

# Common Law Handbook

For Jurors, Sheriffs, Bailiffs and Justices  
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**Unified United States Common Law Grand Jury; a/k/a Sureties of the Peace**

*There is a war that has been raging since antiquity, a war for our hearts and our minds, for our flesh, for our very souls; ...*

*“Justice and judgment are the habitation of thy throne mercy and truth shall go before thy face.” - Psa 89:14. The Jury is an unalienable right of We the People, gifted of God, without which there could be no justice.*



**WE THE PEOPLE**



*“Governments are instituted among Men, deriving their Just powers from the consent of the governed.”*

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## INTRODUCTION

*“Whenever people are well-informed they can be trusted with their own government... I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion.” - Thomas Jefferson*

*“For this is the covenant that I will make with the house of My Son after those days, saith the Lord; I will put my laws into their mind, and write them in their hearts: and I will be to them a God, and they shall be to me a people:” - **Hebrews 8:10***

Man is endowed by their Creator with certain unalienable Rights and governments are instituted among men to secure these rights. The Laws of Nature and of Nature's God entitle We the People to judge People in His name, government servants (judges) cannot. The King of the common law court is God and We the People as Jurists sit on the Kings bench who's will we must reflect. We the People, being the arbiter of the law, have the authority and a duty to judge and decide all things with a sense of Honor, Justice and Mercy. We judge the facts, the law and sentencing with an eye on restitution. Incarceration is for violent criminals when there is a danger to the People, but even here restitution must be applied. Any elected or appointed servant that denies the People this unalienable right in our courts of Justice Wars against both the King and His bench.

There are two great maxims that govern all criminal cases:

- (1) In order for there to be a crime, there must be an injured party.
- (2) For every injury, there must be a remedy.

*"Every man and every body of men on earth possesses the right of self-government." - Thomas Jefferson*

**WE THE PEOPLE HAVE GOVERNMENT BY CONSENT.** There are two areas where We the People give consent to our government. They are the judicial system and the political system. The latter is where We the People have the power and authority to choose our statesmen for the ballot through the committeeman process, and we also have the power of recall for bad behavior. The judicial system is the subject of this handbook. In criminal cases, We the People through the Grand Jury consent as to an indictment or not and the Trial Jury decides the innocence or guilt. We the People are the arbitrator in cases of equity.

It is the Grand Jury who can correct an elected or appointed servant when they overstep the authority that We the People gave them through our Constitution. The Constitution provides that our elected and appointed servants may continue in office when they are in good behavior. Good behavior is defined as acting within the authority we have given them in the Constitution. If they violate that trust, the Grand Jury can correct them by serving them notice of the violation and how they can correct their error. If the servant refuses to accept correction, the Grand Jury can remove them from office through indictment.

## GLOSSARY

**BAILIFF:** One to whom some authority, care, guardianship, or jurisdiction is delivered, committed, or entrusted; one who is deputed or appointed to take charge of another's affairs; an overseer or superintendent; a keeper, protector, guardian, steward, a sheriff's officer or deputy. 1 Bl.Comm. 344.

**CORONER:** The coroner is the final arbiter for determining the cause of death and thereby has the authority to call the Grand Jury to seek an indictment.

**COURT:** The court belongs to the sovereign (people). Black's Law Dictionary, 5th Edition, page 318 defines the court as "The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be." In the US Supreme Court case *Isbill v. Stovall*, the court was defined as "An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority."

**GOVERNMENT:** According to a recent study, our government has degraded from first a Republic to a democracy, and then from a democracy to an Oligarchy. Gilens, M. and Page, B. I. (2014) Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens. *APSA*. 12(3), 564-581.

**REPUBLICAN GOVERNMENT** is one in which the powers of sovereignty are vested in , ~~We~~ the People and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. -- In *re Duncan*, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Black's Law Dictionary, Fifth Edition, p. 626.

**GRAND JURY:** The Grand Jury is comprised of 25 People within the County or federal district where the alleged crime was supposedly committed. Anyone can bring a case to the Grand jury; the People, Sheriff, Coroner or a prosecutor. No one can be refused access to the Grand Jury. Anyone who tries to prevent People access is guilty of obstruction of justice. After the Grand jury hears all the evidence before it, they then make a decision on whether a crime might have been committed. Majority vote would bring an indictment. The Grand jury has the option before indicting to see if they can arbitrate an agreeable restitution for the injured party. It is the "DUTY" of the Common Law Grand Jury to expose all fraud and corruption whether it is in the political or judicial realm and stop it! The Authority of the Grand Jury is found only in the Bill of Rights, therefore it comes from God and not government - Amendment V – "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury..." It is in effect a fourth branch of government "governed" and administered to directly by and on behalf of the American people.

**HUNG JURY:** There is no such thing as a hung jury, the jury has a duty to bring in the verdict and restore the injured party if the defendant is found guilty. The Jury may not be relieved until they bring in a verdict. The Judge has absolutely no power to relieve a jury without a verdict, he has no power to overrule or second guess the jury. The decision of the Jury is final from which there is no appeal.

It is the duty of all above to correct injustice in as much as it is in their power to do so. If correction is not possible, it is the duty of the court officer(s) to report the problem to the protectors of the People, the Grand Jury, in whose hand justice has been entrusted.

**JUDICIAL NOTICE:** "Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence". Black's Law 4th edition Take Judicial notice of AMERICAN JURISPRUDENCE BOOK 16: CONSTITUTION LAW SECTION which a judge is bound by oath to obey.

**JURY ADMINISTRATORS:** There are a minimum of 4 administrators in each county whose duty is to orient the grand or trial jury and make sure that the juries are not tainted by the judge, prosecutor or other persons. They have the authority to arbitrate a solution between the accused and the victim. The Jury Administrators are the investigative body for the jury and have a duty to assist the grand jury in investigations, when needed. The Jury Administrators are to make sure that , ~~We~~ the ~~Pe~~ople have access to the grand jury and to assist , ~~We~~ the ~~Pe~~ople, if needed, to gain access to government agencies for investigations. The Jury Administrators have the authority to call the Grand Jury to seek an indictment.

**JURISDICTION** [Black's 4th] It is the authority by which courts and judicial officers take cognizance of and decide cases.

**JUSTICE:** In Jurisprudence. The constant and perpetual disposition to render every man his due. Inst. 1, 1, pr.; 2 Inst. 56. See Borden v. State, 11 Ark. 528, 44 Am.Dec. 217; Collier v. Lindley, 203 Cal. 641, 266 P. 526, 530; The John E. Mulford, D.C. N.Y., 18 F. 455. The conformity of our actions and our will to the law. Toull. Droit Civil Fr. tit. prel. no. 5; Livingston Oil Corporation v. Henson, 90 Okl. 76, 215 P. 1057, 1059.

**LIBERTY:** The Principle of Liberty - Consent and Jurisdiction, in order to possess liberty, it is extremely important that you understand consent: our servant government cannot do anything without our consent.

**MAGISTRATE:** Judges are magistrates and are to act as a traffic cop keeping the case moving. In all cases with a trial jury, they have no decision making powers and are to sign all necessary orders to fulfill the will of the jury.

**PROSECUTOR:** Is employed by the state to prosecute criminal cases and has the authority to call the Grand Jury to seek an indictment. After an indictment, prosecutors have no authority to offer a deal to the defendant. Prosecutors are also bound by oath to reveal the defendants innocence to the defendant if they uncover evidence that they are.

**SHERIFF:** The chief executive and administrative officer of a county, being chosen by popular election. The Sheriff has the authority to call the Grand Jury to seek an indictment. "America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves." - Abraham Lincoln. The county sheriff is the last line of defense when it comes to upholding and defending the Constitution. The sheriff's duties and obligations go far beyond writing tickets, arresting criminals and operating jails. The Sheriff also has an obligation to protect the Constitutional rights of the citizens in our counties. This includes the right to free speech, the right to assemble and the right to bear arms. Sheriffs take an oath to uphold and defend the Constitution from

enemies foreign AND domestic. In the history of our world, it is government tyranny more than any other thing that has violated the freedoms granted to us by our Creator. It is the duty of the sheriff to protect their counties from those that would take away our freedoms, both foreign AND domestic – whether it is a terrorist from Yemen or a bureaucrat from Washington, DC.

**TRIAL JURORS:** The Trial Jury, a/k/a Petit Jury, is composed of 12 People within the County or federal district where the alleged crime was reportedly committed. It is the duty of the Jury to execute Justice and sometimes mercy; their decisions cannot be second guessed. "...the jury shall have the right to determine the law and the facts. "As understood at common law and as used in constitutional provision, "jury" imports a body of twelve men." State v. Dalton; People ex rel. Cooley v. Wilder and Hall v. Brown.

**Virtue:** Maxims of law avow that justice and virtue are synonymous. Before a man can implement justice he must first possess virtue which the Bible declares "*flows from the Lord alone*" (Luke 6:19) and defines virtue as "*whatsoever things are true, honest, just, pure, lovely, and of good report*" (Phil 4:8) the Lord further expounds saying, "*the wisdom that is from above is first pure, then peaceable, gentle, and easy to be entreated, full of mercy and good fruits, without partiality, and without hypocrisy*" James 3:17 and that: "*he that follows after it establishes righteousness, and honor.*" (Prov 21:21).

## **JURIST & ADMINISTRATORS VOW:**

I vow to the Governor of the Universe, in my capacity as Jurist, to insure that all public servants uphold the US Constitution and Bill of Prohibitions (Rights); and to carry out all of my deliberating under Natural Law; principled under Justice, Honor, and Mercy; and to strictly adhere to the following two legal maxims: (1) Every right when with-held must have a remedy, and every injury it's proper redress, and (2) In the absence of a victim or "corpus delecti", there can be no crime, and the State cannot be the victim. It is the duty of, We the People to share in the governing of themselves and to secure their government by participating as a Jurist when called.

## **THE SOURCE OF VIRTUE**

Is found in Luke 6:19 "*And the whole multitude sought to touch him: for there went virtue out of him, and healed them all.*" Therefore, Justice is to reflect divine qualities, as we read in Phil 4:8 "*Finally, brethren, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things.*"

**ALL IS MINE** - Job 41:11 "*Whatsoever is under the whole heaven is mine.*" Ezek 18:4 "*Behold, all souls are mine; as the soul of the father, so also the soul of the son is mine.*" Exo 19:5 "*Now therefore, if ye will obey my voice indeed, and keep my covenant, then ye shall be a peculiar treasure unto me above all people: for all the earth is mine.*" Psa 50:12 "*If I were hungry, I would not tell thee: for the world is mine, and the fullness thereof.*" Prov 8:14 "*Counsel is mine, and sound wisdom: I am understanding; I have strength.*"

Thomas Jefferson understood this when he said, "*God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the*

*minds of the people that these liberties are of the gift of God? That they are not to be violated but with His wrath. Indeed, I tremble for my country when I reflect that God is just that His justice cannot sleep forever."*

George Washington understood this when he said, *"The favorable smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained."*

Benjamin Franklin understood this when he said, *"Only a virtuous people are capable of freedom. As nations become corrupt and vicious, they have more need of masters."*

John Adams understood this when he said, *"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."*

Patrick Henry understood this when he said, *"It cannot be emphasized too strongly or too often that this great nation was founded, not by religionists, but by Christians; not on religions, but on the Gospel of Jesus Christ. For this very reason peoples of other faiths have been afforded asylum, prosperity, and freedom of worship here."*

James Madison understood this when he said, *"We have staked the whole future of American civilization, not upon the power of government, far from it. We have staked the future of all of our political institutions upon the capacity of mankind for self-government; upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God."*

Noah Webster understood this when he said, *"No truth is more evident to my mind than that the Christian religion must be the basis of any government intended to secure the rights and privileges of a free people."* (Father of American Scholarship and Education).

Therefore, by ~~We~~ the People calling upon God in 1776 desiring the righteousness of His Law, seeking the blessing of His liberty in 1789 and proclaiming His unalienable rights in 1791, entered into an everlasting covenant with Him that no man can depose (Geneses 17). Now, being his children through adoption to whom pertained the covenants, the law and the promises (Romans 8:15; 9:4-6; 11:24-27; Galatians 4:6), He Put His laws into our mind and wrote them in our hearts and became to us a God. We became to him His People (Hebrews 8) and He shall judge the world in righteousness, He shall minister judgment to the people in honor (Psalms 9); therein the Common Law!

## **PREAMBLE TO THE CONSTITUTION**

*"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."*

The operative words are "establish" and "ordain". The People existed in their own individual sovereignty before the constitution was enabled. When the People "establish" a constitution, there is nothing in the word "establish" that signifies that they have yielded any of their sovereignty to the agency they have created. To interpret otherwise would convert the republic into a democracy. (Republic vs. Democracy)

## HISTORY OF OUR CONSTITUTION AND THE COMMON LAW GRAND JURY

**The Liberty Bell:** is an iconic symbol of American independence. Considering today's state of affairs, its crack is ironic and only the people "with well doing" can heal Liberty's tear that ails her soul. It was cast in 1752 and engraved with the lettering "Proclaim LIBERTY throughout all the land unto all the inhabitants thereof." (Leviticus 25:10).



**The Unified United States Common Law Grand Jury:** is comprised of fifty Grand Jurys each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of 1000's of People in the name of , We the People to bring to justice subverts both foreign and domestic acting under color of law within our government through our Courts of Justice. States were unified by re-constituting all 3133 United States counties.

**The First Known Recorded Grand Jury, 1215 AD - Magna Carta Paragraph 52:** *"If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government we will immediately grant full justice therein."*

**America was founded on Judeo Christian Principles:** On July 4<sup>th</sup> 1776, We the Sovereign People, in a Declaration of Independence, dissolved the political bands with Britain declaring: *"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, 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.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."* In this Declaration, We the Sovereign People laid the foundation of our Constitution calling upon our creator, acknowledging the covenant with God, by establishing the "Law of the Land". That is the "Common Law" that the Bill of Rights expresses.



The acknowledgement of this covenant with God under His Law was made clear by a committee of three, John Adams, Thomas Jefferson and Benjamin Franklin who were chosen to author our founding document, the Declaration of Independence in 1776. This same committee of three was again chosen by the Continental Congress to work on and submit a national seal design for approval. Jefferson, in the representation of the Law of the Land and our structure of government, designed an illustration of the Israelites' exodus out of slavery and bondage from Egypt.



Benjamin Franklin had an idea similar to Jefferson's and wanted to also illustrate a scene from the Exodus of the Israelites. The seal would show Moses parting the Red Sea with Pharaoh and his chariots being overwhelmed by the waters with the motto: Rebellion to tyrants is obedience to God. Thomas Jefferson became so enamored with this motto he incorporated it for his own personal seal design.



In 1782, Congress rejected the Jefferson and Franklin designs and instead adopted a two sided seal designed by Charles Thomson. His seal gave



allegiance to a secret society that symbolically made the point within the seal that there was already a conspiracy to supplant the Law of the Land (God) with the civil law of man (under a new world order). Franklin was not happy with the eagle, as he explained in a letter to his daughter: *“For my own part, I wish the Bald Eagle had not been chosen as the Representative of our Country. He is a Bird of bad moral Character. He*

*does not get his living honestly. You may have seen him perched on some dead Tree near the River, where, too lazy to fish for himself, he watches the Labor of the Fishing Hawk; and when that diligent Bird has at length taken a Fish,... the Bald Eagle pursues him and takes it from him.”*

In 1789, We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity did ordain and establish the Constitution for the United States of America.

In 1791, We the People of the United States *“expressed a desire in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution”* RESOLVING THAT: this Bill of Rights *“to be valid to all intents and purposes, as part of the said Constitution.”*

The Bill of Rights thereby being the cap stone of our Constitution, laid the foundation of our unalienable rights by which all law is measured in that all laws repugnant to it are *“null and void”*. Marbury v Madison

**FIRST PRINCIPAL FOR THE BLESSING OF LIBERTY** is mastered in three powers: (1) Light (God), (2) Justice synonymous with virtue (Judicial process), and (3) Rule of destiny (political process). Remove any one, and you lose Liberty. America has lost its way and only a virtuous people can guide her back. To that end, the People, by the mercy of God, have rediscovered the common (natural) law grand jury and with His blessings shall return America to her roots again.

## **GOVERNMENT BY CONSENT OF WE THE PEOPLE**

Our founders purposely placed the power of the Grand Jury in the “Bill of Rights” to make it clear that it belongs to , We the People and the government is not to usurp or violate it. The Grand Jury is the “ultimate power” of We the People which allows us to consent or not to the actions of our servant government. It also prevents government from unrighteous prosecutions by forcing the government to seek permission from the people before criminal charges can be filed. If the people refuse, prosecution

cannot go forward. By understanding this principle, it becomes clear that the government has no authority to control our behavior and therefore neither do legislators without our consent.

The Declaration of Independence says: “We hold these truths to be self-evident, 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.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”.

ALL MEN DECIDE FOR THEMSELVES whether or not they want to participate in the institutions of men. The United States Supreme Court confirmed this when they said: “..., every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent.” -- *Cruden v. Neale*, 2 N.C. 338 May Term 1796.

## **AUTHOR & SOURCE OF LAW**

We the People are the source of all law, we ordained and established the Constitution for the United States of America.

*“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”* Preamble

We the People vested Congress with statute making powers.

Article I Section 1: *“ALL LEGISLATIVE POWERS herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.”*

We the People defined and limited that power of statute making.

Article I Section 8; *“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”*

We the People limited law making powers to ourselves alone.

*“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts And the law is the definition and limitation of power...”* *Yick Wo v. Hopkins*, 118 US 356, 370.

We the People did not vest the Judiciary with law making powers.

We the People are “*the judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law.*” Jones v. Jones; Ex parte Gladhill and Ledwith v. Rosalsky.

We read in Hebrews 8:10 “*For this is the covenant that I will make with the house of My Son after those days, saith the Lord; I will put my laws into their mind, and write them in their hearts: and I will be to them a God, and they shall be to me a people:*”

Therefore, We the People are sovereign and through the jury decide both the facts and the law.

Each case is unique and individual and requires restitution for the injured party; legislators can never foresee justice in a court of law. “*Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts, And the law is the definition and limitation of power...*” Yick Wo v. Hopkins; “*'Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree.*” Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co. “*The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative.*” Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298 And “*the state cannot diminish the rights of the people.*” Hurtado v. People of the State of California “*Supreme sovereignty is in the people and no authority can, on any pretense whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.*” 2: NY Code - Section 2.

“*The constitutions of most of our states assert that all power is inherent in the people; that they may exercise it by themselves, in all cases to which they think themselves competent, as in electing their functionaries executive and legislative, and deciding by a jury of themselves, both fact and law, in all judiciary cases in which any fact is involved ...*” Thomas Jefferson, letter to John Cartwright; June 5, 1824.

## **COMMON LAW IS STILL THE LAW OF THE LAND**

All cases which have cited the Marbury v. Madison case to the Supreme Court have never been overturned. See Shephard's Citation of Marbury v. Madison. The constitution was ordained and established by , We the People “for” the United States of America; aka the government. Therefore, government was created by an act of the people and the creation cannot trump the creator.

“*If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional.*” -- Marbury v. Madison: 5 US 137 (1803). Therefore, “*any legislation ... statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.*” -- Hoke vs. Henderson, 15, N.C. 15, 25 AM Dec 677. “*Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them*” Miranda v. Arizona, 384 U.S. 436, 491.

## SUPREMACY CLAUSE

“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.” Article VI clause 2 U.S. Constitution

“... Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument.” after more than 200 years this decision still stands.” Marbury v. Madison 5 U.S. 137 (1803).

## NO EMERGENCY IS JUST CAUSE TO SUPPRESS THE CONSTITUTION

*"While an emergency cannot create power and no emergency justifies the violation of any of the provisions of the United States Constitution or States Constitutions. Public emergency such as economic depression for especially liberal construction of constitutional powers and it has been declared that because of national emergency, it is the policy of the courts of times of national peril, so liberally to construed the special powers vested in the chief executive as to sustain an effectuate the purpose there of, and to that end also more liberally to construed the constituted division and classification of the powers of the coordinate branches of the government and in so far as may not be clearly inconsistent with the constitution."* -- 16Am Jur 2d., Sec. 98.

## DUTY OF COURTS

*"It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon"* -- Boyd v. United States, 116 U.S. 616, 635



*"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."* -- Downs v. Bidwell, 182 U.S. 244 (1901).

*"We (judges) have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution."* -- Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v. Will, 449 U.S. 200.

*"It may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be Obsta Principiis."* -- Boyd v. United, 116 U.S. 616 at 635 (1885).

*“Every master of slaves is born a petty tyrant. They bring the judgment of heaven upon a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins, by national calamities.”* - George Mason, father of our Bill of Rights, 1787.

## **FILING A CRIMINAL COMPLAINT**

There are four ways a court can hear a criminal complaint: (1) One or more of the people sign a sworn affidavit that they have been injured and a Grand Jury indicts; (2) A prosecutor on behalf of the government brings a case before a Grand Jury and they indict, (3) a Coroner brings an accusation before the Grand Jury and the Grand Jury indicts or (4) The Grand Jury, by its “own will”, can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not, and if it finds wrongdoing it can present it to the court and it must go to trial. No one can second guess the Grand Jury or petit jury.

**CONSENT OF AUTHORITY** - We read in the Declaration of Independence, *"We hold these truths to be self-evident, 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. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."* Any authority our servants have is by our consent, if they act outside their authority, they are subject to criminal charges under US Codes 42 and 18 and liable for damages under US Codes and common law.

**CONSENT TO INDICT** - The Fifth Amendment states; “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury ...” therefore, We the People require our servant government to get an indictment (grand jury). Judges (servant) have no authority to make a ruling or a judgment on people (master) without your consent.

**ONLY PEOPLE CAN JUDGE** – In criminal cases our U.S. Constitution only authorizes “common law courts” aka “courts of record”, A court of record removes the power of the Judge to make a ruling; his role is that of the “administrator of the court”. The final decision maker is the “tribunal” which is the “jury.” The servant cannot rule over the master, Can the clay rule over the potter?

*“..., every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent.”* Cruden v. Neale.

## **PROPER INSTRUCTIONS TO THE JURY**

**INSTRUCTION TO JURORS IN CRIMINAL CASES IN MARYLAND** (Quoted by Alan Schefflin and Jon Van Dyke): "Jury Nullification: the Contours of a Controversy," Law and Contemporary Problems, 43, No.4, 83, 1980): *"Members of the Jury, this is a criminal case and under the Constitution and the laws of the State of Maryland in a criminal case the jury are the judges of the law as well as of the facts in the case. So that whatever I tell you about the law while it is intended to be helpful to you in reaching a just and proper verdict in the case, it is not binding upon you as members of the jury and you may accept or reject it. And you may apply the law as you apprehend it to be in the case."*

**4TH CIRCUIT COURT OF APPEALS** (United States v. Moylan, 417F.2d1006, 1969): *"If the jury feels the law is unjust, we recognize the undisputed power of the jury to acquit, even if its verdict is contrary to the law as given by a judge, and contrary to the evidence...If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the jury has the power to acquit, and the courts must abide by that decision."*

**ALAN SCHEFLIN and JON VAN DYKE** ("Jury Nullification: the Contours of a Controversy, " Law and Contemporary Problems, 43, No.4, 1980): *"The arguments for opposing the nullification instruction are, in our view, deficient because they fail to weigh the political advantages gained by not lying to the jury...What impact will this deception have on jurors who felt coerced into their verdict by the judge's instructions and who learn, after trial, that they could have voted their consciences and acquitted? Such a juror is less apt to respect the legal system."*

## **JURY TAMPERING**

**LORD DENMAN** (in C.J. O'Connell v. R. ,1884): *"Every jury in the land is tampered with and falsely instructed by the judge when it is told it must take (or accept) as the law that which has been given to them, or that they must bring in a certain verdict, or that they can decide only the facts of the case."*

**THEOPHILUS PARSONS** (2 Elliot's Debates, 94; 2 Bancroft's History of the Constitution, p. 267): *"If a juror accepts as the law that which the judge states then that juror has accepted the exercise of absolute authority of a government employee and has surrendered a power and right that once was the citizen's safeguard of liberty, -- For the saddest epitaph which can be carved in memory of a vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while yet there was time."*

**JUSTICE BYRON WHITE** (1975): (Taylor v. Louisiana, 419 US 522, 530): *"The purpose of a jury is to guard against the exercise of arbitrary power -- to make available the commonsense judgment of the community as a hedge against the overzealous or mistaken prosecutor and in preference to the professional or perhaps over conditioned or biased response of a judge."*

**THOMAS JEFFERSON** *"To consider the judges as the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy."*

**JUDGE WISEMAN** (U.S. v. DATCHER 830 F.Supp. 411, 415, M.D. Tennessee, 1993): *"...a defendant's right to inform the jury of that information essential to prevent oppression by the Government is clearly of constitutional magnitude."*

## **JURY DECIDES THE LAW AND FACTS**

The trial of all crimes ...shall be by jury, Article III; Section 1; *"A trial is the judicial examination, in accordance with law of the land, of a cause, either civil or criminal, of the issues between the parties, **whether of law or fact**, before a court that has jurisdiction over it."* People v. Vitale; Gulf, C. & S. F. Ry. Co. v. Muse; State v. Dubray; Photo Cines Co. v. American Film Mfg. Co., *"For purpose of*

*determining such issue” City of Pasadena v. Superior Court for Los Angeles County; State ex rel. Stokes v. Second Judicial Dist. Court “It includes all proceedings from time when issue is joined, or, more usually, when parties are called to try their case in court, to time of its final determination.” Molen v. Denning & Clark Livestock Co., “And in its strict definition, the word "trial" in criminal procedure means the proceedings in open court after the pleadings are finished and the prosecution is otherwise ready, down to and including the rendition of the verdict.” Thomas v. Mills.*

*"The jury has a right to judge both the law as well as the fact in controversy." John Jay, 1st Chief Justice United States Supreme Court, 1789.*

*"The jury has the right to determine both the law and the facts." Samuel Chase, U.S. Supreme Court Justice, 1796, Signer of the unanimous Declaration of Independence.*

*"The jury has the power to bring a verdict in the teeth of both law and fact." Oliver Wendell Holmes, U.S. Supreme Court Justice, 1902.*

**Kentucky Resolutions:** A series of resolutions drawn up by Jefferson, and adopted by the legislature of Kentucky in 1799, protested against the "alien and sedition laws," declared their illegality, announced the strict constructionist theory of the federal government, and declared "nullification" to be "the rightful remedy."

**NY Constitution Article I - Bill of Rights §8** *"... and the jury shall have the right to determine the law and the fact."*

*"All laws, rules and practices which are repugnant to the Constitution are null and void" Marbury v. Madison. "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." . Miranda v. Arizona.*

The Jury's responsibility is to deliver justice, not uphold legislative law. *"The pages of history shine on instances of the jury's exercise of its prerogative to disregard instructions of the judge." U. S. v Dougherty, 473 F 2nd 1113, 1139*

## **INTERPRETATION IN FAVOR OF THE PEOPLE**

Any constitutional provision intended to confer a benefit should be liberally construed in favor of the clearly intended and expressly designated beneficiary. "Then a constitution should receive a literal interpretation in favor of the Citizen, is especially true, with respect to those provisions which were designed to safeguard the liberty and security of the Citizen in regard to person and property." --16Am Jur 2d: 16Am Jur 2d., Sec. 97; Bary v. United States - 273 US 128.

## **REMEDY FOR EVERY INJURY**

William Blackstone - a legal maxim – Every right when with-held must have a remedy, and every injury its proper redress. In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. "In all other cases," he says, "It is a

general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.” And afterwards, page 109 of the same volume, he says, “I am next to consider such injuries as are cognizable by the Courts of common law. And herein I shall for the present only remark that all possible injuries whatsoever that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals are, for that very reason, within the cognizance of the common law courts of justice, for it is a settled and invariable principle in the laws of England that every right, when withheld, must have a remedy, and every injury its proper redress.”

"The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." *Marbury v. Madison*, 5 U.S. 137 (1803).

## **JURY DECISION IS FINAL THIS IS GOVERNMENT BY CONSENT**

**JUSTICE KENT** (New York Supreme Court 3 Johns Cas., 366-368 (1803)): "*The true criterion of a legal power is its capacity to produce a definitive effect, liable neither to censure nor review. And the verdict of not guilty in a criminal case, is, in every respect, absolutely final. The jury are not liable to punishment, nor the verdict to control. No attain lies, nor can a new trial be awarded. The exercise of this power in the jury has been sanctioned, and upheld in constant activity, from the earliest ages.*" (Quoted in *Sparf and Hansen v. U.S.*, 156 U.S.51, 148-149. (1894), Gray, Shiras dissenting.)

**HGW:** "*The Jury is the Achilles heel of tyrants.*" H. G. Wells??

“...that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.” *Hoke vs. Henderson*, 15, N.C.15,25 AM Dec 677.

"...the right to be let alone the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment." *Olmstead v. U.S.*, 277 U.S. 438, 478 (1928).

## **UNALIENABLE RIGHT OF THE JURY IN SENTENCING**

"*There is no statutory proscription against making the jury aware of possible punishment. Instead, courts that have disallowed juror awareness of sentencing contingencies have peremptorily resorted to the factfinding - sentencing dichotomy to justify this denial. For example, the Eighth Circuit, in United States v. Goodface, merely stated that 'the penalty to be imposed upon a defendant is not a matter for the jury' and so it was proper not to inform the jury of a mandatory minimum term. See 835 F.2d at 1237. No further justification is given. In making this facile distinction, the courts have created an artificial, and poorly constructed, fence around the jury's role.*" "*The Supreme Court has not mandated that juries be in the dark on the issue of sentence. Those courts so ruling have done so on unconvincing grounds. The power of jury nullification historically has extended to sentencing decisions, and it rightfully should extend to such decisions. This court finds no precedential rationale*



*for rejecting the defendant's motion.*" U.S. v. DATCHER 830 F.Supp. 411, 415-416 M.D. Tennessee, 1993

## **JURY NULLIFICATION**

By Dr. Julian Heicklen

Jury nullification was introduced into America in 1735 in the trial of John Peter Zenger, Printer of The New York Weekly Journal. Zenger repeatedly attacked Governor William Cosby of New York in his journal. This was a violation of the seditious libel law, which prohibited criticism of the King or his appointed officers. The attacks became sufficient to bring Zenger to trial. He clearly was guilty of breaking the law, which held that true statements could be libelous. However, Zenger's lawyer, Andrew Hamilton, addressed himself to the jury, arguing that the court's law was outmoded. Hamilton contended that falsehood was the principal thing that makes a libel. It took the jury only a few minutes to nullify the law and declare Zenger not guilty. Ever since, the truth has been a defense in libel cases.

Several state constitutions, including the Georgia Constitution of 1777 and the Pennsylvania Constitution of 1790 specifically provided that "the jury shall be judges of law, as well as fact." In Pennsylvania, Supreme Court Justice James Wilson noted, in his Philadelphia law lectures of 1790, that when "a difference in sentiment takes place between the judges and jury, with regard to a point of law,...The jury must do their duty, and their whole duty; they must decide the law as well as the fact." In 1879, the Pennsylvania Supreme Court noted that "the power of the jury to be judge of the law in criminal cases is one of the most valuable securities guaranteed by the Bill of Rights."

John Jay, the first Chief Justice of the U. S. Supreme Court stated in 1789: "The jury has the right to judge both the law as well as the fact in controversy." Samuel Chase, US. Supreme Court Justice and signer of the Declaration of Independence, said in 1796, "The jury has the right to determine both the law and the facts." U.S. Supreme Court Justice Oliver Wendell Holmes said in 1902, "The jury has the power to bring a verdict in the teeth of both law and fact." Harlan F. Stone, the 12th Chief Justice of the U.S. Supreme Court, stated in 1941, "The law itself is on trial quite as much as the cause which is to be decided."

In a 1972 decision (U.S. v Dougherty, 473 F 2nd 1113, 1139), the Court said, "The pages of history shine on instances of the jury's exercise of its prerogative to disregard instructions of the judge."

Likewise, the U.S. Supreme Court in *Duncan v Louisiana* implicitly endorsed the policies behind nullification when it stated: "If the defendant preferred the common-sense judgment of the jury to the more tutored but less sympathetic reaction of the single judge, he was to have it."

In recent times, the courts have tried to erode the nullification powers of juries. Particular impetus for this was given by the fact that all-white juries in the southern states refused to convict whites of crimes against blacks. As a result, there is a practice of judges to incorrectly instruct the jury that the judge determines the law, and that the jury is limited to determining the facts. Such an instruction defeats the purpose of the jury, which is to protect the defendant from

the tyranny of the state and legislative law. The purpose of the jury is to protect the defendant from the tyranny

The problem with the all-white juries that refused to convict whites that committed crimes against blacks was not in jury nullification, but in jury selection. The jury was not representative of the community and would not provide a fair and impartial trial.

In recent years, jury nullification has played a role in the trials of Mayor Marion Barry of Washington, DC for drug use, Oliver North for his role in the Iran-Contra Affair, and Bernhard Goetz for his assault in a New York City subway.

In *Les Miserables*, Victor Hugo highlighted the difference between justice and law. The jury's responsibility is to deliver justice, not to uphold the law. Judges in Maryland and Indiana are required by law to inform the jury of its right to nullification. Article 23 of the Maryland Bill of Rights states: "In the trial of all criminal cases, the Jury shall be the judge of Law, as well as of fact, except that the Court may pass upon the sufficiency of the evidence to sustain a conviction."

Nullification applies just as much in other states, including Pennsylvania. Article I of the Constitution of the Commonwealth of Pennsylvania states in Section 6: "Trial by jury shall be as heretofore, and the right thereof remain inviolate." Section 25 states: "To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excerpted out of the general powers of government and shall forever remain inviolate." Taken together, these two sections mean that juries shall have the powers that they had "heretofore", i. e. when the Constitution was adopted.

Judges usually do not inform the jury of this right. Even worse, some judges instruct the jury that it does not have the right to interpret or nullify the law, but only to determine the facts. Near the end of alcohol prohibition, juries refused to convict for alcohol violations. Has the time arrived for juries to do the same for marijuana violations?

## **NULLIFICATION THE UNALIENABLE RIGHT OF THE PEOPLE THIS IS GOVERNMENT BY CONSENT**

**THOMAS JEFFERSON (1789):** *"I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."*

**JOHN ADAMS (1771):** *"It's not only ....(the juror's) right, but his duty, in that case, to find the verdict according to his own best understanding, judgement, and conscience, though in direct opposition to the direction of the court."*

**JOHN JAY (1794):** *"The jury has a right to judge both the law as well as the fact in controversy."*

**ALEXANDER HAMILTON (1804):** *Jurors should acquit even against the judge's instruction...."if exercising their judgement with discretion and honesty they have a clear conviction that the charge of the court is wrong."*

**SAMUEL CHASE (1804)**: (Justice, U.S. Supreme Court and signer of the Declaration of Independence) *"The jury has the right to determine both the law and facts."* 1796.

**JUSTICE THURGOOD MARSHALL (1972)**: (Peters v. Kiff, 407 US 493, 502) *"Illegal and unconstitutional jury selection procedures cast doubt on the integrity of the whole judicial process. They create the appearance of bias in the decision of individual cases, and they increase the risk of actual bias as well."*

**U.S. v. DOUGHERTY** 473 F.2d. 1113, 1139 (1972): *"The pages of history shine on instances of the jury's exercise of its prerogative to disregard instructions of the judge...."*

**CHIEF JUSTICE MATHEW HALE** (2 Hale P C 312) (1665): *"...it was impossible any matter of law could come in question till the matter of fact were settled and stated and agreed by the jury, and of such matter of fact they [the jury] were the only competent judges."*

**US. SUPREME COURT** (State of Georgia v. Brailsford, 3 DALL. 1,4): *"...it is presumed, that the juries are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law. But still, both objects are within your power of decision. You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."*

**SIR JOHN VAUGHAN** Lord Chief Justice ("Bushell's Case, 124 Eng Reports 1006; Vaughan Reports 135, 1670): *"...without a fact agreed, it is impossible for a judge or any other to know the law relating to the fact nor to direct [a verdict] concerning it. Hence it follows that the judge can never direct what the law is in any matter controverted."*

**LYSANDER SPOONER** (An Essay on the Trial by Jury, 1852): *"The bounds set to the power of the government, by the trial by jury, as will hereafter be shown, are these -- that the government shall never touch the property, person, or natural or civil rights of an individual, against his consent, except for the purpose of bringing them before a jury for trial, unless in pursuance and execution of a judgment, or decree, rendered by a jury in each individual case, upon such evidence, and such law, as are satisfactory to their own understandings and consciences, irrespective of all legislation of the government."*

**JOHN ADAMS** (Second President of U.S.) (1771) (Quoted in Yale Law Journal 74 (1964): 173): *"It is not only his right, but his duty...to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court."*

**WILLIAM KUNSTLER** (quoted in Franklin M. Nugent, "Jury Power: Secret Weapon Against Bad Law," revised from Youth Connection, 1988): *"Unless the jury can exercise its community conscience role, our judicial system will have become so inflexible that the effect may well be a progressive radicalization of protest into channels that will threaten the very continuance of the system itself. To put it another way, the jury is...the safety valve that must exist if this society is to be able to accommodate its own internal stresses and strains...[I]f the community is to sit in the jury box, its decision cannot be legally limited to a conscience-less application of fact to law."*

**LYSANDER SPOONER** (An Essay on the Trial by Jury, 1852, p. 11): *"For more than six hundred years--that is, since Magna Carta, in 1215, there has been no clearer principle of English or American*

*constitutional law, than that, in criminal cases, it is not only the right and duty of juries to judge what are the facts, what is the law, and what was the moral intent of the accused; but that it is also their right, and their primary and paramount duty, to judge of the justice of the law, and to hold all laws invalid, that are, in their opinion, unjust or oppressive, and all persons guiltless in violating, or resisting the execution of, such laws."*

**OREGON CONSTITUTION** Article I bill of rights 16: "...the jury shall have the right to determine the law, and the facts..."

**INDIANA CONSTITUTION** Article 1, Section 19: "*In all criminal cases whatsoever, the jury shall have the right to determine the law and the facts.*"

**NEW YORK CONSTITUTION** Article I - Bill of Rights §8: "*...the jury shall have the right to determine the law and the fact.*"

**CONSTITUTION OF MARYLAND** Article XXIII: "*In the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact...*"

**ALEXANDER HAMILTON** (as defense counsel for John Peter Zenger, accused of seditious libel, 7 Hamilton's Works (ed. 1886), 336-373): "*That in criminal cases, nevertheless, the court are the constitutional advisors of the jury in matter of law; who may compromise their conscience by lightly or rashly disregarding that advice, but may still more compromise their consciences by following it, if exercising their judgments with discretion and honesty they have a clear conviction that the charge of the court is wrong.*"

**JUSTICES GRAY and SHIRAS** United States Supreme Court (Sparf and Hansen v. U.S., 156 U.S. 51, 154-155 (1894)): "*Within six years after the Constitution was established, the right of the jury, upon the general issue, to determine the law as well as the fact in controversy, was unhesitatingly and unqualifiedly affirmed by this court, in the first of the very few trials by jury ever had at its bar, under the original jurisdiction conferred upon it by the Constitution.*"

**JUSTICES GRAY and SHIRAS** United States Supreme Court (Sparf and Hansen v. U.S., 156 U.S. 51, 154-155 (1894)): "*The report shows that, in a case in which there was no controversy about the facts, the court, while stating to the jury its unanimous opinion upon the law of the case, and reminding them of 'the good old rule, that on questions of fact it is the province of the jury, on questions of law it is the province of the court to decide,' expressly informed them that 'by the same law, which recognizes this reasonable distribution of jurisdiction,' the jury 'have nevertheless a right to take upon themselves to judge of both, and to determine the law as well as the fact in controversy.'*"

**ALAN SCHEFLIN and JON VAN DYKE** ("Jury Nullification: the Contours of a Controversy," Law and Contemporary Problems, 43, No.4, 71 1980): "*When a jury acquits a defendant even though he or she clearly appears to be guilty, the acquittal conveys significant information about community attitudes and provides a guideline for future prosecutorial discretion in the enforcement of the laws. Because of the high acquittal rate in prohibition cases during the 1920s and early 1930s, prohibition laws could not be enforced. The repeal of these laws is traceable to the refusal of juries to convict those accused of alcohol traffic."*

**CLARENCE DARROW** (Debate with Judge Alfred J. Talley, Oct. 27, 1924): "*Why not reenact the code of Blackstone's day? Why, the judges were all for it -- every one of them -- and the only way we got rid of those laws was because juries were too humane to obey the courts. That is the only way we got rid of punishing old women, of hanging old women in New England -- because, in spite of all the courts, the juries would no longer convict them for a crime that never existed.*"

**JUSTICE ROBERT H. JACKSON** (Morissette v. United States, 342 U.S. 246): "*But juries are not bound by what seems inescapable logic to judges.*"

**U.S. v. WILSON** (629 F.2d 439, 443 (6th Cir. 1980): "*In criminal cases, a jury is entitled to acquit the defendant because it has no sympathy for the government's position.*"

**JUDGE WISEMAN** (U.S. v. DATCHER 830 F.Supp. 411, 413, M.D. Tennessee, 1993): "*Judicial and prosecutorial misconduct still occur, and Congress is not yet an infallible body incapable of making tyrannical laws.*"

## **NULLIFICATION WAS NEVER MOOT**

*"it would be an 'absurdity' for jurors to be required to accept the judge's view of the law, against their own opinion, judgment, and conscience."* John Adams

ANON (Note in "The Changing Role of the Jury in the Nineteenth Century, Yale Law Journal, 74, 170, 1964):

*"It is useful to distinguish between the jury's right to decide questions of law and its power to do so. The jury's power to decide the law in returning a general verdict is indisputable. The debate of the nineteenth century revolved around the question of whether the jury had a legal and moral right to decide questions of law."*

*"Underlying the conception of the jury as a bulwark against the unjust use of governmental power were the distrust of 'legal experts' and a faith in the ability of the common people. Upon this faith rested the prevailing political philosophy of the constitution framing era: that popular control over, and participation in, government should be maximized. Thus John Adams stated that 'the common people...should have as complete a control, as decisive a negative, in every judgment of a court of judicature' as they have, through the legislature, in other decisions of government."*

*"Since natural law was thought to be accessible to the ordinary man, the theory invited each juror to inquire for himself whether a particular rule of law was consonant with principles of higher law. This view is reflected in John Adams' statement that it would be an 'absurdity' for jurors to be required to accept the judge's view of the law, 'against their own opinion, judgment, and conscience.'"*

*"During the first third of the nineteenth century judges frequently charged juries that they were the judges of law as well as the fact and were not bound by the judge's instructions. A charge that the jury had the right to consider the law had a corollary at the level of trial procedure: counsel had the right to argue the law its interpretation and its validity to the jury."*

## THE FINAL ARBITRATOR OF ALL THINGS

*“The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record [trial by jury] may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or Supreme Court) can second guess the judgment of a court of record. The judgment of a court of record [trial by jury], whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.”* Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

We the People are the most qualified to make and decide law because we are the author of the Law and we vested Congress with statute making powers<sup>1</sup> that We the People in our courts of Justice reserve the right to consent or deny by nullification according to the facts of the case as we see fit. Furthermore, as a Nation, we called upon our Creator in our founding document to be the King of our courts of Justice and not man whereas we read:

*When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.*

*We hold these truths to be self-evident, 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.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed...*  
Declaration of Independence.

And by His Grace and Holy Will, We the People in 1789, were gifted with His Liberty<sup>2</sup> to “*be what man was meant to be, Free and Independent*”.

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

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<sup>1</sup> *We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.* Preamble.

<sup>2</sup> **Leviticus 25:10** And ye shall hallow the fiftieth year, and proclaim liberty throughout all the land unto all the inhabitants thereof: it shall be a jubilee unto you; and ye shall return every man unto his possession, and ye shall return every man unto his family.

Since then (1789), we have been engaged in a battle against the rulers of darkness over the control of our courts as the final day of leviathan draws nigh<sup>3</sup>. We the People<sup>4</sup> sit on the Kings bench and are able to reflect His holy will as we read in His Word:

*“This shall be the covenant that I will make with the house of Israel; After those days, saith the LORD, I will put my law in their inward parts, and write it in their hearts; and will be their God, and they shall be my people.”* God, Jeremiah 31:33.

*“This is the covenant that I will make with them after those days, saith the Lord, I will put my laws into their hearts, and in their minds will I write them;”* God, Hebrews 10:16.

Therefore, to permit the servant to rule the master is absurd, and as recent years have proven, the control of our courts by BAR members throughout the last quarter of the twentieth century has brought We the People under the rule of despotism of an oligarchy as Jefferson had warned.

## HISTORY AND DUTIES OF THE SHERIFF

While most people in America recognize the sheriff as the chief law enforcement officer (CLEO) for the county, they would be surprised to know that the office of sheriff has a proud history that spans well over a thousand years, from the early Middle Ages to our own "high-tech" era.

**THE BEGINNING: THE MIDDLE AGES** - More than 1,300 years ago in England, small groups of Anglo-Saxons lived in rural communities similar to modern day towns. Often at war, they decided to better organize themselves for defense. Sometime before the year 700AD, they formed a system of local self-government based on groups of ten. Each of the towns divided into groups of ten families, called tithing. Each tithing elected a leader called a tithing man. The next level of government was a group of ten tithing's (or 100 families), and this group elected its own chief. The Anglo-Saxon word for chief was gerefa, later shortened to reeve. During the next two centuries, groups of hundreds banded together to form a new, higher unit of government called the shire. The shire was the forerunner of the modern county. Each shire had a chief (reeve) as well, and the more powerful official became known as a shire-reeve. The word shire-reeve became the modern English word sheriff - the chief of the county. The sheriff maintained law and order within his own county with the assistance of the citizens. When the sheriff sounded the ‘hue and cry’ that a criminal was at-large, anyone who heard the alarm was responsible for bringing the criminal to justice. This principle of citizen participation survives today in the procedure known as posse comitatus.

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<sup>3</sup> **Isaiah 27:1-4** In that day the LORD with his sore and great and strong sword shall punish leviathan the piercing serpent, even leviathan that crooked serpent; and he shall slay the dragon that [is] in the sea. In that day sing ye unto her, A vineyard of red wine. I the LORD do keep it; I will water it every moment: lest any hurt it, I will keep it night and day. Fury is not in me: who would set the briers and thorns against me in battle? I would go through them, I would burn them together. **Isaiah 14:1-4** For the LORD will have mercy on Jacob, and will yet choose Israel, and set them in their own land: and the strangers shall be joined with them, and they shall cleave to the house of Jacob. And the people shall take them, and bring them to their place: and the house of Israel shall possess them in the land of the LORD for servants and handmaids: and they shall take them captives, whose captives they were; and they shall rule over their oppressors. And it shall come to pass in the day that the LORD shall give thee rest from thy sorrow, and from thy fear, and from the hard bondage wherein thou wast made to serve, That thou shalt take up this proverb against the king of Babylon, and say, How hath the oppressor ceased! The golden city ceased!

<sup>4</sup> **Exodus 4:22** - And thou shalt say unto Pharaoh, Thus saith the LORD, Israel is my son, even my firstborn.

**THE OFFICE GROWS** - English government eventually became more centralized under the power of a single ruler, the king. The king distributed huge tracts of land to noblemen, who governed the land under the king's authority. The office of sheriff was no longer elected but appointed by the noblemen for the counties they controlled. In those areas not consigned to noblemen, the king appointed his own sheriffs. After the Battle of Hastings in 1066, England's rule fell to the Normans (France) who seized and centralized all power under the Norman king and his appointees. The sheriff became the agent of the king, and among his new duties was tax collection. This dictatorial rule by a series of powerful kings became intolerable, and in 1215, an army of rebellious noblemen forced the despotic King John to sign the Magna Carta. This important document restored a number of rights to the noblemen and guaranteed certain basic freedoms. The text of the Magna Carta mentioned the important role of the sheriff nine times.

Over the next few centuries, the sheriff remained the leading law enforcement officer of the county. It was an honor to be appointed sheriff, but it was costly. If the people of the county did not pay the full amount of their taxes and fines, the sheriff was required to make up the difference out of his own pocket. He also had to provide lavish entertainment for judges and visiting dignitaries at his own expense.

**THE SHERIFF CROSSES THE ATLANTIC** - The first American counties were established in Virginia in 1634, and records show that one of these counties elected a sheriff in 1651. Most other colonial sheriffs were appointed. Just as the noblemen in medieval England, large American landowners appointed sheriffs to enforce the law in the areas they controlled and to protect their lands. American sheriffs were not expected to pay extraordinary expenses, however, and some actually made money from the job. Throughout the eighteenth and nineteenth centuries, colonial and state legislatures assigned a broad range of responsibilities to the sheriff which included the familiar role of law enforcement and tax collection. Other duties were new, such as overseeing jails, houses of corrections and work houses.

As Americans moved westward, so did the office of sheriff and the use of jails. Settlers desperately needed the sheriff to establish order in the lawless territories where power belonged to those with the fastest draw and the most accurate shot. Most western sheriffs, however, kept the peace by virtue of their authority. With a few exceptions, sheriffs resorted to firepower much less often than we have seen depicted in movies and on TV.

**THE SHERIFF TODAY** - There are over 3,000 counties in the United States, and almost every one of them has a sheriff, except for Alaska. Some cities, such as Denver, St. Louis, Richmond and Baltimore, have sheriffs as well. The office of sheriff is established either by the state constitution or by an act of state legislature. There are only two states in which the sheriff is not elected by the voters. In Rhode Island, sheriffs are appointed by the governor; in Hawaii, deputy sheriffs serve in the Department of Public Safety's Sheriff's Division.

There is really no such thing as a "typical" sheriff. Some sheriffs still have time to drop by the town coffee shop to chat with the citizens each day, while others report to an office in a skyscraper and manage a department whose budget exceeds that of many corporations. However, most sheriffs have certain roles and responsibilities in common.

**LAW ENFORCEMENT:** A sheriff always has the power to make arrests within his or her own county. Some states extend this authority to adjacent counties or to the entire state. Many sheriffs' offices also perform routine patrol functions such as traffic control, accident investigations, and



transportation of prisoners. Larger departments may perform criminal investigations, and some unusually large sheriffs' offices command an air patrol, a mounted patrol, or a marine patrol. Sheriffs still enlist the aid of the citizens. The National Neighborhood Watch Program, sponsored by the National Sheriffs' Association, allows citizens and law enforcement officials to cooperate in keeping communities safe. This is why the new mission of the Indiana Sheriff's Association and slogan is "Building Communities of Trust in ALL 92 Indiana Counties."

As the sheriff's law enforcement duties become more extensive and complex, new career opportunities exist for people with specialized skills: underwater diving, piloting, boating, skiing, radar technology, communications, computer technology, accounting, emergency medicine, and foreign languages (especially Spanish, French, and Vietnamese.)

**Court Duties:** Sheriffs are responsible for maintaining the safety and security of the court. A sheriff or deputy may be required to attend all court sessions; to act as bailiff; to take charge of juries whenever they are outside the courtroom; to serve court papers; to extradite prisoners; to collect taxes, or to perform other court-related functions.

**Jail Administration:** Most sheriffs' offices maintain and operate county jails or other detention centers and community corrections facilities such as work-release, and halfway houses. Sheriffs are responsible for supervising inmates, protecting their rights and providing food, clothing, exercise, recreation and medical services. As jail conditions continue to improve, sheriffs and their departments are earning increased respect and recognition as professionals. Law enforcement is becoming increasingly complex. For the progressive, forward-looking sheriffs' offices of today, education and training are the keys to effective job performance. Today's sheriff is likely to have a college degree, a graduate degree in criminal justice, law or public administration, and several years' experience in the criminal justice system.

The Indiana Sheriff's Association (ISA), under the leadership of Executive Director Stephen P. Luce, is dedicated to working with ISA membership to insure that the men and women who protect and serve the citizens of Indiana are the best trained and most qualified. President Ronald Reagan stressed the importance of the modern sheriff in his address to the National Sheriffs' Association on June 21, 1984. He said, "Thank you for standing up for this nation's dream of personal freedom under the rule of law. Thank you for standing against those who would transform that dream into a nightmare of wrongdoing and lawlessness. And thank you for your service to your communities, to your country, and to the cause of law and justice."

Justice Scalia writing for the majority in a 1997 decision said that the "*States are not subject to federal direction*" and that the US Congress only had "*discreet and enumerated powers*" and that federal impotency was "*rendered express*" by the Tenth Amendment, he confirmed that the Sheriff is the Chief Law Enforcement Officer (CLEO) of the county and also proclaimed that the States "*retained an inviolable sovereignty.*" Scalia went even further in this landmark decision, one in which two small-town sheriffs headed the Feds "*off at the pass*" and sent them on their way. Scalia, in his infinite obligation to the Constitution, took this entire ruling to the tenth power when he said, "*The Constitution protects us from our own best intentions... so that we may resist the temptation to concentrate power in one location as an expedient solution to the crisis of the day.*" Obviously the Sheriff is the Peoples last line of defense against a government gone rouge.

## **JUDGES SWEAR TO OBEY THE CONSTITUTION IRRESPECTIVE OF OPINION AND CONSEQUENCES CONSTITUTION RULES OVER STATUTES**

*"Since the constitution is intended for the observance of the judiciary as well as other departments of government and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands or counteract evasions thereof, it is their duty in authorized proceedings to give full effect to the existing constitution and to obey all constitutional provisions irrespective of their opinion as to the wisdom or the desirability of such provisions and irrespective of the consequences, thus it is said that the courts should be in our alert to enforce the provisions of the United States Constitution and guard against their infringement by legislative fiat or otherwise in accordance with these basic principles, the rule is fixed that the duty in the proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the delivered judgment of the tribunal before which the validity of the enactment it is directly drawn into question. If the Constitution prescribes one rule and the statute another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgment."* 16Am Jur 2d., Sec. 155 .

*"Various facts of circumstances extrinsic to the constitution are often resorted to, by the courts, to aid them in and determining its meaning, as previously noted however, such extrinsic aids may not be resorted to where the provision in the question is clear and unambiguous. In such a case, the courts must apply the terms of the constitution as written and they are not at liberty to search for meanings beyond the instrument." -- 16Am Jur 2d., Sec. 117.*

## **IRRECONCILABLE CONFLICT BETWEEN THE CONSTITUTION AND STATUTES IS TO BE RESOLVED IN FAVOR OF THE CONSTITUTIONALITY AND THE BENEFICIARY**

*"In all instances, where the court exercises its power to invalidate legislation on constitutional grounds, the conflict of the statute, with the constitution must be irreconcilable. Thus a statute is not to be declared unconstitutional unless so inconsistent with the constitution that it cannot be enforced without a violation thereof. A clear incompatibility between law and the constitution must exist before the judiciary is justified holding the law unconstitutional. This principle is of course in line with the rule that doubts as the constitutionality should be resolved in favor of the constitutionality and the beneficiary." 16Am Jur 2d., Sec. 255.*

## **NO ONE IS BOUND TO OBEY AN UNCONSTITUTIONAL LAW AND NO COURTS ARE BOUND TO ENFORCE IT**

*"The general rule is that a unconstitutional statute, whether Federal or State, though having the form and name of law as in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the enactment and not merrily from the date of the decision so braining it. An unconstitutional law in legal contemplation is as inoperative as if it never had been passed. Such a statute lives a question that is purports to settle just as it would be had the statute not ever been enacted. No repeal of an enactment is necessary, since an unconstitutional law is void. The general*

*principles follows that it imposes no duty, converse no rights, creates no office, bestows no power of authority on anyone, affords no protection and justifies no acts performed under it. A contract which rests on an unconstitutional statute creates no obligation to be impaired by subsequent legislation. No one is bound to obey an unconstitutional law. No courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid. A void act cannot be legally inconsistent with a valid one and an unconstitutional law cannot operate to supersede an existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal, or in any way effect an existing one, if a repealing statute is unconstitutional, the statute which it attempts to repeal, remains in full force and effect and where a statute in which it attempts to repeal remains in full force and effect and where a clause repealing a prior law is inserted in the act, which act is unconstitutional and void, the provision of the repeal of the prior law will usually fall with it and will not be permitted to operate as repealing such prior law. The general principle stated above applied to the constitution as well as the laws of the several states insofar as they are repugnant to the constitution and laws of the United States." -- 16Am Jur 2d., Sec. 256.*

## **CONSTITUTIONS MUST BE CONSTRUED TO REFERENCE THE COMMON LAW, SUMMARY PROCEEDINGS ARE NULL & VOID**

*"As to the construction, with reference to Common Law, an important cannon of construction is that constitutions must be construed to reference to the Common Law." The Common Law, so permitted destruction of the abatement of nuisances by summary proceedings and it was never supposed that a constitutional provision was intended to interfere with this established principle and although there is no common law of the United States adopted in the several states but rather a sense of a national customary law as distinguished from the common law of England. In interpreting the Federal Constitution, recourse may still be had to the aid of the Common Law of England. It has been said that without reference to the common law, the language of the Federal Constitution could not be understood." -- 16Am Jur 2d., Sec. 114.*

## **OFFICERS OF THE COURT HAVE NO IMMUNITY FROM LIABILITY WHEN VIOLATING A CONSTITUTIONAL RIGHT**

“The right of action created by statute relating to deprivation under color of law, of a right secured by the constitution and the laws of the United States and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled." -- Owen v. Independence 100 Vol. Supreme Court Reports. 1398:(1982); Main v. Thiboutot 100 Vol. Supreme Court Reports. 2502:(1982).

Title 18 US Code Sec. 241 & Sec. 242 "If upon conviction, you are subject to a \$10,000.00 fine, ten years in jail, or both, and if theft results, life in prison." Title 42 US Code Sec. 1983, Sec. 1985, & Sec. 1986 clearly established the right to sue anyone who violates your constitutional rights. The Constitution guarantees: “He who would unlawfully jeopardize your property loses property to you,” and that's what justice is all about. "Judges are deemed to know the law and are sworn to uphold it and can hardly claim that they acted in good faith for willful deformation of a law and certainly cannot plead ignorance of the law, for that would make the law look unintelligent for a knowledgeable judge to

claim ignorance of a law, when a Citizen on the street cannot claim ignorance of the law. Therefore, there is no judicial immunity."

## LEGISLATORS CANNOT LICENSE LIBERTY OR RIGHTS

"No state shall convert a liberty into a license, and charge a fee." -- *Murdock v. Pennsylvania*, 319 U.S. 105.

"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity." -- *Shuttlesworth v. City of Birmingham, Alabama*, 373 U.S. 262.

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution and that a flat license tax here involves restraints in advance the constitutional liberties of Press and Religion and inevitably tends to suppress their existence. That the ordinance is non-discriminatory and that it applies also to peddlers of wares and merchandise is immaterial. The liberties granted by the first amendment are and in a preferred position. Since the privilege in question is guaranteed by the Federal Constitution and exists independently of the state's authority, the inquiry as to whether the state has given something for which it cannot ask a return, is irrelevant. No state may convert any secured liberty into a privilege and issue a license and a fee for it." -- *Mudook v. Penn.* 319 US 105:(1943).

"If the state does convert your right into a privilege and issue a license and a fee for it, you can ignore the license and a fee and engage the right with impunity." -- *Shuttlesworth v. Birmingham AI.* 373 US 262:(1962).

## RIGHTS DO NOT COME IN DEGREES

"Although it is manifested that an unconstitutional provision in the statute is not cured because included in the same act with valid provisions and that there is no degree of constitutionality." -- 16Am Jur 2d., Sec. 260.

## CONGRESS CANNOT ALTER RIGHTS

"On the other hand it is clear that Congress cannot by authorization or ratification give the slightest effect to a state law or constitution which is in conflict with the Constitution of the United States." -- 16Am Jur 2d., Sec. 258.

## FINAL WORD

**Common Law is our Heritage! Liberty is our inheritance!** We the people have been lulled asleep; we have been robbed of our birth right. "*Whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be blessed in his deed.*" James 1:25. We the People need to pray and stand up for justice for man will either serve god or tyrants!

*"Hold on, my friends, to the Constitution and the Republic for which it stands. Miracles do not cluster, and what has happened once in 6,000 years, may not happen again. Hold on to the Constitution, for if the American Constitution should fail, there will be anarchy throughout the world."* - Daniel Webster

*"Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves."* - William Pitt, Nov. 18, 1783

*"I would rather be exposed to the inconvenience attending too much Liberty than those attending too small degree of it."* - Thomas Jefferson

*"My people are destroyed for lack of knowledge..."* Hosea 4:6

*"Wisdom is the principal thing; therefore get wisdom: and with all thy getting get understanding."*  
Prov 4:7

As Thomas Jefferson said; *"If a People expect to be ignorant and free they expect what never was and never shall be."*

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*We the People*