbe being sworn, deposes and says:

(1) That the party is the appellant in the above-entitled briefs on appeal and that all statements in this notice of appeal are true and correct to the best of his knowledge and belief.

(2) All issues and statements within this brief are under L'Abbe's *prima facie right* with "form" 9th Amendment, "force" 10th Amendment and "effect" 7th Amendment.

Prima facie Right,

without prejudice UCC 1-308
Stephen D. L'Abbe,' *sui juris*

ACKNOWLEDGMENT: SUBSCRIBED AND SWORN to before me a Notary Public of the State of Idaho, County of Ada on this, the 29th day of Dec., 2011.

DOUGLAS A. ROTMAN
NOTARY PUBLIC
STATE OF IDAHO

Notary public
My commission expires on: 03-Aug-13

AFFIDAVIT OF SERVICE LIST
For
BRIEFS on APPEAL to Supreme Court on Dec. 29, 2011 to:
AFFIDAVIT by appellant/defendant, with due respect and with two witnesses of mailing this date

HAND delivery to:
Christopher D. Rich, CLERK OF THE MAGISTRATE'S COURT of the District Court of Ada County, 200 W. Front Street, Boise, Idaho 83702.

CLERK of the Court deliver to:
Daniel L. Steckel, MAGISTRATE JUDGE of the District Court of Ada County, 200 W. Front Street, Boise, Idaho 83702.

CLERK of the Court deliver to:
Theresa Gardunia, MAGISTRATE JUDGE of the District Court of Ada County, 200 W. Front Street, Boise, Idaho 83702.

DISTRICT COURT JUDGE, Kathryn Sticklen of the Fourth Judicial District Court of Ada County, 200 W. Front Street, Boise, Idaho 83702.

PROSECUTOR, Jennifer Pitino, of the City of Boise, 150 N. Capitol Blvd, Boise, Idaho 83702.

Of this First Brief hand delivery to this Service List above on Dec. 29, 2011

1. _____
[Witness]

2. _____
[Witness]

AFFIDAVIT OF SERVICE