
Suspicions
Land of the Free
FIRE

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Bush wacked?

In the aftermath of the September 11, 2001 attacks on the World Trade Center and Pentagon, our government has done almost as much--maybe more-- to destroy remaining American rights as it's done to destroy foreign terrorists. The "Patriot Act" and new restrictions on Freedom of Information Act are just two examples of government goose-stepping for "national security" and the New World Order.

The process of using foreign threats to justify increased domestic oppression is not news. As the following quote from Julius Caesar indicates, the strategy is thousands of years old:

"Beware the leader who bangs the drums of war in order to whip the citizenry into a patriotic fervor, for patriotism is indeed a double-edged sword. It both emboldens the blood, just as it narrows the mind.

And when the drums of war have reached a fever pitch and the blood boils with hate and the mind has closed, the leader will have no need in seizing the rights of the citizenry. Rather, the citizenry, infused with fear and blinded by patriotism, will offer up all of their rights unto the leader and gladly so.

How do I know? *For this is what I have done*. And I am Caesar."

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"... it does not require a majority to prevail, but rather an irate, tireless minority keen to set brush fires in people's minds."
– Samuel Adams

Land of the Free?

by Alfred Adask

America is allegedly the "Land of the Free," home of the brave, etc. Sounds good. That kind of rhetoric is not merely embraced within the USA, it's also parrotted overseas.

For example, Arundhati Roy, writing for *The Guardian* (London, UK) reported,

> Speaking at the FBI headquarters, President Bush also said: "This is our calling. This is the calling of the United States of America. The *most free* nation in the world. A nation built on fundamental values that reject hate, reject violence, rejects murderers and rejects evil. We will not tire."
>
> Certainly America does not tire—this, the "most free" nation in the world.
>
> What freedoms does it uphold? Within its borders, the freedoms of speech, religion, thought; of artistic expression, food habits, sexual preferences (well, to some extent) and many other exemplary, wonderful things.

The world agrees with President Bush. Although often despised, America is universally seen as the "most free" nation in the world.

Yet, who can look at this age and deny that Americans of are steadily sliding deeper and deeper into bondage. To be "*most* free" is not to be "free". "*Most* free" merely means that, while people around the world wear chains weighing twenty pounds, Americans wear chains only weighing ten. But we still wear chains and those chains grow heavier each year.

We can sense the weight of our chains in Mr. Roy's list of exalted American freedoms: "speech, religion, thought; of artistic expression, food habits, sexual preferences . . . and many other exemplary, wonderful thing."

What a tepid list. Sure, the 1st Amendment freedoms of speech and religion are important and vital. But freedom of "artistic expression, food habits and sexual preferences"—what is *that*? They are trivialities, at best, and certainly not viewed as "wonderful" by our nation's Founders.

If you want to see some "wonderful" freedoms, take a look at the Bill of Rights and consider the rights to keep and bear arms (2nd Amendment), be secure against unreasonable searches (4th Amendment), due process of law (5th), trial by jury (6th), reasonable bail (8th), blanket protections of unspecified rights (9th) and blanket prohibitions on undelegated powers to the Federales (10th).

But instead of mentioning these vital protections against arbitrary government power, Mr. Roy's analysis of American freedoms focuses on the freedoms of "artistic expression, food habits and sexual preferences". Perhaps such "freedoms" are highly regarded in other, less free countries. But here in the "States," they aren't worth mentioning, let alone dying for.

Mr. Roy's list of freedoms is somewhat like a circus featuring chipmunks, robins and houseflies, but no lions, tigers or elephants. And yet, increasingly, too many people—even Americans—accept Mr. Roy's limp-wristed list of "freedoms" as inspiring and comprehensive.

But how can Americans be "free," if we're no longer "free" to own *legal* title to our cars or homes? Can free men possess only equitable interest in their "property"?

How can Americans be "free" if, under the doctrine of *parens patriae*, our children are deemed property of the state and parents are little more than baby-sitters who can discharged whenever the state-daddy likes?

How can Americans be "free" if, as a practical matter, we can no longer work without a Social Security number or travel without a drivers license?

Despite Mr. Roy advanced education, like virtually all Americans, he seems to have more respect for the myth of American freedoms than their current reality.

I am deeply concerned that the majority of Americans (or foreigners) who speak of diminishing American freedoms, do so from the perspective that the loss is *just now* taking place. The loss of American freedoms hasn't just begun—it's almost over, almost complete. Much like passenger pigeons that once filled the skies, American freedoms were once almost innumerable. Today, our freedoms are as rare as whooping cranes, and even more endangered because some forces are determined to destroy them all.

9/11

If the current list of remaining American freedoms is fairly flimsy, that list has eroded even faster since the attack on the World Trade Center.

Steve Kubby was the 1998 Libertarian candidate for California Governor. In his article "Beware of Sunshine Patriots," Mr. Kubby warned,

> The real tragedy of 9/11 is that the public's fear of terrorism is being used to fraudulently barter away unalienable rights. Cowed by public hysteria, Congress has turned its back on the Constitution and passed anti-terrorism bills (H.R. 2975 and S. 1510) that authorize completely unconstitutional activities . . . .
>
> America, once admired for its freedom, suddenly finds itself in a secret war, with secret courts, sealed warrants and secret searches. Like deer caught in the headlights, we are too paralyzed by fear and denial to take proper evasive actions. Waving flags and promoting false patriotism, this new and highly secretive oligarchy shamelessly uses our fear of terrorism to suspend our rights . . . ."
>
> How is it that the Congress abrogated its constitutional responsibility to resist the Bush administration's grab for power? After all, our Congressmen have all taken oaths is to uphold the Constitution, and the rights guaranteed by that document, against all enemies foreign and domestic. There's no exception to those oaths that allows Congress to restrict our unalienable rights because of a war or "national security." But Congress has betrayed its oath, sold out our rights, and is guilty of aiding and abetting a slow-motion *coup d'etat*.

Congressional treason?

Some might say Mr. Kubby's allegation that "Congress . . . is guilty of aiding and abetting a slow-motion *coup d'etat*" goes way too far.

But maybe not. In the article "Congress Passes Unconstitutional Laws," James A. Hardin wrote:

> Representative Ron Paul (R-Texas) reported that Congress sometimes passes unconstitutional laws—and does so *knowingly*. Worse, laws are sometimes passed without the bills even being *available to be read* by Congressmen. Congress votes "blind" on the bills, often passing them on a "voice vote" (not a roll call vote) so that people back home can't find out how a specific Congressman voted.
>
> For example, in the patriotic heat following the attack on the World Trade Center, the USA Patriot Act was *not available* to be read or studied *before* it was voted on and passed. Only *after* it was passed did Congressmen realize that the bill violates several constitutional protections and defines a "terrorist" as anyone who *opposes* a federal government program or policy. Thus, anyone who differs with the government on issues such as abortion, gun control laws, Free Trade Agreements, the UN, or any number of

programs and activities can now be defined as a "terrorist" *even though no crime has been committed or even alleged*.

According to Rep. Paul, "Many Congressmen *know* the bill is unconstitutional, but say that it's up to the courts to correct the problem. That, to me, is one of the most despicable arguments I've ever heard. What's the sense of taking an oath of office to 'support and defend the Constitution,' if you're going to *knowingly* pass *unconstitutional* laws and hope the courts will later save you from yourself?"

In fact, if Congress lacks the integrity to fulfill its oath to support and defend the Constitution, why would anyone expect Federal *judges* (former lawyers) to do so?

Further, insofar as we live in a national Democracy rather than the constitutionally-mandated Republic [see *Suspicions* Vol. 11 No. 3], and because the Federal Judiciary is *unelected*, the Federal judicial system is no longer a co-equal department of government. Because the officers of the executive and legislative branches are *elected*, they are presumed to directly reflect the will of the democracy's collective. The *unelected* Federal judges do not directly represent the democratic collective and thus hold a position of authority inferior to that of the executive and legislative branches.

This inferiority is recognized in a number of court cases, including *Cochran et al. v. St. Paul & Tacoma Lumber Co*. (73 Fed Supp 288) which headnotes read in part,

> 2. A United States District Court is purely a creature of legislative branch of government, generally provided for by Constitution, but not a constitutional court in stricter sense, and its jurisdiction comes from Congress.
>
> 3. Courts' duty is to interpret statute so as to uphold, rather than find against, its constitutionality.

Headnote 2 tells us that the "United States District Courts" (but not "District Courts of the United States") are created by Congress (an elected branch of government) but not by Article III of the Federal Constitution. As such, U.S. District Courts are not true "constitutional" courts.

Headnote 3 tells us that, as a "creature" (creation) of Congress (rather than a "creature" of Article III of the Constitution), the U.S. District Courts' *duty* is to *always* rule that any statute passed by their creator (Congress) is "constitutional," *no matter what*.

Thus, Congressmen who knowingly vote to pass unconstitutional laws in the professed hope that Federal courts will later intervene to overrule

their treason, are idiots. If Congress passes a law that everyone must walk around with their private parts exposed—even in the winter—the U.S. District Courts *must* rule that law is constitutional.

Why? Because the U.S. District Court judges are *un-elected* and therefore (unlike the *elected* executive and legislative officials) don't directly represent the democratic collective. Those U.S. District Courts are created by Congress (not the People's Constitution). The "judges" administering those "courts" are just bureaucrats appointed by Congress (and/or the Executive branch). But Congress is their creator, and thus their boss. Whatever the "boss" says, goes. Result? There's no chance that any U.S. District Court will reach any decision that secures our "unalienable Rights" against any legislative act of Congress—no matter how unconstitutional.

However, as "creature" of *Congress* (rather than the Executive branch) it is possible that the U.S. District Courts may sometimes find an act by the *Executive* branch to be unconstitutional. Why? Because the U.S. District Courts don't directly serve the executive branch, and thus have no duty to uphold virtually every executive act as constitutional. They serve their "creator" (Congress) and only Congress.

Thus, the U.S. District Courts might be properly viewed as a *congressional* check on the activities of the Executive branch. Insofar as Congress has oversight over the Executive, this implies that Congress is the superior branch—the de facto "sovereign"—in our brave new democracy. Why? Because there's no similar check on congressional legislation other than the occasional, organized ire of the voters. But organized voter resistance to Federal legislation is so rare that, for all practical purposes, Congress legislates as a king, seemingly unaccountable to man or God alike.

As subjects under such authority, the people of the United States may have an "expectation" of various rights, but they have no meaningful rights. Without our unalienable Rights, freedom is only an illusion and the "land of the free" is (at best) a "benign" dictatorship.

Contradictory Forms of Government

The "Declaration of Independence" reads in part,

> That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, ...

By "these ends" the Declaration refers to the purpose of government which, according to its third sentence, means "securing" our unalienable Rights. So if a "Form of Government" starts diminishing our "unalienable Rights," then it's the "Right of the People to alter or abolish it . . . ."

That sounds pretty good . . . but what's a "*Form* of Government"?

First, note that one kind of government will have one "form" while another kind of government has an entirely different form. Once we recognize that different kinds of governments are distinguished by their different "forms," we can begin to see that a "form" of government is essentially a pecking order. It's a hierarchy of *authority*, based on rights, sources of rights, and consequent relative status as sovereigns and subjects, masters and servants.

In every instance a fundamental rule applies: The lower party in the "pecking order" must take orders from any higher party. Conversely, the lower party can never give orders to the higher.

For example, the western world (Christendom) has had several fundamental "Forms of Government" (lawform) over the past 1,700 years.

First, starting about 320 A.D., we had the Catholic lawform (aka, "Holy Roman Empire"). This lawform's hierarch of authority consisted of

1) God,
2) Pope;
3) European Kings;
4) government;
5) **subjects** (virtually, all men)

God (#1) gave rights to the Pope (#2 and presumed to be God on Earth) who passed some of those rights on to the #3 European kings (who enjoyed the "divine right of kings" since their rights flowed from the Pope/earthly god). Then the kings (#3) gave whatever powers they wished to

grant to their #4 governments, and/or the #5 people (subjects) at the bottom of the hierarchy. Each level in this pecking order of authority had to take orders from the higher levels, and could give orders to the lower levels. Subjects, being at the bottom of the pecking order, had virtually no rights and had to obey any order—no matter how arbitrary—by any entity who was higher up the pecking order.

Second, in the 1400's, King Henry VIII broke free from the Pope and Catholic lawform and started the English Form of Government:

1) God;
2) King of England;
3) English government;
4) English subjects (serfs; virtually all **men**).

As in the previous Catholic lawform, the great mass of English people remained as subjects without meaningful rights at the bottom of the pecking order. The only real change was that English Kings were now directly subject to God rather than the Pope.

Third, on July 4th, 1776 America began its Federal Republic:

1) God;
2) **man**;
3) States of the Union (Republics);
4) Federal government.

This was the single most radical form of government in at least 3,000 years. For the first time, all men were not automatically *subject* to an earthly king or government. Instead, under our "Declaration of Independence" all Men [including kings and popes] were created equal. Thus, each man was deemed to enjoy the same God-given rights as the former English *King*. Each man was elevated to the status of sovereign, became a master *over* government, and government—for the first time in Western history—was reduced to the lower status of servant/subject.

Note that this Republican Form of Government provided more than a political change in the relationship of man to government; it created a spiritual change in the relationship of man to God.

Under the previous Catholic and English forms of government, only Popes and/or Kings received their rights directly from God. Thus, only Popes and Kings had God-given (unalienable) rights. This was the essential idea behind "*divine* right of kings".

All other men (subjects) received their rights (if any) *through* the Pope or Kings, and typically *through* government, but did not receive those rights

directly from God and thus had no "unalienable Rights". Therefore, unlike Popes and Kings, all other men's "rights" might be "aliened" or taken away by a superior earthly authority.

With America's Republican Form of Government, all this changed.

Suddenly, *all* men (not just kings and popes) were declared to have been directly endowed with "unalienable Rights" by their Creator. Because those rights flowed directly from *God*, no earthly force could lawfully deprive any man of those rights—except for violating God's own Laws. And even then, an individual's unalienable Rights could not be easily revoked without extensive legal protections ("due process") to assure that government did not unlawfully or mistakenly deprive an "innocent man" (one who had not broken God's Law) of his God-given rights.

However, government and commercial interests could not endure the idea that ordinary men could have "unalienable Rights". Government, of course, wanted to rule over (not serve under) the mass of men. And commercial interests did not want to be held easily liable to ordinary men for shoddy products, contractual violations, fair wages or free market competition. As a result, coalitions of moneyed "special interests" and government worked incessantly to degrade the American people back to the status of rightless subjects.

Fourth, that degradation took a mighty leap forward after the Civil War with the adoption of the 14th Amendment. Under this 1868 Amendment a new kind of *national* citizenship was created—ostensibly to provide some semblance of citizenship for the newly-freed Negro slaves. Previously, there'd been no national citizenship. Instead, every American was a Citizen of the State of the Union wherein he was born or naturalized. This new, national, 14th Amendment citizenship was called "citizen of the United States" and all such persons were "*subject* to the jurisdiction" of the "United States". Note that these persons were therefore national "citizen-*subjects*" rather than State Citizen-*sovereigns*.

In addition to creating a new class of national citizenship, the 14th Amendment implicitly acknowledged the co-creation of a new kind of *national* government. This creation is implied by a comparison of the language of the 13th Amendment (1865) and the 14th (1868).

According to the 13th Amendment,

> Neither slavery nor involuntary servitude . . . shall exist within the United States, or any *place* subject to *their* jurisdiction. [emph. add.]

Note that the term "*their* jurisdiction" refers to a *plural* entity. Thus, the term "United States" in the 13th Amendment refers to the *several* States of the Union. Note also that "their" jurisdiction was over *places*—not men. Men were still regarded as sovereigns over government.

However, three years later, the 14th Amendment declared,

> All *persons* born or naturalized in the United States and subject to *the* jurisdiction thereof, are citizens of the United States and the State wherein their reside. [Emph. add.]

First, note that this new jurisdiction is over "persons" rather than places. This is the first time that Congress or the "National" government had direct jurisdiction over "persons" rather than places.

Second, note that the term "*the* jurisdiction thereof" is singular. Thus, unlike the term "United States" in the 13th Amendment that referred to a plural entity, the 14th Amendment instead referenced the "United States" as a *singular* entity. Thus, in two Amendments separated by just three years, we see two different "United States". The "United States" in the 13th Amendment refers to the several States of the Union; the "United States" in the 14th Amendment does not. Instead, the 14th Amendment refers to a new, singular national government (perhaps a corporation) which—so far as I can tell—did not previously exist under our Constitution.

However, under Article One, Section 8, Clause 17 of the Constitution, Congress already enjoyed

> . . . exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may . . . become the Seat of the Government of the United States, and to exercise like Authority over all *Places* purchased by the Consent of the Legislature of the State in which the Same shall be . . . . [Emph. add.]

But this exclusive authority endowed Congress with sovereignty over a "District" (Washington, D.C.) and some other "*Places*" and physical territory—but apparently not over *persons*.

On the other hand, the 14th Amendment declared all *persons* born or naturalized in the singular "United States" *and subject* to that jurisdiction to be citizens of that [singular] "United States". Congress thereby gained authority over *persons* rather than just *places*.

The 5th Section of the 14th Amendment reads,

> The *Congress* shall have power to enforce, by appropriate legislation, the provisions of this article. [Emph. add.]

Insofar as this power of enforcement seems *exclusive* to Congress—but not the several States of the Union in Congress assembled—it appears that *Congress* had become the second, singular "United States". If so, we had the plural "United States" (the States of the Union) to serve under the White men of the U.S.A. and we also had a singular (possibly

corporate) "United States" (Congress) to reign exclusively over American Negroes.

It seems certain that the 14th Amendment at least created a new class of citizen-subjects to accommodate the newly freed Negro slaves. Note that these new citizens are "subject" *under* (not sovereign *over*) the jurisdiction of the national "United States". Thus, the Negroes were never truly "freed" in the sense of becoming Citizens of the State-republics and achieving a status wherein they might claim the unalienable Rights granted by God. Instead, Blacks were simply given the inferior status of citizen-*subjects* of a new, national government. Essentially, Negroes swapped their old slave owners on Southern plantations for the new "slave owners" we call Congress. All the rhetoric about fighting the Civil War to "free the slaves" was pure crapola.

A new "form of government"

The most obvious difference between the post-14th Amendment form of government and the previous "Republican Form of Government" is the creation of a new class of citizens who (like those of the English and Catholic monarchies) were *subjects* subservient to the national government rather than State sovereigns *over* government, and a new "national" government to reign over those subjects.

A proper diagram of the post-14th Amendment form of government might look something like this:

1) God
2) We the (White) People (State Citizen-*sovereigns*)
3) States of the Union (and their governments)
4) General or Federal government (this includes the three co-equal branches—Legislative, Executive & Judicial)
5) NEW: *National* government (the singular "United States"; possibly a corporation within which Congress—not the People and not the Executive or Judicial branches—was the principal "sovereign")
6) NEW: Negro citizen-*subjects* of the singular, national "United States" (Congress).

Under this diagram, Congress—which still shared co-equal authority with the executive and judicial branches over disputes between the States of the Union and also certain limited "places" in our Republican Form of Government—now also enjoyed exclusive legislative jurisdiction over American Negroes ("citizens of the United States") without regard to whether they were in a particular State, or the District of Columbia, or some territory owned by the general government. Insofar as Negroes might be found in any State, territory or district, Congressional jurisdiction over these "persons" was unrestricted by State boundaries and thus "national". This was the beginning of our "national" government—a government over all the *people* of a "nation" rather than a "federal" government which merely governed the interactions of the several States of the Union which composed the "federation".

This new "national" government violated the fundamental feature of our Republican Form of Government: it declared that some persons (Negroes) were *subjects* rather than sovereigns. As such, these Negro "citizen-subjects" were presumed to receive their *civil* rights from their master (Congress) rather than unalienable Rights from God. Thus, the American lawform became confused and at times even contradictory. We had two coexisting forms of government: A Republican Form of Government to serve Whites, a national government to control and rule over Blacks.

Our once simple Republican Form of Government was becoming increasingly complex, confusing and contradictory.

Initially, these contradictions were probably glossed over since they only involved Negroes who were mostly ignorant and only comprised about 5% of the population. Their complaints would be unsophisticated, rare and, if necessary, easily suppressed by the courts without alerting the majority White population to these contradictions.

But once Congress got a taste of being (rather than serving) sovereigns, I imagine they liked it. As Mel Brooks said in his movie *History of the World Part I* as he grabbed the breasts of one his courtesans: "It's *good* to be the King."

But even if Congress didn't intend to become sovereigns in 1868, there would be inevitable legal contradictions in the relationships between the new 14th Amendment citizen-subjects and State's Citizen-sovereigns. Congress would inevitably intervene on behalf of "its" citizen-subjects by passing new laws or initiating new Amendments to eliminate logical contradictions between the two varieties of citizenship. In passing these new laws—and especially Amendments—Congress inevitably extended its national jurisdiction deeper and deeper into the formerly sovereign States and We the People and radically altered our fundamental form of government.

For example, since the Civil War, we've adopted fifteen Amendments to the Constitution. Seven of them (13th, 14th, 15th, 19th, 23rd, 24th, and 26th) specifically declare *Congress shall have power* to enforce that amendment. Every one of those Amendments clearly expand the *national* authority of Congress to intrude into the formerly sovereign States and thereby expand the post-Civil War "national" government while simultaneously degrading the rights and powers of the original Republican Form of Government.

But the most glaring contradiction in our Constitution (and driving force

behind national government) probably springs from the 15th Amendment (1870) which declared,

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

That sounds like a great idea, but this Amendment created a logical contradiction that was unprecedented and impossible for any form of government to resolve or survive. It let *subjects* vote to bind the *sovereigns*.

Remember, under the 14th Amendment, "citizens of the United States" are *subjects* of the national government. These subjects occupied the *lowest* level of authority in our post-14th Amendment "form of government". Their political condition was only slightly elevated above that of slaves. White men, on the other hand, still occupied the highest level earthly authority and were only subject to God.

By guaranteeing national *subjects* the right to vote in State elections, the 15th Amendment allowed 14th Amendment *subjects* to bind State-Citizen *sovereigns*. Thus, under the 15th Amendment, it was theoretically possible in communities where Negroes outnumbered Whites, for Negro citizen-*subjects* to vote to deprive White Citizen-*sovereigns* of their wealth, property or even unalienable Rights.

From today's democratic perspective, we see nothing terribly wrong with a majority of Negroes voting to empower themselves at the expense of a minority of Whites. That's just hard-ball politics, right?

However, we tend to interpret the 15th Amendment's right to vote in *racial* terms of Negroes vs. Whites, but race was not the fundamental issue. The issues were *quality* of rights, form of government and even our relationship to God. The issue was whether the "men" who (under the "Declaration of Independence") were directly endowed by their Creator with certain unalienable Rights and thus sovereign *over* government could be bound by the votes of 14th Amendment "persons" who were *subjects* under government. This was the political equivalent of letting children rule over their parents or allowing English serfs vote to bind King Henry VIII. In olden times such crazy notions were rewarded with a quick beheading.

The 15th Amendment contradicted the fundamental Form of Government postulated by the "Declaration of Independence" (1. God, 2. Man, 3. government) by making #2 Man (formerly subject only to God), now also subject to "persons" and national "citizens" who were "created" by government, occupied a position of authority below government, and were therefore without unalienable Rights.

This form of government was unprecedented, irrational, and impossible to implement. It implicitly asserted that the government-granted civil right of "persons" granted by government were superior to the unalienable Rights granted to men by God.

States Rights vs. Civil Rights

If this description of logical contradictions between the various Amendments and body of the Constitution sounds like an esoteric debate in

ancient philosophy, note that the contradiction eventually erupted violently in the Civil Rights movement of the 1950's and 1960's.

Southern Whites (State Citizen-sovereigns) were doing their level best to keep Southern Negroes (national citizen-subjects) from voting in State elections. The South used every trick it could to keep the *subjects* from voting in State elections. Property ownership requirements and literacy tests (sometimes conducted with newspapers written in Yiddish) used to stop Negro-subjects from voting. Most of the effort to stop Negro voting was dismissed and disparaged by the North as evidence of hateful racism on the part of the red-neck crackers. And to great extent this was true.

But at base, the issue was not whether *Negroes* could vote, but whether national citizen-*subjects* could vote to bind State Citizen-*sovereigns*. The States' Rights vs. Civil Rights struggle was a contest between those Southerners who wanted to keep the "Republican Form of Government" expressly guaranteed by the Constitution, and the Congress which wanted to establish an unauthorized national democracy.

And under the Constitution's guarantee of a "Republican Form of Government" to each State, the South was right. The Negroes shouldn't have been allowed to vote—but not because they were Negroes, but because they were national citizen-*subjects*. Subjects can't vote to bind sovereigns. To allow that inversion of authority is to deny the State-Citizens their unalienable, God-given Rights and 40 centuries of human history. That denial wasn't just hard-ball, secular politics, it was blasphemy.

Nevertheless, the national government and the mainstream media successfully characterized the South's struggle for "State's rights" as evidence of shameless, evil racism. In doing so, they concealed the growing power and extent of the national democracy and the correspondent withering of our "Republican Form of Government".

Was the Civil Rights turmoil spawned by racism? Absolutely. But it wasn't simply the racism of Southern Whites. It was the racism of the post-Civil War Congress who foisted the 14th Amendment off on the American people. Remember, the 14th Amendment didn't elevate Negroes to the same status of State Citizen-*sovereigns* afforded to Whites—it merely created a new "citizenship" for *subjects* at the very bottom of the American political system's form of government. Once that new status of citizen-subject was created, the lowly Negroes were "officially" dumped (once

again) on the very lowest rung of our political system's pecking order (a political trash can). Thanks to the 14th Amendment, Negroes were "elevated" from slave to subject. Huzzah.

So if racism spawned the Civil Rights movement (and all the attendant violence), whose racism was it? Whose racism was greater, more virulent, more hypocritical? The Southern Whites who wanted to keep the State-republics guaranteed in the Constitution? Or the post Civil War Congress that piously claimed they'd damn near destroyed the nation to "free the slaves," but didn't think enough of Negroes to grant them full citizenship?

In any case, the Civil Rights conflict flowed from the contradictions and political tensions that were created by the 14th Amendment. All of that trouble might've been avoided if the Congress of 1868 had simply elevated Negroes to the status of State Citizen-sovereigns rather than national citizen-subjects.

Democracy through gradualism

As irrational consequences of the contradictions between our Republican Form of Government and the new national form of government became increasingly frequent and apparent, government had two choices:

1) They could rescind the 14th Amendment, eliminate the national status of citizen-*subject*, and adopt a new Amendment declaring that all men (including Negroes) born or naturalized in one of the several States of the Union were Citizens of that State-republic and thereby recognized as endowed with God-given, unalienable Rights. Under this arrangement Whites and Negroes would all be equal and individually sovereign *over* government. Or,

2) Congress could stick to their guns and simply patch over the irrational consequences of the 14th and 15th Amendments by passing even more laws and Amendments to sustain (and even expand) the numbers of citizen-subjects.

Of course, Congress did the dishonorable thing, and rather than elevate Negroes to the status of White State Citizens, they expanded the realm of citizen-subjects to include more and more *voters*. Of the fifteen post-Civil War Amendments, five—the 14th ("persons"), 15th (citizen-subjects), 19th (women), 24th (tax delinquents and bankrupts) and 26th (minors under 21 years of age)—expanded the right to *vote* and thereby expanded the national democracy.

Of the fifteen post-Civil War Amendments, six—the 14th (qualification for Congress), 17th (popular election of Senators), 20th (beginning of terms of President, Vice President, and Congress), 22nd (number of terms of President), 23rd (District of Columbia given electors in presidential elections), and 25th (order of succession to office of presidency)—alter the fundamental structure of our national government.

It's at least curious that of the fifteen post-Civil War amendments, six restructure our national government and five expand the privilege to vote. I suspect that all eleven Amendments have surreptitiously laid the foundation for the national democracy that is supplanting our former Republican Form of Government.

New Deal

Our "Republican Form of Government" is mandated and guaranteed to each State of the Union by Article 4 Section 4 of the Constitution. The national democracy did not suddenly appear based on a single Amendment. The foundation for our national democracy was laid "block by block" and Amendment by Amendment from the end of the Civil War in 1865 until Franklin D. Roosevelt became President in 1933. By then, there were sufficient Amendments to virtually establish a national democracy. The public, mired in the Great Depression was willing to accept anything government did, if it would put a "chicken in every pot". Sure enough, our beneficial "chickens" came home to roost in Roosevelt's "New Deal".

It was the "New Deal" that enshrined our national democracy.

However, I doubt that any particular act of the Roosevelt administration *officially* consummated the our national democracy. There may have been several acts that achieved the change collectively. But, so far as I know, there was no single act which officially declared and expressly established the United States to be a democracy rather than a Republic.

More likely, to this day, there's no single "official" act that established the democracy. Instead, I suspect the democracy was silently "established" based on political and/or judicial *presumptions* which deemed every man or woman to be a 14th Amendment "person" and citizen-subject. I suspect we are merely *presumed* to be 14th Amendment persons for a number of reasons:

First, the Article 4 Section 4 of the Constitution still guarantees a "Republican Form of Government" to every State in the Union. That section of the Constitution has never been officially and expressly repealed.

Second, there's never been an Amendment which expressly declared this nation to be a "democracy" rather than a federation of State Republics. In fact, the word "democracy" does not appear in our Constitution. So if challenged, what authority will government cite for imposing the rules and disabilities of democracy upon us?

Third, the last President to refer to this nation as a "Republic" was John F. Kennedy—about 30 years after the onset of the New Deal. That's pretty good evidence that, at least up until 1963, our national democracy had not yet been officially established but was merely *presumed*. After all, if democracy had been officially established, how is it that a President of the United States was unaware of the fact?

The presumption of 14th Amendment citizenship is probably based on any one of several devices. For example, are you registered to vote as a 14th Amendment "citizen of the United States"? Does your birth certificate indicate you were born in a "State of the Union," or in a corporate state-franchise of the national democracy? If your evidence of birth indi-

cates you were born in one of those corporate states, you are "subject to the jurisdiction" of the singular "United States" and thus presumed to be a 14th Amendment citizen-subject. Do you conduct your business affairs by "discharging" your debts with worthless legal tender (Federal Reserve Notes) or do you "pay" your debts with lawful money (gold or silver coin)? If you use the benefit of legal tender, you are probably presumed (under 31 USC 5103) to be a 14th Amendment citizen-*subject*.

The fundamental presumption that we are all 14th Amendment citizen-subjects may be based on the passage of time. In 1868, only a tiny percentage of our population (Negroes) may have been officially presumed to have been born or naturalized in the singular "United States". All others would be presumed to have been born or naturalized in the various States of the Union and thus State Citizen-sovereigns rather than 14th Amendment subjects. But over sixty years passed from 1868 to 1933. During that time, those people who had been undeniably born in a State Republic passed on. Those born after 1868 were increasingly presumed to be "born in the [singular] United States" and thus 14th Amendment citizen-subjects.

And, without supporting evidence, I'd still bet the national democracy is somehow based on the "national emergency" that was declared in 1933 and has persisted to this day.

In fact, there are probably several devices by which government can presume virtually all Americans are 14th Amendment citizen-subjects. But insofar as the "Declaration of Independence" (which can't be amended) is still celebrated every Fourth of July and still declares that "All men are created equal and endowed by their Creator with certain unalienable Rights," I believe the presumption of 14th Amendment citizenship can be challenged and rebutted. Insofar as Article 4 Section 4 of the Constitution still guarantees that each State of the Union must be a "Republican Form of Government" (whose primary purpose must be to "secure" our unalienable Rights) , it seems possible to challenge the presumption that any one of us is a 14th Amendment citizen-subject.

Easier said than done

However, the presumption of 14th Amendment citizenship won't be easily rebutted. For example, how do you establish that you are *domiciled* in a State of the Union rather than living as a *resident* in a corporate state-franchise of the national democracy? Were you born "on" *Texas* (a State of the Union)? Or were you born "in" the STATE OF TEXAS (a corporate, territorial franchise)? Where's your evidence?

Chances are, your birth certificate indicates you were born "in" (subject to) a corporate state-franchise. Insofar as you voluntarily use that birth certificate without protest, you'll be presumed to be a 14th Amendment citizen-subject. Insofar as you use any identification that was based on that birth certificate, you'll be presumed to be a 14th Amendment citizen-subject.

Do you have "residential" phone service? Are your utilities (gas, electricity, water) even available in a State of the Union and thus outside of a corporate state under the 14th Amendment? I'll bet those public utilities are so

subsidized by the national government, that they can't be used without creating the presumption that their customers are 14th Amendment citizens.

Overcoming the presumption that you're a citizen-subject will require a great deal of daily diligence. I doubt that the presumption of 14th Amendment citizenship can be finally overcome by simply filing some papers with various state and national officials. While it may be necessary to file such papers to initiate a restoration of your status as a free man, it would thereafter be necessary to diligently avoid or expressly protest any subsequent use of the many benefits provided to 14th Amendment citizen-subjects.

In other words, it might not be enough to merely claim to be a free man. You might have to walk the walk. You might actually have to *live* like a free man, every moment of every subsequent day. And that's not easy. You'd have to choose to serve God rather than government. Such service would mean more than going to church every Sunday (unless you play golf, of course). You'd have to be completely responsible for your acts (no limited liability through insurance, corporations or trusts). You might even have to arrange to pay all of your debts (at least in part) with lawful money.

But if you stopped acting like a sovereign Citizen and slouched back into the indigence of government benefits, government might be re-enabled to presume you are a 14th Amendment citizen-subject and treat you accordingly.

Thus, I believe it's difficult but still possible for determined individuals to reestablish themselves as a free men. However, this transformation will require exceptional intelligence, education and persistent diligence. It won't be easy, and most Americans won't up to the task. If I had to guess, I'd bet that no more than 10% of America is potentially capable of individually regaining their status as a free man.

But even if that 10% did reclaim their freedoms, how safe could those freedoms be in a nation where 90% remained as subjects? Natural jealousies would almost certainly be exploited to reduce the 10% free back to the same status as the 90% subjects.

28th Amendment?

Therefore, for any single person to be free, the entire nation must be free. How could we restore freedom and unalienable Rights to all Americans? Adopt another constitutional Amendment or two.

For example, if we were to repeal the 14th Amendment's classification of persons as citizen-subjects and replace it with a similar Amendment that declared all human beings (not just White men) were endowed by God with "certain unalienable Rights," the inconsistencies, irrationalities and contradictions created by the 14th and 15th Amendments would disappear. Under this proposed Amendment, all of us would once again

be declared to be free and sovereign *over* government, rather than bound and subject *under* government.

The language would be simple. We could plagiarize the "Declaration of Independence". All we'd need to add to the Constitution is a statement that "All men [including citizens of the United States] are created equal and endowed by their Creator with certain unalienable Rights . . ."

That's all it takes. We would all become sovereigns over government rather than subjects, and there would be no fundamental conflict between any State or national citizenship.

Properly promoted, such an Amendment should appeal to almost everyone--except government and the New World Order. Those who favor illegal immigration and abortion would oppose repealing the 14th Amendment. (An illegal alien who gives birth to a child "in the United States" is thus the mother of a 14th Amendment "citizen of the United States" and, as such, unlikely to be deported. Similarly, those children who are not yet "born" are not yet "citizens of the United States" and thus have no statutory protections against being murdered while in the womb.)

Despite this resistance, passage of the proposed Amendment would regain the same level of freedom once celebrated by our Founders for every living (and even unborn) American. Think of it. Every right espoused in the Bill of Rights would once more become absolute, without any susceptibility to government meddling.

What politician could openly oppose such amendment? Can government persuade Americans we are better off being less free? Not easily.

In an open competition between the unalienable Rights granted by God and the civil "rights" (actually, "privileges") granted by government, who would choose to reject God's blessings for sovereigns and instead embrace the civil rights of subjects?

Think of it. Properly crafted, an Amendment that declared all natural men and women to enjoy unalienable Rights could restore American freedoms. Arguments to support that resurrection of freedom wouldn't be complex or hard to explain. And who could resist? A movement to promote such Amendment could be started today and potentially sweep the country within ten years.

Imagine. Free at last, free at last, . . . thank God almighty, ...

But until such Amendment is adopted, America remains the "land of the free" much like Egypt remains the "land of the Pharaohs". Just as there were (but are no longer) any Pharaohs in Egypt, there were (but are few, if any) free men in America.

But with just one or two simple constitutional Amendments to repeal the 14th and reestablish the unalienable Rights of all Americans, free men and women could be removed from the "politically endangered species" list and once again flourish in the U.S.A..

Fascist Bureau of Investigation

by Tom Simmons

This article illustrates a dangerous mindset common to many high government officials. Although not all government personnel embrace this mentality, it seems fairly common among those in high positions of federal authority. It is clearly an "us-against-them" mindset where the government views the people as rowdy subjects or dangerous adversaries rather than masters (sovereign Citizens). This is clearly a fascist mindset in that government's first order of business is preserve and expand governmental power rather than protect the people or (especially) the people's God-given, "unalienable Rights".

The Phoenix Federal Bureau of Investigation, the Maricopa County Sheriff's Office (Greater Phoenix, Arizona), and the Maricopa County Attorney have been handing out flyers asking the recipients to help them fight domestic terrorism. I received one of these flyers this past weekend at the Arizona "Freedom in the 21st Century" gathering. One member of the Sheriff's Posse Reserve in attendance said he'd seen the flyer before and that it is legitimate.

I called the Joint Terrorism Task Force and learned the program was created, supposedly, to help "preserve the American way of life". However, it also looks like it's a disinformation campaign to paint at least a few groups of Real Americans as domestic terrorists. Among other things, the dynamic trio (FBI, Sheriff and county attorney) are asking the people:

"If you encounter any of the following, Call the Joint Terrorism Task Force":

- "defenders of the US Constitution against federal government and the UN." [That describes many civil liberties groups and most gun rights and American Sovereignty groups—and, by extension, their members.]
- "Groups of individuals engaging in paramilitary training" [Such as, perhaps, shooting your semi-automatic "assault weapon" with friends out in the desert?]
- Also being sought are "Common Law Movement Proponents" who "Request authority for a [traffic] stop" [Asking for proof of governmental authority is now *illegal*?]
- "Make numerous references to the US Constitution" [That's illegal now? What's the legal limit? How many "references" can we make per day, per year or perhaps in a lifetime before they become too "numerous" and subject us to government scrutiny?]
- "Attempt to 'police the police'" [That's illegal now?]

And let's not forget the other potential "domestic terrorists" being sought. We really need to watch out for these people:

- "Lone Individuals" [Do you meet that description?]
- "Rebels" [Know any gun rights activist who doesn't have at least a touch of rebel pumping through the old bloodstream?]

There are two other important points in this FBI flier:

1) There's *not one mention* of "Islamic Fundamentalists" anywhere. Apparently, those Americans who question police authority or read the Constitution are officially viewed as far more dangerous than those foreigners who merely fly airplanes into buildings.

2) Defenders of the US Constitution and the common law from which it grew are being classified on the same level as the bottom-feeding Skinheads, Nazis and the KKK.

The flyer's front and back pages are on two different websites:

http://www.keepandbeararms.com/images/FBI-MCSOTerroristFlyer-Front.jpg,

and

http://www.keepandbeararms.com/images/FBI-MCSOTerroristFlyer-back.jpg

I spoke to Terry Chapman of the Maricopa County Sheriff's Dept. He said that the Sheriff's office *demanded* that the FBI *stop* circulating the flyer as long as the Sheriff's Dept was associated with it. He believes that the FBI has stopped circulating it. I said they need to issue an apology and a retraction and that the Sheriff's Office was disgusted by the flyer.

He said *one of his own Lieutenants* called him and said, "Terry, I guess I'm on the list of 'Domestic Terrorists' since I believe in the US Constitution."

He said the Sheriff's office has been *inundated* with calls about this flyer. He asked me if I received the flyer in the mail or if it was on the Internet. When I said "internet," he said, "*aww, God*." [Heh, heh, heh.]

I told him it would probably be circulating for a long time. He understood.

If you'd like to contact the people pushing this "program," you can visit the Phoenix FBI's website at: http://phoenix.fbi.gov/. You can send an email expressing your opinion on the flier to: Special Agent in Charge-Guadalupe Gonzalez at phoenix@fbi.gov

You can view the Maricopa Sheriff's Office Website at: http://www.mcso.org. There's a feedback form for Sheriff Joe "Give 'em green lunch meat" Arpaio, at:

http://www.mcso.org/submenu.asp?file=public

or you can send an email to:

complaints@mcso.maricopa.gov or information@mcso.maricopa.gov.

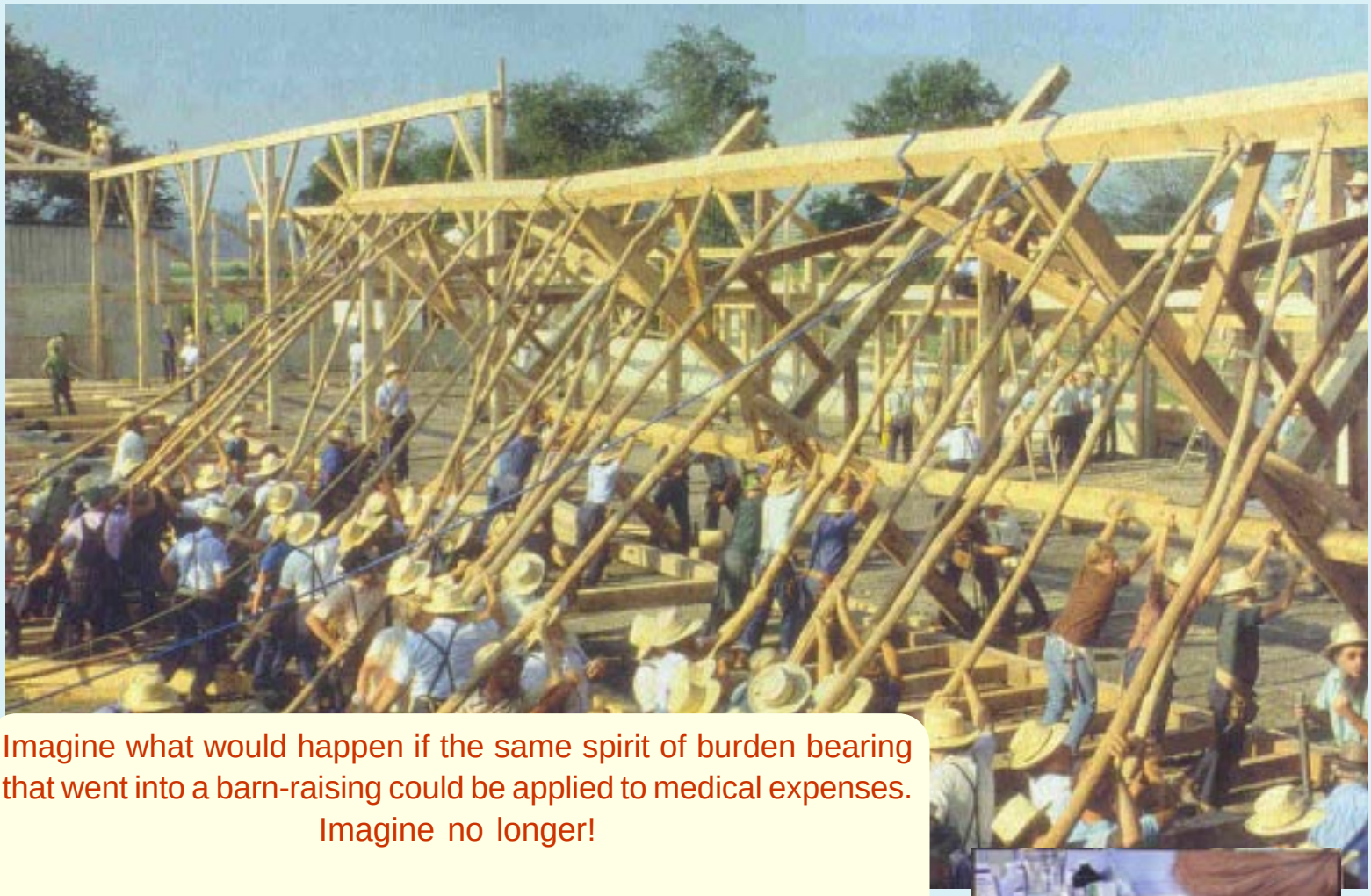
Maricopa County Attorney Richard M. Romley has shamelessly promoted himself as "America's Unsung Hero" on this taxpayer-funded site: http://www.maricopa.gov/attorney/MCAOhome.asp. If you like, you can tell him what kind of "Hero" you think he is at:

http://www.maricopa.gov/feedback/feedback.asp.

Sincerely,
Tom Simmons simmons@camasnet.com

Bear one another's burdens . . .

GALATIANS 6:2 & PHILLIPIANS 2:4



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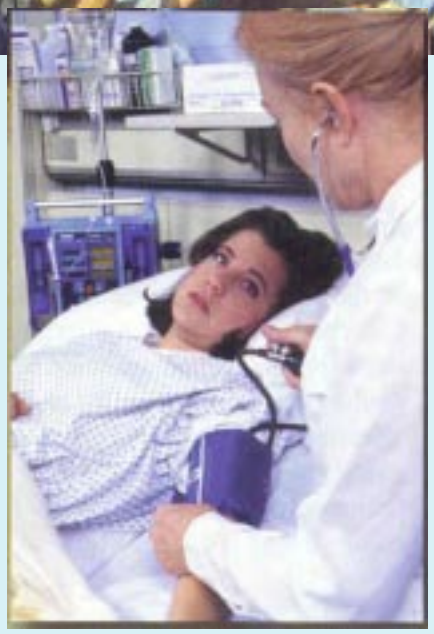

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Give Me Liberty Or Give Me Death

Patrick Henry, March 23, 1775

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that siren till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those who, having eyes, see not, and, having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst, and to provide for it.

I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging of the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years to justify those hopes with which gentlemen have been pleased to solace themselves and the House.

Is it that insidious smile with which our petition has been lately received?

Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with those warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort.

I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motive for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us; they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British ministry have been so long forging. And what have we to oppose to them?

Shall we try argument?

Sir, we have been trying that for the last ten years. Have we anything new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already

exhausted? Let us not, I beseech you, sir, deceive ourselves. Sir, we have done everything that could be done to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament.

Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne! In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained—*we must fight!* I repeat it, sir, *we must fight!*

An appeal to arms and to the God of hosts is all that is left us!

They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot?

Sir, we are not weak if we make a proper use of those means which the God of nature hath placed in our power. The millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us.

Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, *let it come*.

It is in vain, sir, to extenuate the matter. Gentlemen may cry, Peace, Peace—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, *give me liberty or give me death!*

Lord, that man could write.

Two hundred and twenty-seven years later, his words still mist my eyes. And not only his words, but moreso for his spirit.

Mr. Henry was a man who *deserved* to be free.

A Question of Values

by Alfred Adask

> "How we burned in the prison camps later thinking: What would things have been like if every police operative, when he went out at night to make an arrest, had been uncertain whether he would return alive? If during periods of mass arrests people had not simply sat there in their lairs, paling with terror at every bang of the downstairs door and at every step on the staircase, but had understood they had nothing to lose and had boldly set up in the downstairs hall an ambush of half a dozen people with axes, hammers, pokers, or whatever was at hand? The organs would very quickly have suffered a shortage of officers and, notwithstanding all of Stalin's thirst, the cursed machine would have ground to a halt."
>
> — Alexander Solzhenitsyn, Nobel Prize winner and author of *The Gulag Archipelago*, who spent eleven years in Soviet concentration camps.

So it was in the former Soviet Union. So it has always been. People are enslaved because they're *afraid* to fight for their rights. These timid people value their lives and their property more highly than their God-given Rights and are thereby degraded to a condition of servitude. This degradation is not merely an expression of historical truth, but also historical virtue. Those who will not *fight* for their God-given, unalienable Rights don't deserve those Rights and thus, *deserve* to be oppressed and enslaved.

In a speech delivered in 1775, just prior to the American Revolution, Patrick Henry wrote in part,

> Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, *give me liberty or give me death!*

Patrick Henry had a free man's system values. He understood that our God-given rights to liberty are far more valuable than even our lives.

And more, because he understood the source of those rights, he was not merely willing to fight, he was *compelled* to fight as service to God. A common battle cry during the American Revolution was "Resistance to tyranny is obedience to God." That's wasn't just flowery, 18th century rhetoric. It was—and is—a ancient truth. Insofar as Patrick Henry embraced that truth, he *deserved* to be free.

Unfortunately, today—perhaps always—the vast majority of people (if they answered truthfully) would concede that, for them, life *is* "so dear" and peace *is* "so sweet," that the "price of chains and slavery" is cheap if it buys one more day or evades one more battle. Most Americans value their lives and their peace far more than their unalienable Rights. Even more are simply afraid to fight. In both cases, such people are destined and perhaps even *deserving* of slavery.

Except for spirit and sacrifice of a handful of men like Patrick Henry—and the grace of God—some form of slavery would be the exclusive reality for most of human society. And, in fact, in one form or another, slavery is still the world's predominant social order. Think not? The average American pays at least 55% of his income as taxes to support local, state and federal government. Technically, that American may not be a full-blown "slave"—but he's certainly a subject, a serf and so far from being free that he can no longer imagine what freedom is. In other parts of the world, the bondage is even worse.

Except for a handful of men like Patrick Henry, Thomas Jefferson, and George Washington the very concept of freedom might be unknown across the face of the earth. The harsh truth is that those who want slavery and those willing to accept slavery are far more numerous than those who want, and are willing to fight for, Liberty.

But there is a silver lining: Even a tiny minority devoted to freedom can overcome the majority devoted to bondage—if that minority is struggling for the unalienable Rights granted by God. Why? Because those who willingly accept slavery do so, primarily, out of fear. They're afraid to fight. For them, life *is* so dear and peace *is* so sweet that, just as they won't fight for their freedom, they won't really fight for their masters either. Of course, they'll show up in their uniforms and parade down the street ostensibly prepared to do battle for their masters. But when the bullets start to fly, the serfs will hunker down in their foxholes and avoid every risk

possible to make sure they get out alive. Unable to believe in anything greater than their own lives, they are incapable of sacrificing their lives.

That leaves the world to men of courage. They are few and far between, but the world belongs to those few who are willing to fight and who value something more highly than their lives.

Not every courageous man is good. Some men of courage are gangsters and tyrants who value wealth, power and lust more highly than life or peace.

Nevertheless, there are common men of courage who value their rights more highly than their lives.

In fact, those willing to fight—both good and bad—are a tiny minority. Here in the USA, I'd say the people might be divided up into three groups: 5% "good guys" and 5% "bad guys" and 90% in the middle whose ignorance, indifference and fear will shield them from even knowing there's a battle going on.

If you're one of the few "good guys," you probably feel somewhat isolated and so out-numbered that the cause of freedom seems almost hopeless. You try to reach the 90% in the middle and tell them about the importance of freedom, but their eyes glaze over whenever you speak. They're not merely ignorant about freedom, they're indifferent. For them, the world consists of sex, new cars, beer and TV.

But you need to recognize that just because that 90% is indifferent to freedom, that doesn't mean they actively support oppression. The serfs might not fight for freedom, but they won't fight for their masters, either—and their masters know it. In the end, government knows it can only hope to keep the 90% pacified and docile, but it can never count on their loyalty.

Which means it's a fair fight. 5% "good guys" vs. 5% "bad guys" with 90% in the middle who won't help or hinder either side. We aren't out-numbered. We aren't even out-gunned. The only question is who wants it more? If the "bad guys" want bondage more than we want freedom, we'll lose. But if they're finally sick of bondage and we're faithful in the struggle for freedom, we'll win.

The outcome will depend on which side has the most courage, the least fear, the most faith. In the end, the bad guys can't both support bondage and have faith. They must be atheists or advocate some religion foreign to the Bible. But without real faith, they can't have courage. They may have power. Their power may be a tenuous substitute for their lack of faith. But without faith, they must be subject to fear and that makes them vulnerable.

Why? Because faith is the opposite of fear. The two are inversely proportional. To the extent you feel fear, your faith is weak. Insofar as you have faith, your courage is insurmountable.

Freedom flows from faith

Most people suppose "freedom" to be a *political* concept. They're wrong. Freedom is finally an attribute of faith. When enough people find real faith, freedom is inevitable. Conversely, in those times and countries where a separation of church and state is strictly enforced, bondage is the rule.

To make America free, we don't need better politicians, we need better preachers. To be free, we need to regain the *understanding* that "all men are created equal and endowed *by their Creator* with certain unalienable Rights." We need to rediscover that *God*—not man, not government—is the source of our Rights. We need to relearn that freedom and liberty aren't political terms, they're *blessings*. As such, they can be earned only by service to God.

An average American reading this article might conclude that I'm just another wacked-out "holy roller". Why? Because the average American has no clue to the spiritual foundation for freedom and our form of government. He is so far removed from that knowledge, that the idea seems absurd.

That sort of ignorance is common to any generation. Back in 1778, Thomas Paine warned Americans about false patriots who wave the flag on sunny days, but fail to uphold liberty in stormy weather:

> These are the times that try men's *souls*. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph.

Paine understood that the trials of freedom are essentially trials of each man's "soul". He understood that, despite all their flag-waving enthusiasm, the "sunshine patriots" lacked a spiritual foundation, a soul and system of values that would sustain them when their lives were at risk.

But if freedom depends more on faith than politics, why isn't that information reported regularly in our mainstream media? Why haven't our preachers and politicians extolled that relationship?

Why? Because we live in an age of bondage where our purported "masters" understand the key to our liberation is faith, and they therefore do their best to confuse, conceal or diminish our relationship to God.

What is real freedom? Freedom means being "free" and independent from the *arbitrary* rule of other men. A free man doesn't need relinquish ownership of his car to the state, pay 55% of his income as taxes or march off to a foreign war just because some official else says he should. Freedom means that the laws and regulations can only be imposed on the People with their consent. Remember the "Declaration of Independence"?

> That to secure these rights, Governments are instituted among Men deriving their just Powers from the *consent* of the governed.

And when would we give our consent? Only when government is trying to achieve through law and regulation a goal that's consistent with our fundamental values and moral sense of right and wrong.

And where will we find those values and moral understanding? In our faith in God. There is no other reliable source. All other sources of values vary from day to day, year to year and finally reflect questions of power. What is right today depends on who is in power. Likewise, when the currently powerful are displaced, what was right may be suddenly wrong.

But a system of values based on God's word hasn't fundamentally changed in 2,000 years. It's a systems of values that virtually everyone can understand and agree with. And what is the object of that system of values? Personal eternal salvation.

Thus, in the end, "freedom" means the right to serve God rather than man. It means the right to embrace and live by the spiritual values provided by God rather than the secular values provided by government. Why? To save your soul. At base, for at least 1700 years, the fundamental goal of western civilization has been each man's eternal salvation.

The average American—whose state has been effectively separated from his church—will find that assertion silly. As everyone knows, the real objective of western civilization is to see who can accumulate the most toys before he dies, right?

But for those who really believe in God, what objective could make more sense or be more important than your eternal salvation? In comparison to eternity, our mortal lives are short and important only insofar as they show us worthy for salvation. What does it matter if we suffer or die, so long as we show ourselves worthy?

Although it's hard for the average, secular American to believe, true freedom means the right to worship God and work for your own salvation without interference from man or government. Those who serve God are entitled to freedom. All others are obligated to serve government and be bound by the arbitrary will of man.

Reestablishing true freedom in the U.S.A. won't be easy. It will require a true spiritual revival moreso than a political revolution. This revival may take another decade or even several generations. And in the meantime, some of the "good guys" will pay a very serious price.

But what price is too great if your faith is real?

> Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery?

For those deserving freedom, the answer will always be No.

Hot Dignity!

by Alfred Adask

The second sentence of our "Declaration of Independence" expresses the central premise and cornerstone for America's "Republican Form of Government" and its corollary, individual freedom:

> 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.

In essence, that central premise is that we each receive our Rights directly from God. Those rights are "unalienable" because no mortal, group or government has lawful authority to arbitrarily deprive us of any Right or blessing given us by the ultimate authority—God.

The third sentence of that Declaration explains the primary purpose for government:

> That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Thus, our government's "prime directive" is to "secure these rights".

Which rights? The "unalienable Rights" referenced in the Declaration's previous (second) sentence. The fundamental business of government is not to secure *human* rights, or *individual* rights or *civil* rights. Our government is, first and foremost, mandated to secure the *unalienable* Rights given us by *God*.

According to that 1776 Declaration, we each hold these unalienable Rights as *individuals*. I hold my unalienable Rights as an intrinsic endowment given me by God as blessing at the moment of my creation. I hold my unalienable Rights as an inheritance; as an intrinsic endowment that is independent of any other man, government or society. You hold your un-

alienable Rights in exactly the same capacity—as an *individual*, independent of all other men, governments or societies.

However, with the adoption of the 14th Amendment in 1868 and the New Deal in 1933, America has been surreptitiously transformed into a "democracy".[1] We are so enamored by "democracy," that we send American soldiers around the world to fight to sustain or establish that form of government.

Nevertheless, our national penchant for "democracy" is curious since that word does not appear in our "Declaration of Independence," Federal Constitution or other foundation document. Instead, according to the Constitution's Article 4 Section 4,

> "The United States shall *guarantee* to every State in this Union a *Republican* Form of Government . . . ." [Emph. add.]

And virtually all Americans have taken the Pledge of Allegiance, "to the flag of the United States of America, and to the *republic* for which it stands." Hmph. Why do you suppose we pledge allegiance to a "republic" and fight wars overseas for a "democracy"? Seems odd. Even confusing.

Are "democracy" and a "Republican Form of Government" identical? If so, why don't we eliminate a little confusion by sending our soldiers overseas to fight for a "Republican Form of Government" (a political system expressly guaranteed in our Constitution) rather than "democracy" (a term our Constitution doesn't even mention)?

The truth is that democracy and the American Republics are not merely different, they're mutually exclusive. Each is anathema to the other. Although democracy is typically explained as the "universal right to vote" available to all men, all women, all blacks, all whites, etc., the essence of democracy is far more subtle, debilitating and dangerous. At bottom, our "Republican Form of Government" and democracy are as different as night and day, hot and cold, good and evil.

The two forms of government are deceptively similar in that We the People are the "sovereigns" in both the Republic and the democracy. However, the two forms are diametrically opposed in terms of the *capacity* in which "We the People" hold and wield sovereign power.

In the Republic, each of us holds the sovereign power (unalienable Rights) as *individuals*. In the democracy, the sovereign power is held by the people as a *collective*. As a result, in democracy, no individual holds any unalienable Rights. In a Republic, we are each "sovereigns" *over* government. In a democracy, we are each subjects *under* government.

For a classic insight into the nature of democracy consider an old joke:

> Democracy: two wolves and a sheep voting on what to eat for dinner.

But could the wolves vote to eat the sheep in a Republic? No.

Why? Because, in a Republic, the sheep would have the "unalienable Right" to Life.

The reason the wolves can vote to eat the sheep (or even other wolves) is that, in a democracy, no individual (including you, dear reader) has any "unalienable Right" to anything—including his own life.

It's *important* to grasp this concept: democracy *can't work* where the people have God-given, unalienable Rights. Democracy *must* deny the existence of unalienable Rights—and the God that gave them.

Why? Imagine 300 million Americans voting to arbitrarily take your house, your children or your life. Their vote is absolutely meaningless if you have an *unalienable* Right to your property, offspring or life. All the effort, paper and computers needed to count that vote are for *nothing* if you have the unalienable Rights. Why? Because no amount of mortal votes can arbitrarily deprive an individual of his God-given, unalienable Rights. Thus, democracy *can't work* if it admits the existence of unalienable Rights and the authority of the God that granted them. In democracy, the separation of church and state isn't optional, it's mandatory. Democracy is necessarily atheistic.

Moreover, like socialism and communism, democracy is a *collectivist* form of government—a system in which the *mass* of men allegedly holds sovereign power, but they do so as a *collective* rather than as *individuals*. As sovereign, the *collective* has the equivalent of "unalienable" rights, but each member within the collective has no meaningful rights whatever. Thus, democracy is absolutely contrary to the fundamental principle of American freedom: "all men are created equal" and each is *individually* "endowed by his Creator with certain unalienable Rights".

The fact that the American people embrace "democracy" is not only testimony to our vast "collective" ignorance; it's also evidence that a fantastic *coup d'etat* is taking place in which our Republican Form of Government (guaranteed by our Constitution) is being surreptitiously overthrown by a national democracy. Although as yet unfinished, this overthrow is particularly astonishing since not one man in 1,000 even suspects a revolution may be in progress.

Lust for power

The average American will dismiss the allegation of a democratic overthrow of our State Republics as absurd. After all, why would our own government engage in the treason of "overthrowing" our Republics to install an atheistic, collectivistic, national democracy?

One answer? Because in a Republic, government can't exercise unbridled power against the people. Their unalienable Rights shield each of them against unbridled government power. No matter how many wolves

vote, they can't eat even one sheep who has a God-given, unalienable Right to Life. Government can't even *shear* the "sheeple" without the "sheeple's" express consent. That's no way to run a dictatorship, is it?

However, in a democracy—where rights are held by the collective, but not by any individuals—and where government is presumed to speak on behalf of the collective—government can do virtually anything it wants. In a democracy, each "sheeple" has absolutely no legal defense against the wolves. Without individually-held "unalienable Rights," Americans are all just so much livestock destined to pull plows, give milk or be slaughtered for steak.

Government, motivated by the timeless urge to gain more power for itself, has sought to rule and oppress the American people by tricking them into accepting "democracy" as something good.

But it gets worse.

NWO

The forces of "globalism" are pushing for a single, worldwide government. The nature of that New World Order is a *democracy* which sounds pretty good, but in the end, leaves the "sheeple" without meaningful rights.

Proof? The United Nations is at the forefront of the push for a New World Order. In 1948, the U.N.'s General Assembly adopted its *Universal Declaration of Human Rights*. Article 21, Section 3 of that declaration reads,

> The *will of the people* shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage . . . . [Emph. add.]

They claim authority for the New World Order will be "the *will* of the people". (If they were honest, they'd admit that authority will be based in the *ignorance* of the people.) Clearly, that global authority will not be based—as per our own "Declaration of Independence"—on the "Laws of Nature and Nature's God". Thus, the NWO is based on principles of "humanism" and "atheism".

Article 29, Section 2 reads,

> In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a *democratic* society. [Emph. add.]

So, in what form of government will the NWO exercise that authority? In a "democratic society"—a *democracy*.

And what did Soviet Premier Stalin once tell us about democracy? "Those who cast the votes determine nothing; those who *count* the votes determine everything." Who will count the votes of the entire world in the NWO's democracy? The officials of the NWO. And who will guarantee that the worldwide vote tally is correct? The officials of the NWO. If Stalin was correct, the officials of the NWO democracy will effectively determine everything; the voters will determine nothing.

When you begin to understand democracy's disabilities, you have to wonder why any knowledgable person would prefer having *no* individual rights whatever under a democracy when he could have an almost unlimited list of God-given, unalienable Rights within a Republic

Answer? Only an ignoramus or a Satanist would knowingly support or advocate democracy.

Gimme dignity or gimme death

For more evidence of vast public ignorance, read the UN's *Universal Declaration of Human Rights*. You'll see that under that Declaration, the UN repeatedly guarantees each person's "dignity".

For example, in the Preamble, the UN refers to the "inherent *dignity*" of all members of the "human family" and the "*dignity* and worth of the human person". In Article 1, they declare that "All human beings are born free and equal in *dignity* and rights." Article 22 refers to "the economic, social and cultural rights indispensable for his *dignity* . . . ." And Article 23 promises each of us "an existence worthy of human dignity. . . ."

Dignity, dignity, dignity. The UN and our national democracy are very big on "dignity". Similarly, Black folks are very big on their "dignity".

Lord knows, the term "dignity" sounds great, but what does it mean?

In 1856, *Bouvier's Law Dictionary* defined "Dignities" as

> . . . Titles of *honor*. 2. They are considered as incorporeal hereditaments. 3. The *genius* of our government *forbids their admission into the republic*. [Emph. add.]

Bouvier defined "honor" as synonymous with "dignity":

> HONOR. High estimation. A testimony of high estimation. *Dignity*. Reputation. *Dignified* respect of character springing from probity, principle, or moral rectitude. . . . .
>
> 2. In England, when a peer of parliament is sitting judicially in that body, his pledge of honor is received instead of an oath; and in courts of equity, peers, peeresses, and lords of parliament, answer on their honor only.[2] But the courts of common law know no such distinction. It is needless to add, that as we are not encumbered by a *nobility*, there is *no such distinction in the United States,* all persons being *equal* in the eye of the law. [Emph. add.]

Bouvier's defined "Nobility" as:

> An order of men in several countries to whom *privileges* are granted *at the expense* of the rest of the people.
>
> 2. The constitution of the United States provides that no state shall "grant any title of nobility; and no person can become a citizen of the United States until he has renounced all titles of nobility." . . . . . [Emph. add.]

Thus, Bouvier made clear that in 1856, "dignities" (and its synonyms "honor" and "nobility") were prohibited by Article 1, Section 9, Clause 8 and Article 1, Section 10, Clause 1 of the Federal Constitution which forbid the Federal or State governments from granting "Titles of Nobility".

It's obvious that in 1856, there were virtually no "dignities" nor "dignitaries" in the "Republican Form of Government" mandated by Art. 4 Sect. 4 of the Constitution. Instead, all men were presumed equal in terms of possessing *identical* bundles of unalienable Rights—and—corresponding God-given duties. This doesn't mean that there were no mayors, congressmen or presidents who held positions of uncommon influence or power in a republic—it means that all of our "public servants" had no more unalienable Rights than average men, and none of them were exempt from the equal responsibilities and liabilities attached to all men. I.e., there were virtually no special *immunities* for government officials in our "Republican Form of Government".

Instead, "public servants" had *less* rights and *more* duties than the ordinary Citizen-sovereigns of the State-republics. Such is the essence of all "servitude" and "public service". Former President Grover Cleveland illustrated the public servant's disability when he retired from the White House and said he looked forward to leaving public service and regaining his rights as a "sovereign".

But times change. Sometimes, they change mysteriously. For example, in 1999, *Black's Law Dictionary* (7th ed.) defined "dignity" as:

> 1. The state of being noble; the state of being dignified. 2. An elevated title or position. 3. A person holding an elevated title; a dignitary. 4. A *right* to hold a *title of nobility*, which may be hereditary or for life.

Note that unlike *Bouvier's* definitions in 1856, *Black's* 1999 definition doesn't even hint that "dignities" (titles of nobility) are prohibited by the Constitution. It appears that the dignities (political inequalities) that were despised by our forefathers have gained a new respectability in both the U.N. and the U.S..

If dignity was forbidden in our original State-republics, it is now welcomed by the U.N. and our national democracy. Why? Because dignity empowers government officials and employees at public expense.

Dignity allows inequality

The key to understanding modern "dignities" and "dignitaries" is found in *Black's* fourth definition of dignity: "A *right* to hold a title of nobility."

Thus, the "dignity" advocated by the U.N. and our national democracy is the "equal right" to hold a "title of nobility". These titles of nobility are special, political privileges—like limited liability or exemption from enforcement of normal laws.

But just because we all have an "equal right" to *achieve* special privileges (dignities), doesn't mean all of us will do so. For example, all of us are equally entitled to grow up to be President and enjoy the modern "privileges and immunities" (dignities) attached to that office. But as a practical matter, only about 20 individuals per century will actually win that office and its attached "dignities". Hundreds of millions of other Americans will never share that "dignity".

The essential argument behind "equal dignity" is that since any of us *could* become President, it's OK for the President to wield privileges far greater than that of ordinary men. But note that these inordinate privileges don't merely mean the President has power to push the "red button" and launch a nuclear war. These unique privileges also allow Presidents to order the I.R.S. to harass their political adversaries or critics. These inordinate privileges allow Presidents to safely carry on affairs with interns young enough to be their daughters.

The resulting injustices take place because everyone close to the President winks and agrees that his "dignity" allows him to abuse his powers of office and break the law. In democracy, everyone implicitly accepts the notion once expressed by President Nixon that, "If the President does it, that means it's legal." With enough "dignity," you are above the law.

Under the guise of "dignity," democracy allows for *inequality* in individual rights and powers. In *Animal Farm*, George Orwell wrote that, "All animals are created equal, but some animals are more equal". Orwell's notion of "more equal" (privileged) corresponds exactly to the concept of "dignity". Thus, "dignity" denies the fundamental republican mandate for political equality and instead allows political inequalities of privilege.

Let's get dignified and "be somebody"

Why can this inequality take place? Because 1) the average member of the democratic collective has *no* rights, and 2) those who work for government have *some* apparent "rights" (actually, "dignities"). Therefore, the majority of people sense that government work may be a key to success in life. Without government status (dignity) you are nobody; but *with* government status you can be "somebody".

For example, can *you* kick in a door or roust a punk? Not as an ordinary citizen-subject. But if you get a badge, you'll enjoy the "dignity" of being able to bully defenseless members of the collective and almost never be held accountable for your abuse. Can *you* arbitrarily jail anyone who offends you? You can if you're elected to be a judge or prosecutor who enjoy the "dignity" of being able to indict or incarcerate a "ham sandwich".

Result? More and more people want to work for government and enjoy the enhanced privileges that are inevitably conferred by "dignity". Alternatively, fewer and fewer want to work in the collective to produce actual products.

Remember Bouvier's 1856 definition "Nobility"?

> An order of men in several countries to whom privileges are granted *at the expense* of the rest of the people.

That's exactly what happened to the Soviet Union. The "dignified" Soviet bureaucrats produced virtually nothing but consumed almost everything "at the expense" of the Soviet people. Eventually, the "dignitaries" consumed so much, the impoverished people stopped working ("they pretend to pay us, we pretend to work"), and the mighty Soviet Union slipped deeper into poverty until it finally collapsed. Essentially, the USSR was bankrupted by the high cost of "dignities" (political inequalities).

In any society (including ours), those few who achieve "nobility" ("dignity") will eat better, live better, drive a newer car and squire more attractive women than those who remain "undignified". More importantly, those who do not achieve "dignity" will pay for the privileges of those who do. Ultimately, you and I will pay for President Clinton's prostitutes. Our families will live in poverty so our "dignitaries" can live in palaces. We will collect $15,000 a year in Social Security retirement while our Congressmen collect $150,000.

Any government that advocates "dignity" implicitly advocates servitude, slavery, general poverty and social collapse. A return to "dignity" in the U.N. or the U.S. is a return to the feudal system of government that was overthrown by the American Revolution.

Political inequalities

According to Article 4, Section 2, Clause 1 of the Federal Constitution:

> The Citizens of each State shall be entitled to *all* the Privileges and Immunities of Citizens in the several States. [Emph. add.]

This clause doesn't guarantee that the Citizens of one State (Georgia, for example) will necessarily enjoy all the "privileges and immunities" granted to Citizens within another State (like Texas). For example, just because Texas passed a "privilege" allowing its Citizens to forgo paying State income tax, doesn't mean that Citizens of Georgia are also free to stop paying State income tax. Nor does this Clause prevent a State (like Georgia) from granting special "privileges and immunities" to its State Citizens that are not likewise available to Citizens within other States like Texas. Thus, the privileges and immunities within one State-republic can be greater (or less) than the privileges within another State-republic.

However, while this clause *allows* unequal "privileges and immunities" among the several States, it guarantees that (as per the *Slaughter House* cases of 1873) all such privileges and immunities shall be *equal* among all people *within* a particular State-republic.

In other words, if Georgia gives a special privilege or immunity to it's Citizens, any Citizen of Texas, California, Nebraska, etc., will automatically enjoy the same privilege or immunity whenever they are *within the boundaries* of the Georgia. Thus, there are no "dignities" (unequal privileges and immunities) *within* a particular State-republic. Georgia can't pass a special privilege that's reserved only for Georgia Citizens that can be used to exploit anyone residing in Georgia who is not a Georgia State Citizen. Such political inequality constitutes a "dignity".

The guarantee of political equality for everyone is the essence of a republican form of government. In a republic, what's good for the goose is guaranteed to all ganders.

Democratic inequality

Unlike a republic, democracy allows for "dignities" (political inequalities). Democracy thereby allows some people (mostly government officials, the wealthy and celebrities) to achieve elite levels of "special" privileges which are virtually unavailable to ordinary citizen-subjects.

The foundation for our transition from several State-republics into a single national democracy is found in the 14th Amendment:

> 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 the reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . .

The first sentence establishes a new class of national citizenship and declares those citizens to be "subjects" of the national (singular) "United States". As a sovereign, Congress can legally provide any "privileges or immunities" it likes for its new "citizens".

The second sentence prohibited any of the existing States from passing any law to abridge, diminish or deny the "privileges or immunities" granted by Congress to its "citizens of the United States". This prohibition created a contradiction that a republican form of government cannot survive. That contradiction is the presence of political inequality (dignities) within a State-republic.

Remember, under Art. 4, Sect. 2, Cl. 1 of the Federal Constitution, Citizens of one State (Texas, for example) visiting another State (Georgia, perhaps) are entitled to the same "privileges and immunities" that Georgia grants its own State Citizens. Thus, within each State-republic, everyone (even Citizens from other States) enjoys the same privileges and immunities as are granted to native State Citizens.

Likewise, within a particular State (Georgia, again), you enjoy only those "privileges and immunities" afforded to all State Citizens of Georgia. This means that even if Texas allows its Citizens the privilege of not paying State income tax, that privilege would not attach to Texans working in Georgia. If you're working within Georgia and Georgia requires a State income tax for its Citizens, guess what? You must also pay, even if you're a Citizen of Texas.

But under the 14th Amendment, it's possible for Congress to legislate new privileges for "citizens of the United States" which must be honored within a State-republic like Georgia—even if that privilege is not otherwise available to Citizens of that State. Thus, it's possible for "citizens of the United States" to have *more* privileges and immunities within Georgia than Georgia's own State Citizens. Such political inequality constitutes a "dignity" that is anathema to republican political equality.

For example, "citizens of the United States" (the national democracy) are entitled by Congress to receive Social Security benefits. However, the same benefits are not available to State Citizen-sovereigns of Georgia (or Texas, California, etc.). Thus, citizen-subjects of the national democracy are eligible to get "something for nothing" that the Citizen-sovereign of a State-republic can't receive.

This doesn't mean that people who are Citizens of Georgia (or Texas or California) can't receive Social Security benefits. It merely means that people in Georgia, etc. may receive Social Security only so long as they act in the *capacity* (legal personality) of a "citizen of the United States".

Over time, Congress has made so many "benefits" (privileges and immunities) available to its 14th Amendment citizen-subjects, that people have increasing opted to act in the capacity of "citizens of the United States" rather than State Citizens. Tempted by the promise of "benefits" and "something for nothing," Americans greedily abandoned their stature as State Citizens (with standing to claim unalienable Rights) to assume the capacity of citizen-subjects of the national democracy and lay hold of the national government's benefits, grants and subsidies.

Could the State-republics match the lure of national benefits? Not a chance. The States can't print paper money; the national government can. As a result, the national government could provide an almost unlimited supply of financial benefits to 14th Amendment citizen-subjects that the State-republics couldn't hope to match. Unable to resist the temptation of "easy money," the Citizen-sovereigns of the States "emigrated" into the status of 14th Amendment citizen-subjects. To gain a pottage of Federal Reserve Notes, we traded our birthright to the status of sovereigns to once again become "subjects". What a bunch of clowns, hmm?[3]

As Americans merrily took the bait of national "benefits," we essentially depopulated our State-republics. After all, who wants to be State Citizen of Georgia, when you can enjoy the privilege of "free money" as a "citizen of the United States"? Over time, the State-republics became the political equivalent of ghost towns. Those State-republics are still there, but virtually everyone's left town to "move into" the national democracy.

Not every privilege is an advantage

Realistically, there's no reason to suppose that every "privilege" or "immunity" granted to a 14th Amendment citizen-subject is necessarily empowering. In fact, it's far more common for Congress to grant a "privilege" to its 14th Amendment citizen-subjects which includes hidden obligations that are actually greater and more costly than whatever "benefit" may derived from the alleged "privilege". The "benefit," privilege and dignity is just bait.

For example, through Social Security, Congress has provided the "privilege" of receiving financial support when you retire or become unable to support yourself. Sounds like a great privilege—where do I sign up?

But what Congress doesn't bother to explain is that if the average worker invests the same amount of money in stocks and bonds that he contributes to Social Security during his productive years, that worker might retire with a $1 million or more in the bank, and an annual income (at 5% interest per annum) of $50,000 per year rather than $15,000 from Social Security—and still have the $1 million principal to leave as legacy to his heirs.

Thus, the "privilege" of old age support is offset by the *duty* of throwing so much money down a virtual rat hole during your productive years that you will spend your "golden years" in near poverty and have no financial legacy for your kids.

And can any State pass a law "abridging" the "privilege or immunity" of throwing your money down the Social Security rat hole for forty-five years? Nope—not according to the 14th Amendment ("No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;"). In other words, the 14th Amendment's "privileges and immunities" clause strips the State-republics of their former sovereign power to protect their State Citizens against political inequality, arbitrary laws, and abuse committed by the Federales and justified as a "privilege or immunity".

Thus, under the guise of dignities (unequal privileges), the national government can seduce (or even compel) the American people into accepting levels of inequality ("dignity") and resultant servitude that were absolutely unimaginable to the Founders and completely contrary to the fundamental principle of all Republics: individual equality for all.

Special interest legislation

The national government routinely uses dignities (special privileges) to engage in "social engineering". For example, suppose Congress passed a family law bill that would provide special protections or welfare for 14th Amendment women, but not for 14th Amendment men. What if Congress passed a special interest law exempting airline corporations from paying some portion of their income taxes in the wake of the 9/11 attack on the World Trade Center—but retained the same tax rates for other corporations and individuals? What if Congress passed a hate crime bill to benefit specially "protected classes" like Blacks, women, or homosexuals—but made no similar provision to protect White males? What if Congress declared that all Federal judges or United States prosecutors to be immune from State prosecution for some State crimes?

Aren't all of these examples of "special interest" laws? And don't "special interest laws," by definition, provided certain privileges to a choice few (the special interest group) that are not provided for everyone? Thus, aren't special interest laws examples of the "dignities" that are prohibited in a "Republican Form of Government"?

The mere presence (let alone prevalence) of "special interest" legislation that provides "privileges and immunities" to only a "chosen few" violates the fundamental republican principle: equal rights and responsibili-

ties for *all* who are within the particular republic. As such, special interest legislation is good evidence that we live in a democracy where "dignities" and "titles of nobility" (expressly forbidden by the body of the Federal Constitution) are now authorized under the 14th Amendment.

But if a State-republic were offended by the presence anti-republican political inequalities within its borders, what could the State do? Not much. As per the second sentence of the 14th Amendment ("No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States"), the States of the Union are prohibited from passing laws which abridge or diminish the national government's grant of *unequal* privileges of immunities.

If a republic is, by definition, a system of government based on universal political equality, and if the 14th Amendment allows the federales to "insert" political inequalities into a State, then it follows that the post-14th Amendment "states" that can't ensure political equality within their borders can't remain as true republics. As the original republics dissolve in national dignities, what remains for the state political systems except to evolve into democracies or some other form of collectivism?

Again, The 14th Amendment appears to be the foundation for dignities, political inequalities between individuals and thus, our modern "democracy".

No free lunch . . .?!

Based on our habitual conduct (applications for the benefits, privileges and immunities of the 14th Amendment and national democracy), the courts and government presume us to be—and to prefer—the status of "citizen of the United States". Based on that presumption, government treats us accordingly—as national *subjects* rather than State sovereigns.

Generally, this treatment works pretty well, until we discover that there are unexpected and onerous duties attached to receipt of "free" national benefits, privileges and immunities. For example, paying Social Security and income tax are two of the most obvious duties that attach to citizen-subjects of national democracy.

The problem arises when we discover that by virtue of accepting the privileges and immunities of the national democracy, we compromise our claim on the unalienable Rights afforded to State Citizens. In essence, government says that because you've applied for a Social Security account, you are obligated to make Social Security "contributions" and/or pay income tax. We sometimes try to deny those obligations by claiming we have a 5th Amendment unalienable Right against self-incrimination that negates any duty to file a 1040 and/or that the 16th Amendment was never lawfully ratified.

We are quickly shocked and dismayed when the government ignores the Constitution and our claims of unalienable Rights.

How can this outrage happen in the "Land of the Free"?

Easy. It happens because not one American in five suspects there might be adverse consequences (duties) attached to accepting "some-

thing for nothing" (government benefits, privileges and dignities). It happens because not one American in one hundred even imagines that there's an enormous difference between State Citizens and "citizens of the United States". It happens because not one American in 10,000 even dreams that there's a terrible difference between our State Republics and our national democracy.

Oppression happens for the same reason it's happened for thousands of years. It happens because "we be dumb"—or, as God warned repeatedly in the Bible, "My people perish for lack of knowledge."

Givin' the devil his due

And you've got to give the government its due. Is it really sensible to guarantee "unalienable Rights" to people who are too ignorant to spell the words, let alone understand the concept? Are people who believe in "something for nothing" really worthy of the freedom that flows from unalienable Rights? Are such people capable of exercising such freedom responsibly? Or, is securing "unalienable Rights" to such misfits the political equivalent of giving loaded guns to kids?

I know several intelligent men who believe the harsh reality is that the vast majority of Americans are unfit to be free. They believe Americans are too self-serving, opportunistic, irresponsible and most of all—ignorant—to be trusted with the blessings and responsibilities of freedom.

This widespread incapacity does not excuse government oppression since the primary reason "we be dumb" (and, apparently, unfit for freedom) is that government ensures our educations are incomplete.

Even so, here we are: a nation of political dumb-dumbs who seem unworthy of the blessing of freedom. Given our widespread ignorance, we seem forced to concede that depriving virtually all Americans of their unalienable Rights is reasonable, just and even necessary. If so, it follows that restoration of our unalienable Rights can be achieved only after several generations of legitimate education wherein the majority of American people are gradually "elevated" to a capacity once more fit for freedom.

The argument for a "gradual" restoration of freedom may be valid but, for now, I find it unacceptable. First, I want to see freedom restored in America *now*. I want to taste the pleasures and responsibilities of owning my own car or home—in this life—before I die or I'm too old to care. I want

to see unalienable Rights restored so my children can build their lives on the blessings of freedom.

More importantly, I see the idea of a "gradual" restoration of freedom as an immediate defeat by default to the New World Order and forces of global tyranny. If we don't snatch freedom back *now*, while freedom is still dimly recalled and before the NWO is really in power, when shall we see such opportunity again? Does anyone really believe that, once established, the NWO will ever tolerate a political movement to resurrect unalienable Rights and individual freedom?

But most importantly, if the "Declaration of Independence" is correct and "All men are created equal" and "endowed *by their Creator* with certain unalienable Rights," then freedom is not simply a political question—it's a *spiritual* question. If God truly endowed each of us—even the ignorant—with "unalienable Rights," how dare we support the idea that most of us are currently unfit for freedom? Is our "collective" wisdom greater than God's?

The blessing of unalienable Rights is in many regards identical to the blessing of life itself. We all know people who make us wonder what God was thinking about when He gave life to those obnoxious, idiotic and irresponsible fools. But if God is real, it's clear that He *did* give life to those cretins, and that being so, who are we to deprive them of that blessing? Likewise, if God gave unalienable Rights to "all men," who are we to argue that any man is unfit for that blessing?

Sink or swim?

Is today's average American unfit for freedom? Maybe. Was the average American more fit for freedom in 1776? Insofar as they were more devout, the answer is Yes.

But is today's American truly much less able to embrace freedom than were the colonists of 1776? While we are currently ignorant of the details of freedom, the people of 1776 had never even heard of such blessings. Today, we may be dumb, but at least we know that freedom did exist and is therefore possible.

In 1776, there'd never been such freedom as was proposed by our "Declaration of Independence". The idea that *all* ordinary men need not be subjects but could instead be treated like *sovereigns* was not merely shocking, it was absurd, even hilarious. But history proves that such freedom was not only possible, it was hugely beneficial and actually *worked* phenomenally well for at least a century.

In 1776, the majority of American colonists didn't support the American Revolution. As a result of the Revolution's unexpected victory, disinterested Americans were simply thrown into freedom much like parents sometimes throw their kids into the water to teach them to "sink or swim". In 1776, thrown suddenly into freedom, Americans didn't just swim, the frolicked.

I believe that Americans are just as capable of "swimming" in freedom today as they were in 1776. Would the initial plunge be scary? Probably. But it's not as if we'd be tossed into the water all alone. We'd be immersed (some might say, "baptized") in freedom with millions of others. And I suspect that a

few of us would quickly adapt to freedom and the rest would quickly learn to emulate their example.

In the end, the essence of freedom isn't the "license" (dignity) of democracy to do whatever we want—it's personal responsibility. To be free means being personally liable for whatever you choose to do. You don't need to be a philosopher to be free. You needn't be a genius or even well-educated. All you need to know is that if you screw up, you'll be held accountable. No immunity. No limited liability, no insurance to shield you from the consequences of your own foolishness.

For example, if, as a free man, you choose to drive drunk and kill someone, you will pay. Not your insurance company—*you*. In fact, you may be forced to support the victims of your actions fully and perhaps for the balance of your life.

I guarantee that only a few examples of that kind of personal responsibility are necessary to teach everyone to be free (personally responsible)—even the most ignorant. Similar examples of penalties suffered by fools who didn't conduct themselves responsibly would quickly teach the essence of freedom to even the least intelligent.

Freedom is not an isolated condition that only applies to individuals as if they lived alone on a mountain top. Freedom is a *system of values* and resultant *relationships*. Insofar as I embrace the values of freedom and "act" free, I subtly force those around me to also embrace those values and likewise live free. If you want to *relate* to a free man, you must do so on his terms, according to his values. In most instances, you must embrace freedom (and it corollary, personal responsibility) to relate to free people.

Those few publications (including this one) that deal with "freedom" tend to make the concept overly complex and esoteric. But freedom is really pretty simple. It's just a question of everyone being equally and personally responsible for his own acts.

But that sounds too simple, doesn't it? If that's all that's necessary, how could we ever have lost our "freedoms"?

Well, there's a unstated question implied in the idea that freedom simply means equal personal responsibility: Responsible to whom?

Answer: A free man is ultimately responsible to God. (If your freedom is based on unalienable Rights and God is the source those Rights, who else could you be responsible to?)

But in a democracy or any other form of tyranny, the powers that be want you responsible to them, not God. They want you responsible to the bankers and government officials and state church. They want to separate the true church of God from the State and thereby deprive all of their

citizens of direct access to God. Like I said, freedom is not just a political question; it's a spiritual question.

From this perspective, freedom (like servitude) is not a fact so much as a *spiritual* choice, and that choice is contagious. A few "carriers" who choose to embrace the values of freedom (or servitude) can infect large populations with that blessing (or disability). Freedom is a "matrix," a society within which people relate based on the principles of unalienable Rights, individual sovereignty, political equality and personal responsibility to God. There is no "dignity" (political inequality) in a free society.

However, in a democracy, servitude is common since the society accepts a system of values that denies the existence of both unalienable Rights and God, and celebrates unequal privileges and sovereignty of the collective. In a democracy, "dignity" (political inequality) is rampant.

So the next time some fool extols the dignity of democracy, throw a creme pie in his face. He shouldn't mind. He's probably be used to it. After all, only clowns demand their dignity.

1 This transition was more fully explained in Suspicions, Volume 11 No. 3, "World Marches to Democracy".

2 Their pledge was based on their "honor" rather than an oath of office to God. Do you suppose that calling an American judge "honorable" or "You Honor," signals that the judge sits in *equity*. Is it possible that (as in England) when an American judge sits in equity, he decides cases based solely on his "honor" and is therefore not bound by his Oath of Office?!

3 The 14th Amendment's potential inequalities (dignities) among classes of citizenship could also extend to individual Americans. For example, could all State Citizens be obligated to pay their debts with lawful money (gold or silver) while the "privilege" of "discharging" our debts with mere legal tender (paper money) be afforded only to 14th Amendment "citizen of the United States"? If so, mere use of Federal Reserve Notes (legal tender) might create the presumption that you're acting in the "legal personality" of a 14th Amendment citizen-subject.

I've seen several court cases that implicitly support this conjecture . For example, in declaratory judgments, plaintiffs can successfully compel courts to grant the enforcement of their *rights* against government agencies—*if* they sue for rights *alone*. However, when plaintiffs sue gov-co to *both* enforce their rights *and* collect "money" (actually, "legal tender" denominated by the "dollar sign" having just one vertical lien: "$"), the case is routinely dismissed leaving the plaintiff with neither rights nor legal tender. Apparently, a plaintiff's claim of damages denominated as legal tender ($) may compromise his demand for rights.

I suspect the use of legal tender (or suit intended to collect damages denominated in legal tender) is a "privilege or immunity" afforded only to 14th Amendment citizen-subjects—but not to State Citizen-sovereigns. If so, State Citizens are not only sovereigns over government but obligated to pay their debts and conduct their affairs in lawful money (denominated by the "dollar sign" with with *two* vertical lines: $). If so, the mere use of legal tender (Federal Reserve Notes) may signal that you are "conducting" yourself as a 14th Amendment citizen rather than a State Citizen-sovereign. Consistent with that "conduct," you will be treated as a rightless 14th Amendment subject or beneficiary.

Invisible Snares

by Alfred Adask

As background for the following articles in this issue on "constructive trusts," note that I've explored the idea that government uses trusts to bypass the Constitution for about five years. I'm not going to try to republish all of insights and opinions I've previously presented on this subject. If I did, I'd have to fill up this whole issue of *Suspicions* without adding anything new. However, I will provide a brief summary of my earlier "Trust Fever" series of articles:

The essence of all trusts is *divided title* to property. To illustrate, let's suppose a man owns perfect title (also known as "lawful," "complete," or "full" title) to a home and decides to create a trust to shelter that home. He first grants or donates the "perfect" title to his home into the trust. The home thus becomes trust property (also known as the trust "corpus").

The grantor then divides his "perfect" title to the home into its two sub-components: *legal* title and *equitable* title. Each "sub-title" contains a different set of rights. Legal title includes the rights of actual control and disposal of trust property. Equitable title includes the right of possession and use of trust property.

The difference between legal and equitable titles is similar to the difference in rights between a landlord and a tenant. The landlord owns the house and has legal right of control and disposal (sale) of the house. The tenant has the equitable right to live in, use, and "possess" the house. Although the tenant lives in the house, he has no legal right to tear down walls, or sell the property.

When an individual has "perfect" title to his house, he has both the legal right of ownership and the equitable right of use. He has the right to both control (own) and live in (use) his house. However, when he creates

a trust, he appoints one or more trustees to hold the legal title to his home, and he appoints one or more beneficiaries to actually live on the property. The trustees effectively manage the home; the beneficiaries get to live in the home.

It's a hard and fast rule that the trustees can't enjoy the benefits of the trust property, nor can beneficiaries exercise any real control (ownership) over trust property. Whenever a single individual holds both the legal title and equitable title to a trust property, the "sub-titles" are once again unified into a single "perfect" title, the trust is said to be "executed" and ceases to exist.

Trusts offer a number of advantages. First, trusts can provide for beneficiaries who are too incompetent to provide for themselves. For example, a wealthy father can create a trust that includes money or property that's to be used exclusively for the benefit of his minor children. As beneficiaries, his children will get to use the father's property (a house, perhaps) or receive the profits from a business or investment—but they don't own legal title to the house or business and thus can't foolishly sell that property. The right of sale and actual control of the trust property is left to the trustees. The advantage of this system is that if the father dies when the children are young and foolish, he needn't worry about his kids selling the house for $1,000 to buy a new electric guitar or some drugs.

A second, and perhaps more important advantage of trusts, is that they provide *limited legal liability* for trust property and/or trust members.

For example, suppose the kids who are beneficiaries of the mansion left by their wealthy father, get drunk, and cause an automobile accident in which several people are killed or injured. The survivors and heirs of the victims may see the kids' multi-million-dollar home and sue to gain ownership of that property. But if the mansion is held in trust, their lawsuit will be unsuccessful. As beneficiaries, the kids get to use the mansion, but they don't own it. As a result, you can no more sue the beneficiaries for the property they use, than you can sue the owner of an apartment complex when one of his tenants causes an automobile accident on the street.

Shielded by a network of trusts, it's entirely possible to live like a king and never have personal assets of more that $500 to your name. Sure, people can still sue you. They can even win massive judgments against you. But insofar as you lack legal title to property, you "own" nothing, and therefore there's nothing that can be taken from you. As a result, you can be virtually litigation proof. Essentially, no one will waste money paying lawyers to sue a beneficiary who has no more personal assets than a homeless bum.

A few years ago, a former governor of a south-western state retired from public office into a life of wealth and leisure. He promoted and personally guaranteed an investment scheme which failed. Based on his personal guarantee and presumed personal wealth, he was ultimately sued by his investors for the millions of dollars they'd lost. On receipt of the suit, the former governor's lawyers replied that everything their client had was in trust, his personal net worth was trivial, and they would therefore not even bother to defend against the investors' suit.

Even though the former governor lived like a king in a mansion, his assets were all held in trust, he was a legal pauper and therefore beyond the reach of lawsuit. If the investors wanted to waste even more of their money paying their lawyers to sue the former governor, they were free to do so, but they'd never collect a dime. Result? The former governor stayed in his mansion and the investors' suit was dropped. You can't squeeze blood out of a turnip—or a legitimate trust.

A third advantage is that trusts can be extremely *secretive*. The man who places his mansion in trust for the benefit of his children has no obligation to inform the state or his neighbors of the creation of that trust. Your trust might only become public knowledge if it were entangled in a lawsuit.

Although there are "statutory trusts" which are sanctioned by the state and created according to state-approved rules, there is no requirement that trusts be "statutory". You can create a private trust right now, in privacy of your own home, without informing anyone except the trustee you appoint to manage the trust. Unlike corporations, which must be registered with the state, trusts can be established without public or governmental knowledge or approval.

Despite their several advantages—much like the "Force" in the *Star Wars* movies—trusts also have a "dark side". For example, if government creates a trust (like Social Security) and tempts you to accept its "benefits," it can thereafter treat you as a "beneficiary" of a that trust. While being a beneficiary may have certain advantages (limited liability, secrecy) in private relationships, being a beneficiary of a governmental trust can create serious political and legal disabilities: beneficiaries implicitly surrender any claim to legal and/or unalienable Rights with respect to trust property.

The problem with beneficiaries is that they have *no legal rights* within the context of the trust. The reason for this disability is that—according to *Bouvier's Law Dictionary* (1856)—*all rights flow from title*. For example, the reason you can drive your car, but you can't drive mine is that you have a *title* to your car but you have *no title* to mine. Your right to live in your home or apartment

ultimately flows from a *title* to that property. Even if you don't personally hold a title to that house or apartment, you are ultimately renting from someone who does.

But it's not only true that your *rights* to property flow from your *title* to a property; it's true that the *kind* of rights your receive depend on the *kind* of title you hold. Virtually everyone assumes that there is only one kind of title: the "perfect" or "complete" title that a grantor must possess to create a trust.

That assumption is wrong. Remember how the essential feature of a trust is *division* of perfect title into it's two "sub-titles"—legal and equitable? With legal title, trustees receive one bundle of rights (ownership, control, disposal). With equitable title, beneficiaries receive a different bundle of rights (possession and use). These bundles are mutually exclusive. By definition, being a trustee means you can have no equitable rights in trust property. Likewise, beneficiaries, by definition, have no legal rights to trust property.

This distinction between "kinds" of title becomes particularly important when a beneficiary goes to court as a plaintiff. Although the plaintiff-beneficiary may suppose his case will be heard in a court of *law*, he'll be wrong. The only purpose for a court of *law* is to determine *legal* rights. It follows that if you don't have *legal* title to the subject matter of a lawsuit, you can't have legal rights to that subject matter, and therefore, you have *no standing at law*. Unless you have legal title to the subject matter of a case, there is nothing for a court of *law* to decide.

As a result, beneficiaries can't invoke a court of law (which only decides legal rights) when they litigate. Instead, beneficiaries but must always invoke a court of *equity* wherein the judge rules strictly according to his own alleged "conscience". In equity, the judge is unbound by law and the litigants are virtually helpless to resist almost any decision the judge wishes to impose. If the judge doesn't like the color of your eyes, your political bias or your religious beliefs, he can rule against you. Beneficiaries have virtually no rights or recourse to defend themselves against judicial bias or even overt oppression. Beneficiaries are always at the mercy of the court.

Thus, from government's point of view, degrading a Citizen to the status of beneficiary essentially empowers government to treat the beneficiary as a *subject*. As subjects, we are obligated to accept without question or constitutional defense virtually any regulation the government wishes to impose.

In other instances, government also tricks us into accepting the role of "trustee" relative to governmental or private trusts. If we unwittingly accept that status of trustee, government can impose a virtually unlimited list of "fiduciary duties" (like paying income tax) upon us. In the capacity of trustee, we must accept whatever burdens and obligations are placed upon us by the trust indenture (rules of the trust)—even if those duties are seemingly unconstitutional.

Although you can't be both trustee and beneficiary of the same trust, you can simultaneously be a trustee of one trust and a beneficiary of another. As a result, government will sometimes treat us as beneficiaries; sometimes as trustees. In either case, our claim on unalienable Rights is

compromised or implicitly denied. This denial is particularly frustrating, mysterious, and seemingly inexplicable because not one man in 10,000 could even imagine that the government might surreptitiously impose these trust relationships and legal personalities on us without our express knowledge. But through these unexpected trust relationships, the government and courts can "secretly" bypass the Constitution and deprive us of our unalienable Rights based on the presumption that we "understood" and voluntarily agreed to surrender those Rights when we became beneficiaries.

At first, the idea that government could use trusts to bypass the Constitution and deprive us of rights or subject us to unexpected duties sounds absurd. But trusts have several major attributes that make this kind of covert oppression possible.

First, anyone—including government—can create a trust without expressly using the words "trust," "trustee," "grant," "grantor," "benefit," "beneficiary" or any other term that is normally associated with trusts. Regardless of words used (and even when no words are used), it is incumbent on every person to recognize their role in a trust by recognizing the nature of their *relationship* to another person or trust property.

I doubt that one person in one hundred can even understand what I just wrote. Worse, I doubt that one person in 10,000 can recognize a "trust relationship" whenever he happens to participate in one.

For example, suppose you borrow my pen. Insofar as I *expect* you to return my pen, we have just entered into an unstated trust relationship wherein I am the beneficiary (the one who trusts you will return my pen) and you are the trustee (the one who temporarily controls the pen). Even though neither of us used the words "trust," "benefit" etc.—even though you did not expressly agree to return my pen, I am *trusting* that you will return my pen, you are trusted with control of my pen, and therefore, we have a "simple" (unexpressed) trust relationship.

Creating trust relationships can be just that simple. As a result, it's easy for government to entangle folks in trust relationships (and thereby compromise whatever rights they might normally expect to have) without folks having any idea of what's happening.

Further, few people realize that whenever the word "Application" is used by an governmental agency, it typically means "Application *for Benefits*". For example, when you fill out an "Application" for a drivers license, Social Security Card, or bank account, you are probably applying for a "benefit" to be provided by a governmental trust. You can't normally receive a "benefit" without being a "beneficiary"—and "beneficiaries" have no legal rights. Thus, by voluntarily filling out an "application" you may unwittingly forfeit your claim to any legal rights or standing at law relative to the trust property.

If you'd like to see an express trust agreement, read a software license from Microsoft or any other major software provider. The "license" identifies you as the "End-*user*". Anytime you see the word "use" or "user" beware of the possible presence of a trust relationship. In the case of software, Microsoft makes it clear that you don't own the software product—you merely get to *use* it on one computer. But at all times real ownership of the product remains with Microsoft; they own legal title to the software. Your "license" merely gives you an equitable title (or interest) to *use* their software.

If you don't like your limited rights as a beneficiary, your only option is to return the software (trust property). Otherwise, by continuing to "use" the software (accepting the *benefit*) you have virtually no legal rights against Microsoft. If the software crashes your computer, destroys the data base that runs yours business, or causes you accounting software to add a zero to the amount of money your computer sends by check to each of your creditors—tough. As a beneficiary you have almost no recourse at law against the grantor, trust or trustee.

Thus, even without any express indication that your "application" can bind you to a trust relationship, a trust relationship and resulting diminished status can be impressed on your life. When you filled out the "application," you probably thought you'd receive some *free* "benefits". Silly you. What you didn't know (and they had no obligation to disclose) was that you'd pay for that beneficial "pottage" with the surrender of your unalienable Rights. If you should ever lodge a complaint against the trust or trustees, the courts will silently presume that: 1) *you recognized* the trust relationship when you "applied" to become a beneficiary, and 2) you knowingly and *voluntarily* surrendered your unalienable and legal rights when you applied to become beneficiary.

Based on those silent presumptions, you will lose your case. Insofar as the average person can't even imagine that they could be seduced into surrendering their unalienable Rights by filling out a mere "Application," they will never raise an effective defense in court against the imposition of duties (or loss of rights) under an unseen governmental trust.

Do you see the potential power? Even though trusts are virtually invisible to 98% of Americans; even though we have no training in trusts during our grade school, high school or college education—we are expected to *"see"* trust relationships whenever we encounter them. If we fail to see those trust relationships, we will still be bound by their invisible chains.

But if you can't "see" those invisible chains, how can you complain about them to the court? If you don't expressly complain about those chains, the court will leave them in place (around your neck). Thus, through trusts, you can be effectively enslaved without even knowing how that enslavement occurred.

Second, unlike contractual relationships, there's no requirement for "full disclosure" when you create a trust and designate someone to be a beneficiary. The best illustration of this attribute is the fact that I can create a trust and designate my six-year old daughter as beneficiary. There is no requirement that I "fully disclose" the terms of the trust to my beneficiary.

Why? Because, as a beneficiary, she is presumed incompetent and unable to understand the operation of a trust. Similar presumptions allow government to impose trusts on adult "beneficiaries" who are also deemed "incompetent" to understand the relevant trust privileges and duties. There is no more need to fully disclose trust rules and regulations to adult beneficiaries than there is to fully disclose trust rules and regulations to children.

Similarly, government can create a trust and designate you as a beneficiary of that trust without expressly informing you of that fact. As a result, whenever you relate to property of that governmental trust, you will have no legal rights and will be treated as a mere beneficiary in a court of equity.

Insofar as we are presumed to have accepted appointment as trustees, we can also be bound by rules which have never been expressly explained to us and even by arbitrary rules that, ordinarily, would be exceed the constitutional limits of government's delegated powers. For example, under the Constitution, government has no authority to penalize a man who has not damaged another person's body or property. However, if that person enters into a trust relationship with government, government can absolutely regulate and even punish that man's acts whenever they violate arbitrary *trust rules*—even if no other person or person's property has been damaged.

In sum, trusts can be created and imposed without express words, without full (or any) disclosure, and without our express knowledge (in secret). As a result, trusts can be used as invisible snares to trap all of us into relationships and roles which compromise our rights as Citizens, reduce us to the status of subjects, and impose unwanted duties. And insofar as we are totally unaware of trusts and their strange powers, they are virtually invisible to us, and thus virtually impossible for the vast majority of Americans to resist or escape.

At Arm's Length

by Alfred Adask

Is there a device able to ward off unseen and unwanted trusts? A magic amulet to wear around our necks to keep us safe from the "boogy-trust"?

Probably not. If there is a way to effectively ward off disabling trusts, it will probably depend on having sufficient personal knowledge of trusts to recognize, avoid or at least expressly protest each relationship with a governmental trust as they're encountered.

Even so, there is a term defined in several editions of *Black's Law Dictionary* which seems to ward off constructive trusts much like garlic wards off vampires: "**at arm's length**". The term is defined in *Black's* 1st Edition (1891) and 4th Edition (1968) as:

> "Beyond the reach of personal influence or control. Parties are said to deal 'at arm's length' when each stands upon the strict letter of his rights, and conducts the business in a formal manner, *without trusting* to the other's fairness or integrity, and *without being subject* to the other's control or overmastering influence." [Emph. add.]

The classic definition of "beneficiary" is "one who trusts". Therefore, if one acts only "at arm's length," he would seem to do so "without trusting" and, thus, couldn't be a beneficiary.[1]

Black's 7th Edition (1999) does not define the term "**at arm's length**". Instead, it defines "**arm's-length**" as an adjective that means:

> "Of or relating to dealings between two parties who are *not related* or not on close terms and who are presumed to have roughly equal bargaining power; not involving a *confidential relationship* <an arm's-length transaction does not create *fiduciary duties* between the parties>. [Emph. add.]

The concepts of "confidential relationship" and "fiduciary duties" are normally essential to trust relationships. Because these concepts are denied by the definitions of "at arm's length" (*Black's* 1st and 4th), and "arm's-length" (*Black's* 7th), both terms seem to implicitly deny the existence trust relationships.[2]

Black's 7th defines "fiduciary relationships" as:

> A relationship in which one person is under a duty to act for the benefit of the other on matters within the scope of the relationship. Fiduciary relationships—such as trustee-beneficiary, guardian-ward, agent-principal, and attorney-client—require the *highest* duty of care. Fiduciary relationships usu. arise in one of four situations: (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act for or give advice to another on matters falling within the scope of the relationship, or (4) when there is a specific relationship that has traditionally been recognized as involving fiduciary duties, as with a lawyer and client or a stockbroker and a customer.—Also term fiduciary relation; confidential relationship. [emph. add.]

There's a lot to be derived from that definition, but I want to explore just two elements:

First, "fiduciary relationships" are not confined to the beneficiary-trustee relationships of trusts. Instead, fiduciary relationships also include guardian-ward, agent-principal, attorney-client and possibly other unnamed relationships. (Could these un-named fiducial relationship include husband-wife, parent-child, employer-employee, business-customer, doctor-patient and teacher-student?)

This multitude fiduciary relationships seem governed by principles largely indistinguishable from those governing trusts. I strongly suspect that most of these relationships—although they carry alternative designations—may be varieties of trusts.

Second, *Black's* definition of "fiduciary relationships" uses the words "relation" and "relationship" eight times. That emphasis on "relationships" may seem unremarkable, but as you'll read in the article "Legal Personality" (this issue), "relationships" may be far more important than most of us have so far imagined.

For example, I'm beginning to wonder if our invisible, external "relationships" may have a legal existence of their own that's separate and apart from our individual existence. We know that the names "Alfred Adask"

and "ALFRED N. ADASK" signify two different legal entities. "Alfred" is a natural man and creation of God; "ALFRED" is an artificial entity presumably created by government. But what *kind* of artificial entity is "ALFRED"? Is it a trust? A corporation? Both answers have been advanced; so far, neither has proven satisfactory.

Is it possible that all upper-case names like "ALFRED" identify a "relationship" rather than a unique and isolated artificial entity? In other words, if "Alfred Adask" identifies a natural man who exists as a unique, independent individual without reference, relationship or dependence on any other person or government—is "ALFRED N. ADASK" an "artificial person" (legal personality?) that exists only *in relation* to others?

Does the artificial entity "ALFRED" exist only in the imaginary "space" *between* two persons ("Alfred" and "Wendy") who had what was *construed* to be a fiduciary "relationship". If so, the identify of "ALFRED" might be diagrammed something like this:

Alfred <---------- **ALFRED** ----------> Wendy
(natural man) (**artificial entity**) (natural woman)

This notion is more complex than the diagram suggests, but as you'll read in a later article ("Legal Personalities"), the idea might not be as half-baked as it first seems. If "ALFRED" is a legal personality that exists only in the "space" between two persons having a "fiduciary relationship," it would imply that "ALFRED" can't "exist" if the fiduciary relationship between "Alfred" and "Wendy" were denied. In other words, if Alfred and Wendy entered into their mutual transactions "at arms length," there'd be no "relationship" between them, and ALFRED might not exist. Given that virtually all of our lawsuits are denominated in ALFRED's name, the non-existence of that entity might cause the courts some inconvenience.

I'm even starting to wonder if a "relationship" might not be the primary *subject-matter* of most lawsuits in equity.

Is it possible that the plaintiff isn't the subject matter, the defendant isn't the subject matter; what one or the other party did or didn't do isn't really the subject matter. Is it possible that, at bottom, the real subject matter of most suits in equity is a *presumed* "trust relationship" between the plaintiff and the defendant?

This may be an important avenue of investigation since "subject matter jurisdiction" is so critical to court jurisdiction that it can be challenged at *any* time—even long *after* a case has been decided. So, if a court's "subject matter jurisdiction" were based on an unstated but *presumed* trust relationship between the plaintiff and defendant, and if the defendant were able to expressly deny the existence of that *presumed* trust relationship, then it might be argued that the court *lacked subject matter jurisdiction* and it's verdict was therefore void.

The idea that presumed (construed) trust relationships may provide the subject matter jurisdiction for many of our court cases is a longshot. It's probably wrong. But if it were true, the implications would be enormous: virtually every case decided in a court of equity might be challenged (even years after the decision) for lack of subject matter jurisdiction. That possibility, no matter how remote, makes me giggle. (Actually, it makes me laugh. . . . No, no—it makes me *roar* with laughter.)

Remember, as pointed out in the previous articles on trusts in this issue, trust relationships can be "construed" (created out of thin air) by the courts to achieve jurisdiction over unsuspecting defendants. Given that the resulting "constructive trusts" are legal fictions, they are virtually invisible to both unsuspecting litigants. But if you learned to "see" constructive trusts, the court's system of "invisible snares" (trust relationships) might be more easily challenged and denied. And if there's no trust relationship between a plaintiff and defendant, what basis remains for a court's jurisdiction in equity?

So how can we use "at arm's length" or "arm's-length" to shield ourselves from the obligations imposed by constructive trusts? I'm not sure.

Perhaps we could post public notices in a newspaper declaring that, unless we expressly declare otherwise, in order to preserve all of our unalienable Rights, all of our transactions will be conducted strictly "at arm's length". Alternatively, we might add an "at arm's length" disclaimer over each of our signatures or as codicils to all of our contracts to notify all others that we won't enter into an implied or presumed trust relationships.

If we can devise an effective strategy to conduct all of our transac-

tions at "arm's length," we may be able to blunt or even eliminate the jurisdiction of courts of equity. And if they can't get at us in equity, that may leave only courts of law—and I don't think the courts want to deal with our divorces, traffic fines and tax squabbles at law.

Why? Because courts of law determine just one thing: legal rights. Legal rights flow from legal title, and in our brave new democracy, we have virtually no legal titles, no legal rights, and thus no standing at law. As a result, without an underlying presumed trust relationship, most lawsuits might tend to "disappear".

[1] (If "at arm's length" serves notice that you won't act in the capacity of a "subject," it also seems to provide another shield against non-constitutional governmental authority.)

[2] However, the two definitions may differ in this regard: "at arm's length" seems to deny one's status as a *beneficiary* (one who trusts), but "arm's-length" seems to deny one's status as a *trustee* (one who is trusted with "fiduciary duties"). I'm not convinced this distinction is real or important. However, the possibility remains that we might need to choose between the terms, depending on whether we wanted to refute our status as a beneficiary or a as trustee in any presumed trust relationship.

Plaintiff-beneficiaries vs. Defendant-trustees?

by Alfred Adask

Every two weeks, I host a legal reform meetings here in Dallas. At a recent meeting, I was exploring the meaning of "at arm's length" when all the sudden I began to realize something new about the way our courts work. If that realization is (roughly) correct, it could be important; perhaps even exciting.

What follows is, for the most part, a reply I sent by email to one of the people at the meeting, Terry Farmer. He'd expressed his appreciation for learning about "at arm's length," but I countered that I was more excited about the new "insight" we'd stumbled onto at the meeting.

Dear Terry,

The "at arms length" concept seems important, but it was small stuff compared to the insight gained during the meeting on the operation of the courts. What we did last night—by beginning to see how the plaintiff may be *assumed* be the *beneficiary* of a *assumed* trust relationship with his defendant—and how that assumption inevitably opens the door for the judge to construe a constructive trust—may be a big step forward in understanding the "system". If that insight wasn't particularly clear to people attending our meeting, it was a revelation for me.

If that insight is correct, I can now imagine that "adhesion contracts" and "quasi-contracts" etc., aren't "contracts" at all (there's usually no lawful consideration). Instead, those terms were merely used to mask the fundamental *assumption* on which the courts act—that those documents or other conduct by the parties are evidence that a *trust relationship* had been created between the parties. Based on that *assumed* trust relation-

ship, the unsuspecting plaintiff is *assumed* to act in the legal personality of a beneficiary and the unwitting defendant is *assumed* to appear in the capacity of a trustee. Although the court assumes the plaintiff and defendant *know* they're involved in a trust relationship, that assumption is never expressed to either litigant. As a result, without the knowledge, understanding or intention of either party, the courts will assumptively (secretly) resolve their issue *as if* it were an alleged violation of trust law—even though no such trust relationship did, in fact, exist.

This hypothesis doesn't explain everything that happens in court. For example, criminal cases are probably not based on trust relationships (but *penal* cases may be).

Nevertheless, in *civil* cases between "private" parties, I'm increasingly confident that, in most instances, the court silently makes a series of assumptions:

1) The first "great assumption" is that the plaintiff and defendant had previously entered into a "implied" (not express) trust relationship;

2) Based on the assumed trust relationship, the court assumes it has jurisdiction in *equity*;

3) The plaintiff appears in the court of equity as the assumed "beneficiary" of the implied trust relationship and unwittingly implies that the defendant holds the position of "trustee";

4) The court of equity assumes in personam jurisdiction over the defendant based on the defendant's assumed status as trustee in the implied trust relationship; and,

5) The plaintiff-beneficiary is assumed to be complaining that the defendant-trustee has somehow breached his fiduciary obligations as trustee in their implied trust relationship.

Note that every one of these assumptions is false.

In essence, I'm wondering if our civil courts of equity operate primarily through the imposition of *constructive trusts* upon unwitting litigants. I.e., without either litigant's knowledge, the courts *assume* both litigants have previously entered into "implied" (unexpressed) trust relationships. What's the basis of this assumed trust relationship? Perhaps a debt in credit or an implied promise of performance.[1]

Based on the *assumption* that the parties had voluntarily entered into a trust relationship, the court *construes* the plaintiff's complaint to allege that: 1) the defendant-trustee *promised* to perform (or refrain from performing) some act, provide some service, or pay some money on behalf of the plaintiff-beneficiary; 2) the plaintiff-beneficiary "trusted," relied on and "expected"[2] the defendant-trustee to perform as promised; but 3) the defendant-trustee violated his fiduciary duties by failing to perform as he had originally (and implicitly) "promised" and/or received a benefit which (under trust law) can only be conferred on a beneficiary. (Trustees receiving trust benefits are condemned for having received "unjust enrichment".)

The court then issues a court order which may serve as an express *trust indenture* to clarify the interests and duties of both parties to the former "implied" (unexpressed) trust relationship. The plaintiff-beneficiary's trusting "expectations" are either confirmed, modified or denied; the

trustee's alleged fiduciary obligations are likewise clarified and specified. The court's "order" will compel the defendant to perform whatever fiduciary obligations the court finds were "intended" by the parties when they first entered into their "implied" trust relationship. Any "unjust enrichment" received by the trustee-defendant will be ordered to be "disgorged" and returned to the beneficiary-plaintiff or perhaps some other third-party beneficiary.

Admittedly, this seems to be a pretty "far out" hypothesis. It is so foreign to almost everyone's understanding of our civil court system, that it's almost certainly mistaken. Even if I'm roughly correct, I've undoubtedly made some serious oversights or errors.

But even if it's just roughly correct, it's a blockbuster.

As a defendant, how can you stop a case against you based on an implied "trust relationship"? If my "constructive trust" theory is roughly correct, I can imagine several possible strategies.

First, you might argue that the court's "great assumption"—that there was a trust relationship between you (the alleged defendant/trustee) and the plaintiff-beneficiary)—was false. E.g., you might argue that the relationship was always conducted "at arms length" and therefore no trust was created. Alternatively, you might argue that a payment in real money (gold or silver coin) was included in the transaction—or that the alleged debt was paid in full, the trust had therefore been "executed" and no trust relationship remained for the judge to "construe".

If there's no trust relationship, there's probably no basis for hearing the case in *equity*. The plaintiff (by acting as a "beneficiary" attempts to invoke the court in equity rather than at law) has implicitly conceded that he has no *legal* rights relative to the controversy with the plaintiff. If he had legal rights, he should've proceeded at law .

So if the plaintiff has no legal right relative to the controversy with the plaintiff, he can't invoke a court of law. And if there's no trust relationship for the plaintiff to base a claim in equity, how can the plaintiff sue?

Second, you might concede that *a* trust relationship did, in fact, exist

between you (the alleged defendant-trustee) and the plaintiff, but it was a *intended* to be a *different* trust relationship (possibly biblical) from the secular trust relationship the court attempted to construe. If the judge misconstrued your original but unexpressed intentions, he would've "construed" the wrong trust, therefore his resultant court order (express trust indenture) might be a nullity.

For example, suppose you're tangled up in a divorce or custody battle and your spouse appears in court as the beneficiary/plaintiff and you are the assumed defendant/trustee. The judge will want to rule "in the best interests" of the child according to a secular trust relationship based on Birth Certificates, Social Security Accounts, and your Marriage License. But what would happen if you defended yourself claiming that the only trust you were aware of or knowingly entered was a "trust in God" wherein the terms of the marriage, divorce, child custody, and support would be spelled in *your* "trust indenture"—the Bible? Thus, despite the secular "hooks" of Marriage License, Birth Certificate and social Security Accounts, you might be able to mount a strong defense based on your 1st Amendment Right of Freedom of Religion.

Of course, you'd probably have to refute, revoke or otherwise compromise the legal impact of the various secular "hooks". For example, when the court prepared to decide the case "in the best interests" of your alleged child "MARYANN B. DOE" (an artificial entity) you might argue that you're a natural man and not parent to any alleged "child" who was, in fact, an artificial entity. Instead, you might claim that your only daughter is the flesh-and-blood offspring named "Maryann Doe" (a gift from God), and therefore your only "trust relationship" with that child is expressly described in the faith (trust indenture) called the "Bible".

Third, you might argue that although a trust relationship did in fact exist between you and the plaintiff, the plaintiff-beneficiary was in breach of that trust relationship and therefore lacked the "clean hands" required to invoke a court of equity.

A classic illustration of the "clean hands" doctrine is seen in the story of Jesus telling a crowd bent on stoning a sinful woman to death that "He who is without sin, cast the first stone." Since everyone in the crowd was also guilty of sin, they lacked the "clean hands" required to act against their fellow sinner.

Today, the "clean hands" doctrine simply says that a plaintiff may not ask for equity if he hasn't given equity. In other words, you can't invoke a court of equity to force your neighbor to return the lawn mower he borrowed, if you are equally guilty of first refusing to return the neighbor's power saw which you borrowed.

So far as I know, the issue of "clean hands" is irrelevant at *law*. If you invoke a court of law (not equity) and produce your legal title to the lawn mower, the court of law will compel your neighbor to return your lawn mower even if you are simultaneously guilty of refusing to return the neighbor's power saw, VCR and family car. If the neighbor wants his property back, he can produce legal title to the missing property and invoke a court of law, or (lacking legal title) he can invoke the court in equity—that's his

choice and his problem. But if you have *legal title* to the lawn mower, a court of *law* will force the neighbor to return it—no if's, and's or but's.

I'm intrigued by the application of the "clean hands" doctrince in modern family law (which appears to be litigated exclusively in equity). I.e., the plaintiff who initiates a divorce is arguably at fault for attempting to destroy what was supposed to be a til-death-do-us-part relationship. By filing for divorce, the *plaintiff* intentionally breaks his oath to God, violates the marriage covenant, ignores his spouse's "expectations," and damages the other spouse, their children, and even society. These violations would seem to be prima facie evidence that the *plaintiff* lacks the requisite "clean hands" to initiate a divorce in equity. Therefore, the plaintiff should ordinarily be forced to accept the painful and humiliating duty to, instead, file for divorce at *law*—where it will be necessary to *prove* that other spouse is the "bad guy" in no uncertain terms.

But what if the plaintiff is the "bad guy"? What if the plaintiff's real reason for divorce is not "irreconcilable differences" but rather that he wants to run off to Florida with his secretary? Conventional divorce law (not equity) would not allow the errant plaintiff to divorce his innocent spouse unless the spouse *agreed* to "give him" a divorce. Plaintiffs might have to "pay through the nose" to get that "agreement". Moreover, it might be almost impossible to secure a divorce agreement at law from a spouse who 1) was innocent of any wrong-doing (adultery); and 2) wanted to maintain the marriage no matter how unpleasant that marriage might be.

Historically, virtually all divorces were probably conducted only *at law* where the plaintiff had to *prove* the defendant-spouse had violated the marriage covenant—usually, by committing adultery. Adultery was not only hard to prove, it was messy and destructive of personal lives and reputations.

Today, I doubt that any divorces are conducted at law. Instead, modern divorces appear to be conducted in *equity*—even though the plaintiff lacks the "clean hands" required to invoke equity jurisdiction.

How can I explain the apparent contradiction?

No-fault divorce.

Under this "new-and-improved" legal formula, your guilt as a plaintiff and your spouse's innocence as a defendant are irrelevant. It doesn't matter whether your spouse is a sinner or a saint. If you're tired of the marriage, you can bail out. Anyone who's hot to run off to Florida with a new boyfriend, girlfriend, whatever, is free to trot.

It occurs to me that the requirement for "clean hands" to invoke a court of equity might explain why family law underwent "no-fault" divorce revolution in the 1950s and 1960s. Prior to "no fault," your personal unhappiness with your spouse was insufficient reason to sanctify a divorce. If you wanted a divorce you had to *prove* at *law* that your spouse had seriously violated the marriage covenant. To prove your spouse had violated the marriage covenant, you'd have to produce evidence in a public forum that was incredibly damning for your spouse and inevitably humiliating for yourself and even your children. (Do you *really* want to publicize all the juicy details that surround your spouse's sixteen affairs with members of both sexes since you were married four years ago? Prob'ly not.) There-

fore, divorce lawyers justified "no fault" divorce as a means to avoid the often shocking public revelations and brutal confrontations that had previously characterized divorce in courts of *law*.

However, I suspect real reason behind the "no fault" assumption may have been to nullify the issue of "clean hands". Despite divorce lawyers' claims to the contrary, I suspect the "no fault" assumption was not intended to spare plaintiffs the cost and unpleasantness of proving "fault" on the part of their defendant-trustee spouses. Instead, the "no fault" assumption may have applied equally (even primarily) to the *plaintiff-beneficiary* and thereby allowed the plaintiff to proceed (invoke the court of equity) on the *assumption* that the *plaintiff* (not the defendant) had "no fault" and therefore had "clean hands" required to initiate the divorce in equity.

In other words, the "no fault" assumption doesn't ignore the *defendant's* marital transgressions, it ignores the *plaintiff's*. (After all, it's the plaintiff who violates the til-death-do-we-part trust relationship by filing for a divorce.) So, if the *plaintiff* is assumed to be "no fault," she can initiate a divorce *in equity* (where proof is largely irrelevant), violate her vow to God, damage her spouse, children and society and—thanks to the maternal assumption—secure a divorce primarily for personal gain.[3]

It's all wrong, of course, but thanks to the "no fault" assumption, and constructive trusts, issues of actual right and wrong have become irrelevant in divorce court.

Fourth, even if a implied trust relationship between plaintiff and defendant is admitted, it might be terminated without judicial action. Insofar as the two parties could create the trust relationship without the government's knowledge or official sanction, it follows that the parties could also terminate that trust relationship without government intervention. As a defendant, you might officially and publicly resign as trustee before the case is heard. We see possible evidence of that strategy in public notices which read something to the effect that "I, John Doe, am no longer responsible for the debts of Jane Doe." That public disclaimer would seem to terminate any express or assumed trust relationship that had previously existed between Mr. Doe (assumed trustee) and his former wife (beneficiary).

Fifth—less likely, but remotely possible—suppose the original "implied" (unexpressed) trust relationship between the plaintiff and defendant is successfully construed into a constructive trust and results in a court-order (express trust indenture). The defendant-trustee might still be able to simply decline (or resign from) his "appointment" as an "official" trustee who is obligated to administer the constructive trust.

After all, according to the 13th Amendment, "Neither slavery nor *involuntary servitude* . . . shall exist within the United States or any place subject to their jurisdiction." Serving as a trustee appears to be a form of unpaid "servitude" to the beneficiaries or the trust, or both. It therefore seems unreasonable and unconstitutional to force a man to serve as a trustee against his will. If you volunteer to be a trustee, fine. But "no involuntary servitude" should mean that if you refuse to volunteer, you can't be forced to serve as trustee.

I'm only guessing, but I suspect the court assumes that each defendant "volunteered" to be a trustee when he allegedly entered into the implied trust relationship with the plaintiff-beneficiary. If so, technically, the court isn't "forcing" the defendant to serve as a trustee. Instead, the court is merely 1) clarifying the fiduciary obligations (issuing a court order) that defendant implicitly accepted when he "voluntarily" entered into trust relationship with the plaintiff; and 2) forcing the defedant to perform those agreed obligations.

Of course, given that you never *knowingly* entered into a trust relationship or *knowingly* agreed to serve as a trustee, the court's "great assumption" is a complete fiction and sham. As a defendant, you're being treated like a trustee without ever being expressly informed of the nature of your assumed status.

Assuming this process is actually employed by our courts, it is diabolically clever. After all, what defendant would think to complain about "involuntary servitude" as a trustee, if he don't even know he was *assumed* to be a trustee in a trust that, in fact, *doesn't even exist* . . . ?

If this deception really takes place, then the trick would be to "un-volunteer" from your position as trustee. This "un-volunteering" might be achieved by placing the *plaintiff* (as well as the court) on some sort of official notice that 1) you never intended or agreed to enter into an trust relationship; 2) you never voluntarily agreed to serve as a trustee for the plaintiff-beneficiary; or 3) even if you did, you now officially resign from that role as trustee. If that notice were provided by affidavit or publication in local newspapers, I wonder how the court would subsequently "construe" you into the role of trustee. I won't say the court can't entrap defendants almost permanently in the role of trustee, but to do so publicly and expressly would inevitably "let the cat out of the bag" and therefore probably be avoided by most judges.

If this "constructive trust" hypothesis is valid, the operation of our entire system of civil law would be threatened by public *understanding* that our courts routinely function through the imposition of trust relationships which are *assumed*, but do not, in fact, exist. After all, if valid, this hypothesis is largely based on the fact that the public doesn't have a

clue and is blind to the presence or danger of "invisible" trust relationships. But—if the public began to recognize this "trick"—the whole system of civil procedure might have to be revised.

Why? Because the system *depends* on public ignorance. If my hypothesis is correct, the system *can't work* on defendants who are bright enough to understand trusts and trust relationships. Such people will reject the court's "great assumption" that an implied trust relationship exists between the plaintiff and defendant. Without that assumption, court of equity may not have jurisdiction to proceed.

Possible applications this notion are springing up so fast in my mind, that I've either made a very important perceptual breakthrough or finally slipped far 'round the bend. Although there's a lot more to be discovered, refined and understood, I believe the understanding that plaintiffs may routinely appear in the role of beneficiary and defendants appear in the role of trustee may be a major insight.

For example, suppose I'm correct and modern family law is primarily based on the assumption that the parties—rather than being married in the classic, spiritual sense—had merely entered into a godless, secular trust relationship based on a ritual that merely masqueraded as a true marriage (contract) in the traditional church. Suppose the children born under this trust relationship were (under the doctrine of *parens patriae*) assumed to be the property of the state, and the putative "parents" occupied positions of mere trustees (servants; baby-sitters) relative to "their" children. Then, in the aftermath of the divorce, the court might rule "in the best interests of" the children-beneficiaries, that one spouse-trustees (typically, Mom) had custody and the other spouse-trustee (typically, Dad) would be "fired" from seeing his children but nevertheless remain responsible for paying child support.

This analysis implies that there are two trust relationships in such divorces. First, the plaintiff (usually Mom) appears as a beneficiary relative to the defendant-trustee (usually Dad). The court "adjusts" their implied trust relationship and seemingly dissolves their "marriage". Then, the court adjudicates a second trust relationship in which the children are assumed to be beneficiaries and *both* parents are assumed to appear as trustees (relative to the kids). Now, the court adjusts the duties of the two parent-trustees—typically by giving custody to the Mom-trustee and the duty of paying bills to the Dad-trustee.

But what would happen if the Dad-trustee were able to revoke, renounce or decline his "appointment" as trustee for the children? What if Dad would only agree to be a "father" of his own natural children (as defined and empowered by the Bible) but refused to act as a trustee to oversee the welfare of children which the *government* claims to "own" un-

der the doctrine of "parens patriae"? Dad's refusal could be based on both 1st Amendment freedom of religion and the 13th Amendment's prohibition against "involuntary servitude". Could the court compel him to involuntarily accept the duties of a secular trustee in violation of his religious faith? Could the court compel a non-trustee to pay child support for a child which the state claims to "own" under the doctrine of "parens patriae"? If the state owns the kids, if the state is the presumptive "father," then let the state support them.

What if the alleged Dad-trustee were able to challenge the court's "great assumption" that a secular trust had been created by the marriage ceremony and that, instead, his marriage was a true, *spiritual* marriage under God rather than mere state-licensed cohabitation? And what if the alleged Dad-trustee were therefore able to prove that his relationship to his former wife and/or flesh-and-blood children was not based on the secular trust that the court "construed" when it imposed child support? If the court "construed" the wrong trust, the resulting court order (express trust indenture) might have to be void.[4]

Finally, if my hypothesis seems too incredible to be believed, read the definition of "fiduciary" in *Black's Law Dictionary* (7th ed.). That definition includes the following description of one of modern applications of that term to *constructive trusts*:

"Fiduciary is a vague term, and it has been pressed into service for a number of ends . . . . My view is that the term 'fiduciary'

> is so vague that plaintiffs have been able to claim that fiduciary obligations have been breached when in fact the particular defendant was not a fiduciary *stricto sensu* but simply had withheld property from the plaintiff in an unconscionable manner." D.W.M Waters, *The Constructive Trust* 4 (1964)

Here, we see strong evidence that at least some lawsuits have been interpreted by courts of equity as being based on the existence of *fiduciary relationships* between the plaintiff and defendant which—"*stricto senso*"—did not ever exist. Jurisdiction over the defendant was knowingly achieved by means of a assumed "fiction"—a lie.

This false assumption seem to attach without the knowledge of either the plaintiff (beneficiary) or defendant (trustee). Child-like, the litigants proceed *as if* they were in a court of law wherein they had some legal rights or constitutional defenses. Neither side understands that the court is actually deciding their case *in equity* based on assumptions and principles which are completely "invisible" to both litigants.

It's undeniable that courts of equity achieve jurisdiction over *some* plaintiffs and defendants through the application of assumed "fiduciary/trust relationships" and resultant "constructive trusts". This procedure is demonstrated and confirmed in *Snepp vs. United States* (444 U.S. 507). In that 1980 case, the U.S. government (actually the C.I.A.) *expressly* claimed to be a "beneficiary" of a constructive trust with a former C.I.A. employee (Snepp). Under this assumed constructive trust, the U.S. Supreme Court agreed that the C.I.A. could compel the former agent (defendant) to "disgorge" money he'd earned selling a book about the C.I.A..

The *Snepp* case is particularly interesting because the C.I.A. admitted that its former employee Snepp had signed a *contract* when he entered the C.I.A. in 1968 that he wouldn't write a book about the C.I.A. without the C.I.A.'s approval, and signed *another contract* to the same effect when he left the C.I.A. in 1976. Despite the existence of two apparently valid *contracts*, the C.I.A. instead chose to sue Snepp based on the *assumption* that Snepp and the C.I.A. had also entered into a "implied" (unexpressed) trust relationship in which the C.I.A. occupied the role of beneficiary and Snepp was assumed to be trustee. As beneficiary, the C.I.A. claimed it was entitled to the profits of that trust relationship (the money Snepp had earned from selling his book about the C.I.A.) because Snepp (the assumed trustee) violated trust law by retaining the book profits (unjust enrichment) that rightfully belonged to the beneficiary.

The U.S. Supreme Court agreed with the C.I.A. and held:

> "A former employee of the Central Intelligence Agency, who had *agreed* not to divulge classified information without authorization and not to publish any information relating to the Agency without prepublication clearance, breached a *fiduciary obligation* when he published a book about certain Agency activities without submitting his manuscript for prepublication review. The proceeds of his breach are impressed with a *constructive trust* for the *benefit* of the Government."

The *Snepp vs. U.S.* case proves that (at least on some occasions) the courts have imposed the fiction of constructive trusts to compel performance by defendants.

However, the *Snepp* case does not answer one critical question: *How often* do the courts employ the "great assumption" of fiduciary relationships to gain jurisdiction over defendants? Almost never? Occasionally? Frequently? Or almost always?

I don't know. But I'm finding increasing support for the conclusion that *most*, perhaps *all*, of our civil lawsuits are based on assumed "trust relationships" and "promises" rather than actual, isolated acts or individual rights.

If so, courts of equity are gaining jurisdiction over defendants—not according to what an individual defendant did or didn't do, per se—but according to what the plaintiff "expected" the defendant to do. These "great expectations" are based on the defendant's unexpressed and, arguably, *unintended* "promises".

I suspect that the claims of plaintiff-beneficiaries are being interpreted as without legal foundation (beneficiaries have no legal rights) but still necessary to resolve—somewhat like the wailing of a spoiled child crying that his playmate did something "unfair". In a sense, the "parent-judge" simply acts to pacify the little brat-plaintiff by making the defendant give him the ball or the bicycle or whatever toy the "kiddies" are arguing about. When the defendant says "But, judge, that's *my* ball!"—the judge, like any other over-stressed parent, essentially shrieks "*Just do it!*"

But the entire process could only work if both litigants (especially the defendant) are assumed to be without unalienable Rights. We already know (or at least speculate) that the plaintiff is assumed to be a beneficiary and is thus without legal rights. But that plaintiff-beneficiary's "expectations" could only be enforced against the defendant if the defendant were also assumed to appear in a legal personality based on a trust relationship which leaves him without meaningful rights—rather than as a "man" who is "created equal and endowed by [his] Creator with certain unalienable Rights" which he sought to preserve by acting "at arm's length" in all his dealings with the plaintiff. The show could not go on, unless the defendant were assumed to appear in a capacity that affords him no claim of unalienable Rights against the plaintiff's mere "expectations".

How could that trust relationship be challenged? One way might be to put the plaintiff (alleged beneficiary) on the stand and ask him to testify about your "relationship" prior to the lawsuit. Given that the unwitting plaintiff won't understand his complaint is being construed as evidence of a preexisting trust relationship, it shouldn't be too hard to get the plaintiff to testify that he doesn't know what a trust is and never intended to enter into one—especially if, by doing so, the plaintiff implicitly forfeited many of his unalienable Rights. If both plaintiff and defendant testified on the record that a trust relationship was not intended and therefore did not exist, the court may be unable to sustain its assumptions and resultant constructive trust. No trust, no equity jurisdiction, no case?

Most importantly, I'm beginning to wonder if the *assumed* trust relationship provides the "subject matter" which gives the court "subject matter" jurisdiction in a particular case. It's my understanding that subject matter jurisdiction can be challenged at any time—even long *after* a case has been decided. If so, it seems remotely possible that a civil defendant might retroactively nullify some court verdicts (trust indentures) by expressly denying the existence of the "great assumption" (a "implied" trust relationship between the litigants) which provided the *assumed* subject matter on which the court *assumed* jurisdiction and ultimately decided the case.

The implications are large.

Again, this conjecture seems pretty far-fetched. It can't be as simple as I imply. Although I'm convinced that trust relationships are a principle means by which government extends unconstitutional powers over us, I don't believe it will be necessarily easy to deny or evade those trust relationships. My theory (assuming it's correct) is relatively simple. But the application—the actual implementation through procedures the courts of "this state" will recognize—may be fairly subtle.

Even so, the journey (or rabbit trail) of a thousand miles begins . . . .

[1] Given that all legal tender is an I.O.U.—a *promise* to pay, rather than an actual payment, it's possible that any transaction involving Federal Reserve Notes is automatically construed as a "trust relationship".)

[2] I've seen several cases where the courts talk about the litigant's "*expectation* of rights" rather than "rights". By definition, beneficiaries have no meaningful rights. Is the term "expectation" primarily applied to persons who occupy status of beneficiary? If so, whenever a court talks about your "expectations," it may be signalling that it regards you as the rightless beneficiary of a trust relationship.

[3] She (the plaintiff-beneficiary) can probably even stick her husband with her legal fees. Why? Perhaps because she appeared as a beneficiary, and the duty of paying trust obligations (including the debts of the beneficiary) falls on the defendant-trustee (usually the husband).

[4] I'm betting that one way or another, our duties to pay income tax, have drivers licenses, and obey a host of laws and regulations that any fool can see are unconstitutional are based on assumed trust relationships between ourselves and the government. I'm further willing to bet that those trust relationships must be "voluntary" (remember the "voluntary" income tax?). So if we learn how to "un-volunteer" as trustees (or even beneficiaries) from these various trusts, we may be able to extract ourselves from the equity jurisdiction of today's civil courts. Once that's done, the only way government could easily attack us would be *at law*—for criminal offenses wherein we intentionally damaged another person's body or property. Generally speaking, I believe gov-co is so reluctant (perhaps incompetent) to prosecute people at law, that cases which can't be prosectued in equity may be routinely dropped.

Penal Offenses

by Alfred Adask

Although I've studied the legal system for years, I still don't understand the terms "criminal" and "penal". The words seem similar, but not synonymous. Their meanings are thus confused.

However, I suspect a key distinction between "penal" and "criminal" can be inferred from the definition of "Criminaliter" in *Bouviers Law Dictionary* (1856):

> CRIMINALITER. Criminally; opposed to civiliter, civilly.
>
> 2. When a person commits a wrong to the injury of another, he is answerable for it civiliter, whatever may have been his *intent*; but, unless his *intent* has been unlawful, he is not answerable criminaliter. [Emph. add.]

Note that it's possible for a person to "commit a wrong to the injury of another" by 1) accident or 2) intent. If the wrong is unintentional, we have a *civil* offense. When the wrong is intentional, we have a *crime*.

For example, suppose a child darts out into a street and is hit and killed by a passing car. If it can be shown that the driver hit the child by accident, there may be a civil offense (which may be settled with insurance). But if it can be shown that the motorist could have stopped or swerved to avoid hitting the child, but instead *chose* to strike the child *intentionally*, we have a *crime*. In both examples we have the same driver, same car, same dead child. The only difference between a civil offense and a crime is the absence or presence of the driver's wrongful *intent*. Thus, the "crime" is not the *act* of killing the child, it's the *intent* to do so.

Given that the essence of any crime is the perpetrator's "intent," it follows that only a natural, moral person (one who *knows* the difference between right and wrong) is capable of committing a crime. Why? Because amoral entities (children, the insane, and artificial entities) can't tell the difference between right and wrong and are therefore incapable of forming the requisite "intent" necessary to knowingly *choose* to commit a crime.

When these amoral entities "accidentally" or inadvertently commit a wrong, they are subject to penalty—but not as criminals. Instead, they are "penalized" in order to (hopefully) discipline them and perhaps "deter"—inspire fear rather than impart moral knowledge—to other amoral entities from committing similar offenses.

For example, when a child takes something that belongs to someone else, we don't indict the child for theft—we give him a smack on the butt to teach him his first lesson in property rights. Similarly, when the accounting firm Arthur Anderson is found to have assisted its client Enron in shredding truckloads of financial documents, the Arthur Anderson corporation is penalized with a $500 million fine. However, the *corporation* is not prosecuted *criminally* since corporations (although clearly capable of doing wrong) are artificial entities incapable of forming the necessary *intent* to do wrong. (Of course, officers of the errant corporation might be charged criminally, but I suspect the corporation itself can only be "penalized".)

Penal

Black's Law Dictionary (7th Ed.) defines "penal" in part as:

> "Of, relating to, or being a penalty or punishment, esp. for a crime."

Note that while "penal" may apply "especially" to a crime, it need not apply "exclusively" to a crime. That is, "penal" can be applied to offences that are statutory and civil but not necessarily criminal. Thus, a penal statute might impose the penalty of $10,000 fine, or punitive damages as a "civil" penalty *in addition* to the criminal penalty of spending several years in prison.

Black's 7th continues to define "penal":

> "The general rule is that penal statutes are to be construed strictly."

Note that a "*general* rule" implies specific exceptions. Thus, government has power to deviate from that "general rule". Also, in modern legalese, the word "construed" often implies the presence of a "constructive trust". Thus, "penal" sanctions may be a primary artefact of constructive trusts.

Black's 7th continues with a "simple" 64-word sentence:

> "By the word 'penal' in this connection is meant not only such statutes as in terms impose a fine, or corporal punishment, or forfeiture as a consequence of violating laws, but also *all acts* which impose by way of punishment, damages beyond compensation for the *benefit* of the injured party, or which impose special burden, or *take away* or impair any privilege or *right*." [Emph. add.]

First, whatever "privilege or right" they're "taking away" can't be the "unalienable Rights" that are given by God and thus beyond the lawful capacity of any man or judge-god to arbitrarily remove.

However, no one—certainly not a beneficiary—can claim "unalienable Rights" within the context of a trust other than that of God's true church (which is a spiritual *faith* rather than a secular *trust*). Thus, a court of equity could have authority to "take away" the "equitable rights" of beneficiaries and even "legal rights" of trustees. This power of *penal* authorities to take

away "rights" implies that the litigants are not appearing in the capacity of independent "men" but may be appearing in the capacity of parties to a trust.

Second, whenever I see an unusually long and hard to read sentence in a legal document, I assume the author is trying to conceal rather than communicate. So I tend to read the long sentences very closely. As a result, I can find a host of implications in that single, 64-word sentence.

For example, *Black's* definition of "penal" declares:

> By the word 'penal' in this connection is meant not only such statutes as in terms impose a fine, or corporal punishment, or forfeiture as a consequence of violating laws, but also *all acts* which impose by way of punishment, damages beyond compensation for the *benefit* of the injured party,

Thus, "penal" not only applies to punishments required by "statutes" but also to "*all acts*" which impose a punishment beyond "the *benefit* of the injured party".

OK—who is the "injured party" in a court case? The *plaintiff*.

Since "statutes" imposing penalties are passed by the legislative branch of government, what else might fit under the general heading "*all acts*" that impose a punishment on errant defendant-trustees beyond the "benefit" of the plaintiff-beneficiary?

How 'bout the discretionary "acts" of a *court* committed without direct requirement of law? And where can courts act without regard to law? In *equity*. In fact, judges in courts of equity are specifically absolved from the duty to obey the "law" (statutes) but are instead empowered to decide cases based strictly on their alleged personal conscience.

Thus, a "person" can be penalized not only according to law (statutes), but also according to "*all* acts" in the administration of trust relationships under the unbridled discretion of judges sitting in *equity*. Such "penal" applications seem to expose all persons to the *arbitrary* authority of the state courts of equity—i.e., rule by *man*, not law.

And what is a principle subject-matter jurisdiction for courts of equity? *Trusts*.

The implication that "penal" offenses may routinely apply to *trust*-based relationships is supported by *Black's* reference to "benefit" in the definition of "penal". The term "benefit" generally signals the presence of a "beneficiary" and, thus, the presence of a trust. This is consistent with the observation that in *constructive* trusts, the plaintiff (whether he knows it or not) appears in the capacity of a *beneficiary* who implicitly claims to have been wronged by the defendant. The defendant (whether he knows it or not) appears in the capacity of a *trustee* who is alleged guilty of violating his fiduciary obligations to the plaintiff-beneficiary.

Again, none of this may sound particularly remarkable or relevant. Big deal—trustees may be subject to "penal" laws. But who cares? Virtually no American ever signs up to be a trustee in a trust, right?

Yes—and No.

Look at the definition of "constructive trust" in *Black*'s 7th:

> A trust imposed by a court on equitable grounds against one who has obtained property by wrongdoing, thereby preventing the wrongful holder from being unjustly enriched. Such a trust creates no fiduciary relationship. Also termed *implied trust*; *involuntary trust*; *trust de son tort*; *trust ex delicto*; *trust ex maleficio*; *remedial trust*; *trust in invitum*. Cf. *resulting trust*. [Underline added.]

Since the terms "constructive trust" and "involuntary trust" are synonymous, then defendants might challenge the constitutionality of such constructive/involuntary trusts (and their resulting duties and liabilities) as a violation of the 13th Amendment's prohibition against "involuntary servitude".[1]

Black's continues:

> "A constructive trust is the formula through which the conscience of equity finds expression. When property has been acquired in such circumstances that the holder of the legal title may not in good conscience retain the beneficial interest, equity *converts* him into trustee." *Beatty v. Guggenheim Exploration Co.*, 122 N.E. 378, 380 (N.Y. 1919) (Cardozo, J.)

Exactly. The defendant may be unknowingly "*converted*" into a "trustee". *Black's* continues:

> "It is sometimes said that when there are sufficient grounds for imposing a constructive trust, the court 'constructs a trust.' The expression is, of course, absurd. The word 'constructive' is derived from the verb 'construe,' not from the verb 'construct.' . . . The court construes the *circumstances* in the sense that it explains or *interprets* them; it does *not construct* them." 5 Austin W. Scott & William F. Fratcher, *The Law of Trusts* Sect. 462.4 (4th ed. 1987). [emph. add.]

Here, *Black's* makes clear that the court "construes" but does not "construct" a trust. Thus, the court "interprets" the interests and duties of the parties to a trust-relationship which is *assumed* to exist between the parties *before* they enter the court. However, the court does not create ("construct") a brand new trust *after* the case has been initiated.

The assumption that the court "construes" an *existing* trust—rather than "constructs" (creates) a brand new trust—absolves the court from the duty of expressly informing the litigants of their "new" trust relationships. Since the trust being "construed" is *assumed* to have been created by the plaintiff and defendant, they are *assumed* to know about that trust and need no further information on it's creation or their respective roles. Instead, since the litigants are assumed to know about the existence of their trust relationship and their respective roles, the court's only purpose is to expressly clarify (construe) the duties and interests that are assumed to attach to the assumed trust-relationship.

Given that the court "construes" rather than "constructs" (creates) the trust relationship, the whole case (and perhaps even the court of equity's jurisdiction) seems to turn on the *assumption* that a *pre-existing* trust relationship did, in fact, exist. If that *assumption* can be expressly challenged and shown to be false, there'd be nothing for the court of equity to "construe" and the plaintiff's case would be at least compromised and possibly defeated. In other words, if the defendant denied the existence of a trust relationship between himself and the plaintiff, the case might lack subject matter to invoke a court of equity.

Black's concludes the definition of "penal" with:

> "The word penal connotes some form of punishment imposed on an individual by the authority of the *state*. Where the primary purpose of a statute is expressly enforceable by fine, imprisonment, or similar punishment the statute is always *construed* as penal." [Emph. add.]

The phrase "authority of the *state*" might be stretched to imply that the penal authority did not ultimately trace to God. Technically, "crimes" are committed against *God's* law (thou shalt not murder, steal, lie, etc.). Thus, "crimes" are ultimately enforced under God's authority.

But when an offender is penalized by the authority of the state, it seems possible that he's been found guilty of an offence against the *state*, rather than God. For example, God declared that "Thou shalt not steal," and thus made all theft a crime against the laws of God. However, The Bible is silent on God's opinion of driving without a drivers license. Therefore, insofar as driving without a license (or without insurance, current registration or fastened seatbelts) can't be traced to God's law, then those offenses are against man's law (the state) and might be "penal" rather than criminal.

Also, note the use of the word "construed" in the last sentence of Black's definition ("Where the primary purpose of a statute is expressly enforceable by fine, imprisonment, or similar punishment the statute is always *construed* as penal."). This isn't proof, but it again implies that modern "penal" sanctions may be applied through *constructive* trusts. This, in turn, tends to support the hypothesis that we may routinely (but unwittingly) appear in court as parties to assumed trust relationships that do not, in fact, exist.

If so, defendants might gain a great deal might by successfully denying the existence of those *assumed* trust relationships.

[1] Also, insofar as "resulting trust" is not listed as synonymous with "constructive trust," it might be advantageous for a defendant to concede that a trust relationship exists, but declare that it's a "resulting" trust rather than a "constructive" trust. I haven't looked into the issue, but perhaps the defendant-trustees liabilities are lessened under that "kind" of trust relationship.

Legal Personality

by Bryant Smith[1]

The article entitled "Legal Personality" was first published in the January, 1928 issue of the *Yale Law Journal* (Vol. XXXVII No.3). It was only about eight pages long when I started reading it, but after adding my comments and clarifications (hopefully), the original artical has now ballooned to over 20 pages. I wouldn't normally run an article this long, except I think it offers some very important insights into questions of jurisdiction and personal "identity".

I have long believed that I, "Alfred Adask," and "ALFRED N. ADASK" (the entity named on my bank account, drivers license, voter registration, Social Security card, etc.) are two seprate and distinct "persons". While "Alfred" is a natural man, made by God of flesh and blood, "ALFRED" is some sort of artificial entity. While "Alfred" is subject to his creator (God), "ALFRED" appears to be created by government and is therefore subject to governmental jurisdiction. Government appears to trick or entice each natural man ("Alfred") into acting "as" the artificial entity ("ALFRED") or acting as the artificial entity's living representative or fiduciary. Government seems able to impose an unlimited number of duties (and thereby cause a correlative loss of unalienable Rights) on any natural person it can trick into acting as or for an artificial entity.

Although I'm convinced this duality and mechanism for governmental control is real, I have yet to fully understand or describe it's operation. At the heart of my confusion lies a single question: What *is* "ALFRED N. ADASK"? For several years, I've been convinced that "ALFRED" is an artificial entity—but what kind? A corporation? A trust? Both answers seemed to work sometimes and fail others. These answers seemed inadequate, but I couldn't think of any other *kind* of artificial enity.

However, after reading this 1928 article, I learned that there is a third kind of artificial entity called a "legal personality". As a result, I begin to wonder if "ALFRED" might be a "legal personality". But more precisely, while the name "Alfred Adask" may identify just one natural man, it appears that "ALFRED N. ADASK" may identify an *unlimited number* of "legal personalities"—all of which have the same name, but each of which have distinctly different bundles of rights and duties. Each unique set of rights and duties corresponds to a distinct legal

[A] First, your "legal personality" is the sum of whatever rights and/or duties you have (and use) at a particular time.

More importantly, since, "To *confer* legal rights or to impose legal duties . . . is to *confer* legal personality," then it follows that the entity that "confers" certain rights or duties effectively "creates" the resultant legal personality. God created flesh-and-blood man ("Alfred") and "endowed" him with "certain unalienable Rights". As such, God *created* that natural man's "legal personality". Under the creator-creation principle, because natural man is created by God, he is owned by God and subject to God's will.

However, if, in addition to the "unalienable Rights" conferred by God, our government were to "confer" additional civil, human or legal rights, duties or privileges on a person, government would thereby "create" a brand new legal personality" for that person. As government's creation, that "legal personality" would be owned by and subject to the control of government rather than God.

[B] Note: A legal personality (legal rights and duties) can be "conferred" on an inanimate thing like "ALFRED". However, the God-given, unalienable Rights declared in the Declaration of Independence are not conferred on inanimate things—only upon living men. Thus, "legal rights" conferred on a "thing" can't be unalienable Rights granted by God. If "legal rights" aren't unalienable (God-given) for "things," then they can't be God-given for *men*, either. I.e., legal rights are granted by the *state*.

If a "legal personality" is defined by a particular bundle of legal rights and duties not granted (conferred) by God, then the resultant "legal personality" isn't created by, or subject to, God. It follows that "legal personalities" must be different from (perhaps fundamentally opposed to) those "spiritual" personalities with which all natural men are "endowed" by God.

personality. As a result, the artificial entity "ALFRED" may be as legally schizophrenic as Sybil.

As I read this 1928 article, I understand it to indicate that 1) "natural persons" and "legal persons" are two different entities; 2) that every legal person can have a multitude of distinct "legal personalities"; 3) legal personality" and "capacity" appear to be synonymous terms; and 4) each legal personality/capacity is a function of a particular purpose.

If my understanding is correct, there may be only one "legal *person"* named "ALFRED N. ADASK," but that single "person" could have scores of separate and legally distinct "legal personalities". While one of "ALFRED's" legal personalities might be subject to a particular jurisdiction, another might not. In one "legal personality" ALFRED might be sued, but in another "legal personality" ALFRED might be immune.

For example, ALFRED N. ADASK, the automobile driver, is an entirely different legal personality from ALFRED N. ADASK, the bank customer, and ALFRED N. ADASK, the holder of a Social Security card. The distinguishing feature between these separate legal personalities is their "purpose". As you'll read, insofar as you can control or restrict the "purposes" of your various legal personalities, you may be able to avoid a court's jurisdiction.

Again, this is a long-winded, and often verbose article, but I regard the content as extremely illuminating. You may have to read the text more than once to begin to grasp the significance. I did. Stay with it. It's worth the effort.

The author's footnotes are numbered and appear at the end of the article. My comments are lettered and appear to the side of the original article on each page. Virtually any italicized highlight and all bracketed comments within the body of the original article are my additions.

To be a legal person is to be the subject of rights and duties. To confer legal rights or to impose legal duties, therefore, is to confer legal personality.[2] If society by effective sanctions and through its agents will coerce *A* to act or to forbear in favor of *B, B* has a right and *A* owes a duty.[3] Predictability of societal action, therefore, determines rights and duties and rights and duties determine legal personality.[A]

Whatever the controversies about the "essential nature" of legal personality, there seems to be a uniform concurrence in these as respectively the test of its existence in a given subject, and the manner in which it is conferred, whether upon a natural person or upon an inanimate thing.[B]

Among definitions to be found in discussions of the subject, perhaps the most satisfactory is that legal personality is the

capacity for legal relations.[4] But there is, nevertheless, an objection to the word "capacity" which seems of some importance. It suggests the possibility that the subject may have a capacity for legal relations without yet having become a *party* to such relations. A minor with *capacity* to marry is not necessarily married, whereas, when legal personality is conferred, the subject by that very act is *made a party* to legal relations. It would seem preferable, therefore, to define legal personality either as an abstraction of which legal relations are predicated, or as a name for the condition of being a party to legal relations.[C]

It is believed that this is all there should be to the story. But legal philosophers and students of jurisprudence have not been content with so simple an explanation. They have sought for the "internal nature" of legal personality, for an abstract essence of some sort which legal personality requires. Thus, Mr. Gray thinks there can be no right, and therefore no legal personality, without a *will* to exercise the right. "That a right should be given effect," says he, "there must be an exercise of will [as shown by personal *conduct*?] by the owner of the right."[5] But, after having adopted the premise that a will is of the essence of a right, he then proceeds to explain how it is that certain human beings without wills and even inanimate objects do have legal personality, a task which he complains is the *most difficult* "in the whole domain of Jurisprudence."[6] [D]

Mr. Salmond, on the other hand, discovers a different quality which, by his definition, is essential to a right. "Not being is capable of rights," says he, "unless also capable of *interests* which may be *affected by the acts of others*," and "no being is capable of duties unless also capable of acts by which the *interests* of others may be affected."[7] [E] But Mr. Salmond's presupposition of an intrinsic essence does not give him as much trouble as did Mr. Gray's, for no sooner has he discovered the necessity of an interest to the existence of a [civil or legal?] right than he also discovers that the same act of investiture which attributes the right also attributes the interest. He defines a legal person, therefore, as "any being to whom the law attributes a capacity of interests and, therefore, of rights, of acts and, therefore, of duties."[8] [F] This is substantially the same con-

[C] First, note that mere "capacity" does not constitute a "legal personality". That is, just because I'm eligible to get a drivers license doesn't mean that I have the legal personality of a licensed driver. To have that legal persoanlity (and thus be subject as a "party" to cases involving traffic laws), I must not only have the capacity to be licensed, I must actually have the license. Thus, the legal personality is not simply a question of capacity, but also of personal *conduct*. Unless you have actually *acted* as a licensed driver, you can't be charged as a party to a case in that "legal personality".

Second, it appears that a "legal personality" is not an independent entity. By definition, the "legal personality" seems to exist only in "relation" to others (including "this state"). For example, we might say God gave John one "natural" personality and God gave Bob another, different "natural" personality. Those "natural" personalities are *inherent* in each person and exist without regard to others. As a result, John's inherent or "natural" personality will not be measurably changed by Bob's death.

However, a "legal personality" is not the natural person per se, nor even *inherent* in the natural person, but rather a specific external *relationship* that exists between one person and another.

[D] "Most difficult" and perhaps also most obscure. How can you impose a "legal personality" on an inanimate object? Moreover, how is it that some inanimate objects have legal personalities, but others do not? I can see only one way to give a "legal personality" to an object—by tying that inanimate object to another legal entity by means of a legal relationship. For example, a bowling ball would seem to have no legal personality—unless it were owned or leased or possessed by someone. Then, by virtue of that legal relationship a mere inanimate bowling ball might assume the legal personality of "Alfred's bowling ball". The *relationship* between the bowling ball and Alfred might be the only means of creating a "legal personality" for an inanimate object.

[E] Mr. Salmond vaguely implies that rights in general (and "unalienable Rights" in particular) can be held independently by a single individual,without regard for others. However, the implication continues that an "interest" may be, by definition, a *relationship* to others and an admission of dependence.

[F] Apparently, the "law" (the state)—not the God of Nature—creates the "legal personality". As such, the "legal personality" is an artificial entity, perhaps a legal fiction.

clusion Mr. Gray reached with respect to the necessity of a will. Where there is no will in fact, the law *attributes* one.[G] So long as it has unlimited power of attribution, neither theory need hinder the sovereign in bestowing legal personality upon whomever or whatever it will.[H]

A more difficult task than to define the concept itself is to explain this *persistent* tendency to make it *mysterious*. It is believed, however, without professing to give an adequate explanation, that some light can be thrown on the subject by contrasting the typical case of a human being [natural man], acting alone [*conduct* that is independent; without relationship to oghers] and in his own right, ["his own" rights would seem to be intrinsic and unalienable] with some of the marginal cases:

A Hindoo idol, being a legal person, it has been held, has peculiar desires and a will of its own which must be respected.[9] A corporation, it is said, "is no fiction, no symbol, no piece of the state's machinery, no collective name for individuals, but a living organism and a real person with a body and members and a will of its own."[10] A ship, described as a "mere congeries of wood and iron," on being launched, we are told, takes on a personality of its own, a name, volition, capacity to contract, employ agents, commit torts, sue and be sued.[11] Why do lawyers and judges assume thus to clothe inanimate objects and abstractions with the qualities of human beings? [Why, indeed?]

The answer, in part at least, is to be found in characteristics of human thought and speech not peculiar to the legal profession. Men are not realists either in thinking or in expressing their thoughts. In both processes they use figurative terms. The sea is *hungry,* thunder *rolls,* the wind *howls,* the stars *look down* at night, time is not an abstraction, rather it is "father time" or the "grim reaper"; the poet sees darkness as "the black cheek of night," or complains that "time's fell hand" has defaced the treasures of "outworn buried age." Speech is as forceful as its terms are concrete. Word pictures stir the imagination and enrich the language. Even if it were possible to inhibit this disposition to speak in images [fictions] and even if the inhibition would produce clarity in legal analysis, it would be to purchase the end at too great a price.[I]

Another aspect of this same phenomenon is that men are not apt in the invention of original terms for abstract ideas. Without being a philologist, one may know that, in its beginnings, language deals with the material and tangible world.[12] When, after generations of mental development and the accumulation of knowledge, abstract ideas finally begin to appear and multiply, the tendency is inevitably to stretch old words to new uses and to crowd the abstractions in under concrete terms which cover a bundle of ideas with which the newcomer appears to have most in common. To do so serves the double purpose of supplying a word where one is needed, and of obtaining a welcome for the new idea by introducing it under a familiar name.[J]

This disposition to label the field of abstractions with the names of a physical world is not confined to poetry or the higher reaches of

[G] This process of "attribution" sounds very similar to today's process of "construing" a constructive trust and trust relationships to exist between the parties to a lawsuit--even when no such relationship, in fact, exists.

[H] Thus, through "unlimited power of attribution," government can arbitrarily bestow both legal rights and legal duties on whoever it likes. An unlimited capacity to "bestow" rights *and duties* is the unlimited power of a tyrant. He can order anyone to do anything. This concept of "legal personality" that is bestowed by the government is contrary to the notion of God-given, unalienable Rights.

[I] As you'll read further on, the answer to "Why do lawyers and judges *assume* to clothe inanimate objects and abstractions with the qualities of human beings?" is simple: *Control* over others--even others who don't exist (like the rain) or natural men who are, in fact, independent and free from the court's equitable jurisdiction. We give inanimate objects a "legal personality" to make them subject to human jurisdiction rather than God's.

[J] True enough. But this still fails to answer the original question in a way that justifies the loss of unalienable Rights that seems to follow the creation of "legal personalities". In other words—recognizing that, according to the "Declaration of Independence," the primary purpose of government is to "secure" our God-given, unalienable Rights—what socio-political mumbo-jumbo is sufficient to justify the official creation of a "legal personality" that ignores or denies the individual's unalienable Rights?

literature. It has invaded also the prosaic legal vocabulary. Negotiations *take place* and *ripen* into a contract whose rights and duties *attach* and later *mature.* If the contract is *closed* it is *binding,* but may be *broken.* If not closed, notice may *operate* a *retraction* of the offer. A rule is said to be *settled* that the defendant must *restore* his adversary to the *position* he *occupied* before it was *altered,* and to *rest,* or to be based upon such and such *grounds.* A guarantee which we call *open* may be *withdrawn* or *recalled.* All these words, which bear unmistakable evidence of having been borrowed from the dictionary of the physical and the tangible, are taken from two pages of Corbin, *Cases on Contracts,* without by any means exhausting the material. The very sound of the word "break" resembles that of breaking a stick. Whether or not there is onomatopoeia in its origin, we hazard the statement that men broke many sticks before anyone ever broke his word, and still more before they became law breakers.[13]

Another characteristic of human thinking, relevant to the inquiry, is that which for certain purposes disregards human beings as individual units of classification and arranges its distinctions on the basis of functions. Eleven men as applicants for admission to the university are distinct individuals each with his own credentials; but as football players they become a team. For some purposes, each student in a university is a distinct and an individual problem, differing in essential particulars from every other student enrolled. For other purposes these individual peculiarities are of no importance and lose themselves in the junior class. For still other purposes, faculty, students, president, administrative officers and board of control, all fade out of the picture and become just Harvard, Yale, or Chicago. And so it is with any group. They are individuals in severalty or a unital aggregate, depending on the purpose in mind.[K]

The same faculty which ignores the individual in the group function, also, for relevant purposes, divides a single human being into different functions.[L] A man is said to be a good neighbor but a bad citizen, an affectionate husband and a stern father, a competent banker but a poor soldier. Even a scarecrow, for a particular purpose, *is* a human being, or a human being may be a scarecrow. The parable of the Samaritan shows how a stranger from distant parts may for some purposes be a neighbor. Nor is this method of analysis confined to our dealings with human beings. It characterizes our mental reactions throughout the whole field of experience. The same faculty of the mind, which, in certain circumstances and for certain purposes, looks upon the universe as one, in other circumstances and for other purposes, breaks up the atom.

If we bear in mind these characteristics of our mental processes, we may be able to discover in them an explanation of the phenomenon of legal personality as exemplified in the more difficult cases of legal persons [partnerships, trusts and corporations] which combine many human beings in one, or subdivide a single human being, or which are not predicated of human beings at all.[M] The typical subjects of rights and duties, of course, are normal human beings, [not "legal personalities"] acting in a single capacity and in their own [unalienable] right. It is between such persons, so circumstanced, that most disputes come to be settled; it is around them and with reference to them that legal ideas develop. The

[K] Comfortable analogy, but it doesn't come close to explaining or justifying a loss or unalienable Rigths.

[L] Note that this theory of "division" seems contrary to the biblical notion of man's "unity". That is, God is said to judge all men for every word, deed and thought. That judgment is not supposedly based on some notion of "division" and "function" wherein the sins you commit in one "function" may be damning while those committed in another function may forgiven or even applauded.

[M] [The author toys with the search for an "explanation" for the mysterious "phenomenon" of "legal personality," but so far, he accepts that phenomenon as real and at least convenient. He validates the "phenomenon" by not questioning the morality or desirability of that "phenomenon". It may be "mysterious" and almost incomprehensible but, so far, the author does not suggest it is dangerous or bad.

[N] This is the key question: what is the fundamental "reason" for creating "legal personalities"? The answer was hinted at earlier when the author mentioned the "sovereigns" unlimited capacity to "attribute" legal personalities (rights and duties) to others. That "attribution" is a device to *extend* seemingly absolute power over persons and entities that would otherwise be outside that sovereign's "natural" jurisdiction.

[O] Ah ha! There's the answer: The legal personality appears to be a *legal fiction* that is "attributed" to an entity or object to gain jurisdiction over a natural person who would not normally be subject to the jurisdiction (power) of a would-be "sovereign". Thus, this "legal personality" (relationship) is arguably an usurpation of power by a would-be sovereign over a person not ordinarily subject to that that sovereign's jurisdiction. As such, the legal personality constitutes a denial of the newly-created "subject's) unalienable Rights.

[P] This illustration assumes that a foreign property or person is within a sovereign's apparent jurisdiction but the *owner* of that property is *outside* that jurisdiction. This implies that, at law, at least, the sovereign must interact with the true "owner". However, if the owner is outside the "sovereign's" jurisdiction, but the owner's property is within that jurisdiction, how can the "sovereign" assert authority over the "foreign" property?

This faintly suggests that "ownership" may be an attribute of jurisdiction. That is, while I (as an American) might "own" title to a ship docked in an American harbor, my claim of ownership might be questionable when "my" ship is docked in a foreign harbor. It may be that only through treaties would my apparent right of ownership be recognized in foreign jurisdictions. Without treaties, my ship (in a foreign jurisdiction) might be regarded as abandoned property available to the first party able to claim ownership under that foreign jurisdiction.

The legal personality appears to be a local sovereign's device to gain jurisdiction over foreign persons or foreign-owned property. Further, the legal personality's dependence on "relationships" seems consistent with the modern doctrine of "minimum contacts" that allow one state to assert jurisdiction over citizens or corporations of another state.

[Q] Apparently, it's too tough for our ingenious judges and lawyers to sustain the original, constitutional legal process that respected and "secured" our God-given, unalienable Rights. So for the government's convenience, the courts chose to ignore those "foreign" unalienable Rights and simply "attribute" a more "convenient" and "managable" legal personality that was subject to local (artificial) jurisdiction.

wording of laws, the language of the courts, the statements of causes of action, the forms of the writs, contemplate such beings as the parties plaintiff and defendant in litigation. By repetition the language becomes habitual, the forms grow rigid, the behavior patterns are fixed.[14] Then, for some reason or other,[N] it becomes necessary or convenient ["Convenient" for who? For the "sovereign".] to deal with an inanimate object such as a ship, or with a human being in a *multiple capacity*, as a trustee or a guardian, or with an association of human beings in a single capacity, as a partnership or a corporation.

A merchant, for example, who has furnished supplies for a voyage, or a boss stevedore who has renovated the ship, cannot reach the owner of the vessel, who is outside the jurisdiction.[O] The obvious solution is to get at the ship itself and, through it, satisfy the owner's obligations.[P] But to devise a new system of jurisprudence for the purpose, to work out new forms and theories and processes, would too severely tax the ingenuity of the profession.[Q] The alternative is for the judges to shut their eyes to the *irrelevant* differences between a

ship and a man and to treat the ship as if it were a man for the purpose of defending a libel.[R] The master of the vessel appears in court to represent the ship and the ship vindicates the rights or makes vicarious atonement for the wrongs of its owner.[15] [S]

" 'I have tasted eggs, certainly', said Alice (in Wonderland), who was a very truthful child: 'but little girls eat eggs quite as much as serpents do, you know.'

"'I don't believe it' said the Pigeon, 'but even if they do, why, then, they're a kind of serpent; that's all I can say!'"[T]

So it is that the ship, a kind of a man, takes on a personality, acquires volition, power to contract, sue and be sued. If it must have some of the qualities of human beings to adapt itself to the novel situation and avoid embarrassment both to itself and to the court, the law can readily bestow them by the simple process of attribution.[16] [U]

The ship, therefore, derives its personality from the compelling fact that it sails the seas *between different jurisdictions*.[V] In the case of the corporation, the demand, although perhaps equally compelling, is for other reasons. Of the mental processes previously discussed, that which ignores the individual *in the group function* [relations] is most responsible for the phenomenon of corporate personality.

Large aggregations of capital carry tremendous economic advantages. To accumulate the requisite funds, it is necessary to draw from a large number of investors. It is impracticable that each investor have an active part in the conduct of the enterprise. If he cannot participate he will not invest if, in doing so, he must hazard his entire fortune in a venture over which he has only the most limited control. The solution is to limit his risk to the amount of his contribution. This done, the shareholder becomes irrelevant to the purposes of

[R] Irrelevant differences? Our "Declaration of Independence" and American liberty are built on the premise that "all men are created equal and endowed by their Creator with certain unalienable Rights". There is no similar premise that ships and other inanimate objects are similarly endowed by God. Thus, the difference between men and objects is far from "irrelevant"—it is as enormous as the difference between a live child and a dead ancestor. When government finds the differences between men and objects to be largely "irrelevant," it doesn't raise the status of objects that of men—it degrades the status of men to that of objects.

[S] I don't yet fully grasp the significance of "ownership," but it seems crucial to the legal personality's operation. That is, the legal personality seems to overcome or bypass questions of "ownership" that would be crucial at law.

[T] Here the Pigeon (appalled by the idea of anyone eating bird eggs) "attributes" the legal personality of a snake to the little girl. But this does not, in fact, change the little girl into a snake. This attribution is simply a convenience for the Pigeon that allows the bird to maintain the *illusion* that birds are such high and lofty creatures that it is a kind of blasphemy for any other creature to eat bird's eggs. The truth in this case is not that Alice is a snake, but that the Pigeon is merely a bird without meaningful authority over Alice.

Similarly, when a judge "attributes" a legal personality to a defendant, the object of that attribution is to create and maintain the illusion, the fiction, that judges (and the government they represent) are superior to the "persons" of all litigants in their courts (jurisdictions). Thus, the legal personality's primary purpose is not to serve the *individual*, but to serve the *state*.

[U] Again, the words "attribute" and "construe" seem synonymous. If so, "bestowing" a legal personality is equivalent to construing a trust relationship between the parties to a case.

[V] Again, the essential object is to establish a *local jurisdiction* over a foreign person or property. The legal personality is "attributed" to the foreign ship by the local government to gain a jurisdiction (authority) that does not, in fact, exist. This seems to be the same process that takes place when the courts recognize "ALFRED" rather than "Alfred". "ALFRED" appears to be a "legal personality" that subject to "this state" and is attributed to "Alfred" to give "this state" a fictitious jurisdiction that does not, in fact, exist. This implies that the artificial entities identified with all-uppercase names (like ALFRED N. ADASK or GEORGE W. BUSH may be properly described as "legal personalities"—and perhaps even as "relationships" rather than isolated, independent legal entities.

[W] You can bet that a primary reason for creating "legal personalities" was to accomodate economic enterprises like corporations, trusts and partnerships that are artificial entities unknown to the law. In essence, to make a buck in "big bidness," it was necessary to create "legal personalities" that exist as fictions rather than as natural men. Without fictions, corporations couldn't be possible.

It was probably only later that various governments realized how handy it would be to impose the same sort of "legal personalities" on people that had previously been imposed on corporations, trusts, etc. Through the use of legal personalities, free people who might otherwise be able to claim unalienable Rights could be degraded from the status of sovereigns into subjects.

[X] The idea of a "group" name implies the presence of "relationships" rather than independent individuals.

[Y] Note that the legal personality (the "organization as a unit") exists only for a particular purpose. For example, if I were an executive for IBM, whenever I acted as an officer of IBM, my natural "personality" would be submerged and I would be perceived to act in the "legal personality" of IBM executive. However, when I went home or on vacation or engaged in activities that had no relevance to IBM or did not serve that corporation's express purpose, I would not be "clothed" with the legal personality of the IBM executive.

For example, even if I were in my IBM executive's office but I engaged in activities that were outside or contrary to the express purpose of the corporation (as expressed in the corporate charter and/or my job description), I would be acting outside scope of the "legal personality" of corporate executive and would not be able to claim whatever immunities that might otherwise attach to that legal personality.

This same analogy should also apply to government officials. Whenever they act outside the scope of their and government's official "purpose," they would forfeit their claim of immunity for acting in the legal personality of government official.

The determining factor in your particular "legal personality" seems to be your purpose at any given moment. Your legal personality is not determined by where you are, what uniform you're wearing, whether you're on duty or not, or even what you're doing, but rather by your purpose. The implications are intriguing.

Suppose a government official asked me if I were "ALFRED N. ADASK". I might reply "Who wants to know?" I might try to deny that name by claiming I am, in fact, "Alfred Adask," natural man, sui juris, etc. etc..

However, my clever defense might be ignored if government found *any* evidence (bank account, drivers license, voters registration, etc.) to indicate I had ever acted in one of the *many* legal personalities named "ALFRED N. ADASK". Remember that (apparently) each of these relationships (banking, driving, and voting) are distinct "legal personali-

one who wishes to do business with the group enterprise.[17]

There is also great economic advantage[W] in an unbroken continuity of effort. If a dissolution and the necessity for reorganization followed the death or the transfer of interest of any individual shareholder, *the enterprise could not function*. The solution is found in perpetual succession, by virtue of which each shareholder becomes still less significant, and even presidents and boards of directors lose their [natural] identity in the regular flow of successors.

If a creditor wishes to enforce a claim against the enterprise, it is impracticable and unnecessary to make all the participants, in whatever degree, parties to the action. The solution is to permit the organization to sue and be sued in a group name.[X]

So it is that for one *purpose* and another, it becomes convenient, if not indeed necessary, to let the *individual* participants fade out of the picture and to look upon the organization as a unit.[18] And so it is that the corporation, like the ship, comes to be fitted into the old behavior patterns and to be treated and spoken of *as if* it were a natural person.

Whenever society, [not God] in the administration of justice, sees fit to disregard the individual members of an organization [relationship] for a particular *purpose*, and for that *purpose* to look upon the organization as a unit, the organization to that extent or *for that purpose* becomes a legal person.[Y] This is true even where the group is organized as a partnership or other unincorporated association.

The single human being in a dual or multiple capacity is not ordinarily

regarded by writers as a part of the subject of legal personality.[19] The corporation sole, as exemplified in the parson, the bishop, or the crown, has been given a hearing and dismissed as either "natural man or juristic abortion."[20] Except for the corporation sole, it is usually assumed that one human being is only one legal person, in however many different capacities he may function. But such an assumption, consistent though it may be with some of the language we use, does not describe our conduct. As an individual in his own right, *A* can transfer property to himself as trustee,[21] or do business with himself as a member of a firm to which he belongs,[22] or, in a triple capacity, as an executor he can transfer property to himself as a trustee.[23] What shall we call such distinctions as these, if not distinctions of legal personality?[Z]

In an action in 1429 against the Commonalty of Ipswich and one Jabe, the defense was made that Jabe was a member of the Commonalty of Ipswich and therefore was being named twice as defendant in the same action, that if the defendants were found guilty Jabe would be charged twice over, that if the Commonalty should be found guilty, and Jabe not guilty, the result would be that Jabe was both guilty and not guilty. The case is cited in Pollock and Maitland to illustrate the failure to recognize the personality of Ipswich,[24] but it illustrates also, and equally well, does it not, the failure to distinguish Jabe as a *private individual* from Jabe as a *member* of the Commonalty?[25] [AA]

We smile at such a defense, as the naive reasoning of a time long past, and, indeed, we may boast that in many particulars we are more at home with the problems of *dual personality* than were those lawyers of 500 years ago.[26] But we have, nevertheless, missed some distinctions of the sort whose recognition we might have found very useful. In this, the 20th century, it is still the law, except where changed by statute, that a partner cannot, in a court of law, sue the firm of which he is a member,[27] nor can one firm sue another where the two have a common member.[28] Jabe the legal person is still only Jabe the human being.

In 1920 the United States Supreme Court held that the federal income tax, levied on all classes alike, was, as applied to the salaries of federal judges, a violation of the constitutional prohibition against reducing their salaries while in office.[29] A provision intended to protect the judges from mistreatment in their office as judges, was misapplied, was it not, to exempt them from their obligations as private citizens? The distinction between Jabe as a private individual and Jabe as a member of the Commonalty of Ipswich is only slightly more obvious than the distinction between X as a judge on the bench and X as an ordinary member of the community.

But enough of dual personality. It is submitted that the breaking up of human beings into *plural capacities* is not only an appropriate, but a most important, part of the subject of legal personality.[30] Whenever society,[BB] through its legislatures and courts, sees fit for a particular purpose to give effect to rights and duties in a human being in more than one capacity, such human being, *for that purpose* and to that extent, becomes *more than one* legal person.[CC]

ties". The legal personality of ALFRED N. ADASK, the bank customer is not the same legal personality as ALFRED N. ADASK, the driver, or ALFRED N. ADASK the voter. Even though all three "legal personalities" have the same name, they have different purposes (banking, driving or voting), different rights and duties, and are thus different legal personalities.

Thus, even though I concede that I sometimes act as or for "ALFRED N. ADASK," it may be possible to defeat jurisdiction in a particular by 1) carefully determining the specific "purpose" that underlies the "relationship" the plaintiff implicitly alleged to exist between him and me that created my legal liability; and 2) by specificially denying that I am "ALFRED N. ADASK" for whatever "purpose" lay at the foundation of the plaintiff's alleged particular issue. If I don't share the common purpose, I don't share the common (alleged) relationship or the resulting legal personality and status as "party" to the case.

The possibilities make me laugh.

[Z] Thus, each of us may be legally "schizophrenic" in that we may each have more "legal personalities" than Sybil.

[AA] Thus, which "Jabe" was on trial? Similarly, who is on trial if I go to court? "Alfred" or "ALFRED"? And if "ALFRED," which of his many legal personalities will be tried?

[BB] Society"—not God. This implies that "legal personality" is the work of the collective, not nature.

[CC] Again, the term "capacity" seems almost synonymous with "legal personality". Different purposes = different legal personalities = different capacities.

DD This implies that the one personality that is *not* a "legal personality" is your "natural human personality". If so, while "ALFRED N. ADASK" may be used to signify any number of legal personalities, it cannot signify the natural human personality and primary purpose (achieving eternal salvation) of "Alfred Adask".

Conversely, while "ALFRED N. ADASK" can collectively represent a schizophrenic cornucopia of legal personalities, "Alfred Adask" can never signify more than a *single* natural human personality (which, incidentally, may be subject to just one jurisdiction). For example, "Alfred Adask" might only be subject to the jurisdiction of a Republic, but "ALFRED N. ADASK" might be subjected to the jurisdiction of a democracy and/or any other jurisdiction that the local "sovereign" can construe.

EE Apparently, the "legal personality" can only exist in *relation* to others. Thus, when an individual is *isolated* (apart from other people) no "relationships" are possible, and thus no "legal personalities" can be attributed.

FF Note the use of the term "party". To be a legal person, you must be a "party" to legal *relations* (with other persons). Thus, a person is "party" to a lawsuit by virtue of his "legal *relation*" to some other party to that case. But if you have no legal *relation* (legal personality) to purpose of the complaint advanced by a plaintiff, you can't be a "party" (legal personality) to the case. Given that legal personalities are a function of purpose, it appears possible to have extensive relationships with a plaintiff and still not be a "party" (legal personality) to that plaintiff's lawsuit if none of your relationships embrace the same purpose as is implied by the plaintiff's allegation. Thus, a significant challenge to a plaintiff's claim and a court's resultant jurisdiction might be a denial of engaging in whatever specific common purpose is alleged to underlie the plaintiff's claim.

GG Not precisely so. To equate the "reality" of legal personalities of corporations with that of "normal human beings" is deceptive since both *legal* personalities are equally *artificial*. Since all legal personalities are artificial, none is "real" (endowed by God). The only "real" personality is the single "natural" (not "legal") personality of a human being. The author thus implicitly denies the existence of God-given, unalienable Rights and even God, Himself.

It is believed that most of the confusion of thought with respect to the subject comes from the disposition to read into legal personality the qualities of natural human personality.[31] **DD** So Mr. Gray gets his "will"[32] and so Mr. Salmond his "interest."[33] So it is that Mr. Geldart is led to observe that:

> "If corporate bodies are really, like individuals, the bearers of legal rights and duties, they must have something in common which qualifies them to be such and if that is not *personality* we may fairly ask to be told what it is."[34]

As evidence of the personality of such bodies, apart from the personality of the individuals who compose them, we are reminded that the same individuals may form two distinct corporations.[35] But the same has been held of partnerships.[36] We are referred also to a so-called group mind[37] and cited the obvious fact that people behave differently and get different results in an organization than when acting alone. But the *isolated* individual will also behave differently in different circumstances, and yet there is *no need* to read this variety into his legal personality. **EE** If it should suit the convenience of the economist or the sociologist to recognize in the group an economic or a social personality, he would certainly be privileged to do so, and, if he did, doubtless he would fix upon some one or more of the various aspects of group behavior as the identifying quality which the group must share with a natural person. But the ship, the corporation and the natural person all require the same thing *to make them legal person*s, namely, to be a *party to legal relations*. None of them requires anything more. **FF**

The voluminous arguments about whether corporate personality is real or fictitious, are, for the most part; to no purpose, chiefly for lack of a definition of terms.[38] One man's reality is another man's fiction.[39] In a sense, every idea that enters the human mind is a fact and has reality. In another sense it may be a fiction. One may as well ask if the "Private Life of Helen of Troy" is real or fictitious. There is certainly such a book. The legal personality of a corporation is just as real as and no more real than the legal personality of a normal human being. **GG** In either case it is an abstraction, one of the major abstractions of legal science, like title, possession, right and duty.[40]

If, without suggesting that there is an analogy for all purposes, we compare title with personality, it may be that we shall clarify somewhat our ideas about the latter term. To say that a subject has legal personality is to say that it ["it"—not "he"] is a party to legal relations without indicating in particular what the relations are. To say that one has title, is to say that one is a party to a particular *class* of legal relations, namely, those which go with the ownership of property. In either case, if one takes away all the rights, powers, privileges and immunities that shelter under the term, there is nothing left except the shelter which, thereafter, is but a word without a meaning.[41] To regard legal personality as a thing apart from the legal relations, is to commit an error of the same sort as that of distinguishing title from the rights, powers, privileges and immunities for which it is only a compendious name. Without the *relations*, in either case, there is no more left than the smile of the Cheshire Cat after the cat had disappeared.

The concession theory—that the corporation must be created by legislative act—has mystified the concept of corporate personality. But this theory, as well as the fiction theory, was devised for a *purpose*.[42] Joint stock companies and de facto corporations testify that the legislative grant is by way of *control* rather than an act of creative magic.[43] That the legislature has seen fit "to interpose a non-conductor through which," to quote Justice Holmes, "it is impossible to see the [natural] men behind [the "non-conductor"/corportion]"[44] **HH** is properly effective to the extent of the legislative *intent* [purpose], but it does not mean, either that the non-conductor is to make a Frankenstein creature of the corporation, or that the same nonconductor may not properly be applied in appropriate situations to *unincorporated associations*.[45] **II** The distinction is in degree and not in kind.

We have assumed that to be a legal person is to be a *party* to legal *relations*, and have seen that the sovereign can, and, if it suits its purposes, does, confer legal personality upon subjects that are not human beings [like "ALFRED"]. If we are to be consistent with these premises, we shall have to *abandon* the idea sponsored by Austin, Hohfeld, Justice Holmes, and others, that *only natural persons are parties* to legal relations.[46] In so far as legal persons and natural persons are the same, this is true.**JJ** But if the sovereign power confers legal personality upon a ship, or an idol, or upon an abstraction, such as one of the functional aspects of an individual or of an organized group, such ship or idol or functional aspect ipso facto is *party* to legal *relations*. To insist that only human beings are competent to the part is to confuse the concept of legal personality, in the same way as reading into the concept, when applied to non-human subjects, the attributes of human beings.

HH Thus, it may be "impossible" for the "man" behind an artificial entity to "appear" in court. How could that "impossibility" by overcome? Perhaps by "special appearance" at the beginning of the trial wherein you assert your status as a natural person and/or deny the existence of any relationship and common purpose between yourself and the plaintiff on which the plaintiff has based his claim.

II Thus, it appears possible for the government and courts to impose an artificial/ "corporate" legal personality on "entities" (relationships) that are not, in fact, incorporated. For example, your *relationships* to your spouse, landlord, or bank might each be impressed with a corporate legal personality even though no corporation had, in fact, been "created by legislative act". Once that corporate legal personality were created, it might thereafter be "impossible to see the [natural] men behind" that artificial entity.

This process seems to conform very nearly to the phenomenon that many constitutionalists believe takes place in our courts today. The courts create or impose an artificial entity ("ALFRED") on the defendant and thereafter refuse to "see" the natural man ("Alfred") or recognize any of his claims to unalienable, God-given Rights.

JJ Note that the author did not write that legal persons and natural persons were, in fact, the same; he wrote "insofar" at they are the same. More importantly, note that a "legal person" or "natural person" both appear to a singularities like a specific corporation (IBM) or specific man (Alfred Adask). However, each of these singularities may have an unlimited number of "legal personalities". Thus, it appears that a "legal person" is not a "legal personality"—it is merely the singular name under which a *multitude* of "legal personalities" might operate.

KK The author implies that the ultimate purpose for "attributing" (or "construing") legal personalities is to *benefit* some human being. Whenever I see "benefit," I assume the presence of "beneficiaries" and therefore a trust. Similarly, the term "burden" reminds me of the duties of trustees. Again, the concept of "legal personality" seems congruent with our current understanding of constructive trusts. In both instances, the courts seem to attribute or construe a relationship or trust upon two parties in order to make both (especially the defendant) a "party" to a lawsuit and subject to the court's jurisdiction.

LL Here, the author seems to mean that the advantage to attributing legal personalities is that the sovereign need not "ultimately analyze" and thus expressly explain the new capacity, rights and duties to the subject on which they've been imposed. Thus, the attribution of "legal personality" (like the construing of constructive trusts) is a kind of trickery that a would-be "sovereign" can use to "secretly" gain jurisdiction over parties not naturally subject to that jurisdiction—and never bother explaining to these new subjects how that jurisdiction was obtained.

But. If this process avoids the "necessity" of the "ultimate analysis" of who will benefit (and how) from the imposition of legal personalities, the process still does not appear to absolutely prohibit that "ultimate analysis". This suggests that strategies might be devised to demand that the court/government expressly reveal who (in a particular case) will benefit from the imposition of legal personalities and whether those "benefits" are sufficient offset the loss to the parties of their God-given, unalienable Rights.

MM First, if the purpose of legal personality is to "regulate behavior," of human beings, then it's clear that legal personality is used to thwart or diminish one's natural, God-given liberty. Second, the attribution of a legal personality to one person appears to not only affect that person, but also all others who *relate* to that person. For example, in 2000 A.D. (approximately) the Indianapolis Baptist Temple was raided and seized by the IRS. In general, the reason for seizure was because that church had not been paying income taxes. But more specifically, the church was seized because it had employed persons who had Social Security Numbers and nevertheless failed to take out withholding for those employees. Even though the employees ultimately paid all required taxes and S.S. "contributions," the church was seized. Why? Perhaps because the employees, by virtue of having SSNs had a *legal personality* that not only created rights and duties for the employee, but also for any *employer* who hired that individual.

Thus, the "legal personality" of the person holding the SSN may have created rights and duties on people *relating* to that person. If I had to guess, I'd bet the church wrote checks to the employees that were deposited in bank accounts identified with SSNs. If so, the deposited checks may have "proved" that the employee was hired in the "legal personality" of a person with a SSN and thereby subjected both the employees and the church to the "legal relations," rights and duties imposed by the Social Security Trust Fund.

It is true, of course, that the *benefits* and *burdens* of legal personality in other than human *subjects*, on *ultimate analysis*, result to human beings, which, we have no doubt, is what the writers above cited mean.KK But the very *utility* of the concept, particularly in the case of corporate personality, lies in the fact that it *avoids* the necessity for this *ultimate analysis*.[47] LL

And this leads us back to the question put in the beginning, as to why lawyers and judges assume to clothe inanimate objects and abstractions [relationships?] with the qualities of human beings, a question which we trust we may now be permitted to modify so as to ask why it is that on such objects and abstractions we confer legal personality. Mr. Dewey says we do not make molecules and trees legal persons because "molecules and trees would continue to behave exactly as they do whether or not rights and duties were ascribed to them."[48] But, though the function of legal personality, as the quotation suggests, is to *regulate behavior* it is not alone to regulate the conduct of the [artificial or inanimate] subject on which it is conferred; it is to regulate also the conduct of *human beings* toward the subject or toward each other.MM It suits the purposes of *society* to make a ship a legal person, not because the ship's conduct will be any different, of course, but because its personality is an effective instrument to *control* in certain particulars the conduct of its

owner or of other *human beings*. The broad purpose of legal personality, whether of a ship, an idol, a molecule, or a man, and upon whomever or whatever conferred, is to facilitate the *regulation*, by organized society, [The "collective"?] of *human* conduct and intercourse.[NN]

If we grant this, we should be in a position to make effective use of the concept, without overworking it on the one hand, as it may be we have done in the case of corporations, or making too little use of it on the other, as we may have done in the case of unincorporated associations. It is conventional and orthodox to say that a corporation is a legal person and a partnership is not. The statement is only partially true. For some *purposes* a partnership is a legal person[49] and for some *purposes* a corporation is not.[50] [OO]

But, aside from its inaccuracy, there is a double danger in such an unqualified statement. One we have already noted, namely, that the use of the word "person," in accordance with Mr. Hohfeld's "principle of linguistic contamination," is an open invitation to read into the concept the qualities of natural persons, which, according to the statement, would be attributed to a corporation and denied to a partnership.[51] The other danger is that the two propositions, thus defined, may be exalted to the dignity of principles from which to deduce conclusions.[52] Indeed, corporate personality is the principle from which much, if not most, of the present law of corporations, in form at least, has actually been deduced. We say in form, because the facility with which corporate personality has

[NN] Again, this "regulation" seems contrary to the principles of freedom and liberty. According to the second sentence in the "Declaration of Independence," the primary purpose of government is to "secure" the "unalienable Rights" given each man by God. Insofar as the "regulation" achieved through "legal personalities" tends to deny those unalienable Rights, that regulation and legal personalities are contrary to basic American principles. Moreover, we may reasonably ask what part of our Declaration or State and Federal constitutions delegate power to our government to secretly attribute legal personalities to formerly free men? In a government of allegedly limited powers, where did We the People expressly delegate power to the government to secretly "attribute" a multitude of legal personalities to each of us that impose unexpected legal rights and duties which effectively deprive us of our God-given unalienable Rights?

[OO] Again, note the significance of "purpose". Your legal personality at any moment is a function of your *purpose*. And what legal personality (if any) might you have if your sole purpose, at all times, was to serve God and/or earn eternal salvation? What would happen if all of your signatures were immediately preceeded by the disclaimer, "without prejudice to my God-given, unalienable Rights"? Would that disclaimer/qualification establish that you would never knowingly enter into a "legal personality" that violated or compromised those God-given Rights? That disclaimer over your signature might qualify every "legal personality" into which you entered. It would establish that it was your purpose (when you filled out a bank account application or drivers license application) to do nothing that would violate or compromise your primary relationship to God.

According to the "legal personality" process, by establishing your "purpose," you also impose that purpose on anyone who relates to you in that "legal personality". In other words, just as the SSNs of the folks who worked at the Indianopolis Baptist Temple may have "contaminated" their employer with duties to Social Security and the IRS, your signature claiming your unalinable Rights might similarly "contaminate" those government officials who subsequently relate to you with a duty to "secure" those God-given Rights.

Others have qualified their signatures with disclaimers like "sui juris" and "Without Prejudice 1-207". But, so far as I know, few have understood (and thus been able to argue) that the significance of the disclaimer is to specify the "*purpose*" under which each legal personality is formed. OK, so you wrote "sui juris" next to your signature. But what will you say if they judge asks what you meant? What was your *purpose* in writing "sui juris"? Was it superstitious attempt to ward off the government much like using a Cross is rumored to ward off vampires?

Or can you specifically explain that your purpose in writing "sui juris" was to establish your purpose for whatever relationship flows from that signature and thus qualify and restrict the resulting legal personality? If you can't specifically explain why you did something (your *purpose*), then your act will probably have no legal effect as a defense against government jurisdiction and regulation.

PP Say *whaaat?* I usually interpret that kind of mumbo-jumbo as evidence that the author is writing to conceal rather than reveal. Whatever the author meant, it's beyond me. If you can deduce his meaning, let me know.

QQ Here, the author tells us that a single name (like "ALFRED") can have any number of legal personalities. However, the fact that "ALFRED" has the capacity to have several legal personalities does not mean that "ALFRED" necessarily has *all* legal personalities or even any particular legal personality. The question is one of *purpose*. If the person acting as or for "ALFRED" does not share a common purpose with another particular person, that person cannot invoke a court of equity to enforce the rights and duties of that a non-existant legal relationship, legal personality and status as party to the case. "ALFRED" the driver is not "ALFRED" the bank customer or "ALFRED" the Social Security beneficiary. Different purposes create different legal personalities and resultant duties and liabilities. Your name seems generally unimportant. Your *purpose* (and perhaps that of the legislature when it passed various laws), however, appears to be the crucial, determinative factor.

RR Here "merit" seems to imply a case-by-case determination of each legal personality's "purpose". To paraphrase Johnny Cochran, "If the purpose don't fit, you must acquit." Beyond that, the legal personality of a defendant is probably always presumed based on the plaintiff's initial claim. If the defendant fails to expressly deny that "legal personality" and especially its underlying *purpose*, I suspect that the court will assume automatic "in personam" jurisdiction over the defendant. Essentially, when the plaintiff files his case, he implicitly claims he and the defendant shared a common "purpose"/relationship and that the resulting "legal personality" makes the defendant a "party" to the case. Unless the defendant expressly denies that underlying purpose and alleged legal relationship, he's probably caught in the court's jurisdiction.

adapted itself to the inevitability of the deductive process suggests that not infrequently there is something more compelling than the major premise back of the phraseology of the opinions or between the lines, which demands a workable conclusion.[53] **PP**

It is not the part of legal personality to dictate conclusions. To insist that because it has been decided that a corporation is a legal person for *some* purposes it must therefore be a legal person for *all* purposes, or to insist that because it has been decided that a partnership is not a legal person for *some* purposes it cannot therefore be so for *any* purposes, is to make of both corporate personality and partnership impersonality a master rather than a servant, and to decide legal questions on irrelevant considerations without inquiry into their merits.[54] Issues do not properly turn upon a *name*. **QQ**

Kynge had the right idea, when, in 1293, in answer to Spigurnel's objection that his client was not a cousin, so as to sue out a writ of cosinage, he urged that, since there was no other remedy available to him, a man's great-great-grandfather was his cousin *for that purpose*.[55] If the court had followed this reasoning, we may doubt whether even Kynge would have thought the decision an authority on which to fix degrees of consanguinity for other purposes.

A Brooklyn traffic court last summer decided that a hearse is a pleasure vehicle. The issue was whether hearses should drive in a traffic lane assigned to pleasure vehicles or in another traffic lane assigned to trucks and other commercial vehicles. The propriety of the decision, I take it, is unquestioned. But if some later court, on the authority of that case, should apply to hearses a Sunday law against driving pleasure vehicles on the Sabbath, the decision would be neither good logic nor good sense.

Whether a corporation, or a partnership, or other unincorporated association is to be treated as a legal person in a particular respect [for a particular *purpose*], is improperly decided unless decided on its own merits. **RR** That it [a corporation] is so regarded [as a legal person] in other respects [for other *purposes*], though

perhaps relevant, is certainly not conclusive.[SS] Cases accumulate in which the courts have recognized a partnership entity,[56] and at the same time cases also accumulate in which the courts look behind the corporate veil.[57] Thus it is that the utility of the concept breaks down the partnership dogma, while, on the other hand, the abuse of the concept exposes limitations on the corporate dogma.[58] Legal personality is a good servant, but it may be a bad master.[59] [TT]

[1] This paper was read before the Round Table on Business Associations at the meeting of the Association of American Law Schools at Chicago in December, 1926.

[2] GRAY, THE NATURE AND SOURCES OF THE LAW (2d ed. 1921) 27; SALMOND, JURISPRUDENCE (5th ed. 1916) 272; HOLLAND, JURISPRUDENCE (9th ed. 1900) 88; POLLOCK, A FIRST BOOK OF JURISPRUDENCE (1928) 114.

[3] Corbin, *Legal Analysis and Terminology* (1919) 29 YALE LAW JOURNAL 163; *ibid., Jural Relations and Their Classification* (1921) 30 YALE LAW JOURNAL 226; HOLMES, COLLECTED LEGAL PAPERS (1921). 167 *et seq.*

[4] SALMOND, *op. cit. supra* note 2, at 272; HOLLAND, *op. cit. supra* note 2, at 88, 91; *cf.* Geldart, *Legal Personality* (1911) 27 L. Q. REv. 90, 95.

[5] *Op. cit. supra* note 2, at 25, 26.

[6] *Ibid.* 28.

[7] *op. cit. supra* note 2, at 273.

[8] *Ibid.*

[9] Pramatha Nath Mullick v. Pradyumna Kumar Mullick, L. R. 52 I. A. 245 (1925); see Comment (1925) 41 L. Q. Rev. 419.

[10] Maitland, quoted by Geldart, *op. cit. supra* note 4, at 93.

[11] Justice Brown in Tucker v. Alexandroff, 183 U. 5. 424, 438, 22 Sup. Ct. 195, 201 (1902), cited by Justice McKenna in The Western Maid, 257 U. 5. 419, 436, 42 Sup. Ct. 159, 162 (1922).

[12] "Much of the difficulty, as regards legal terminology, arises from the fact that many of our words were originally applicable only to physical things; so that their use in connection with legal relations is, strictly speaking, figurative, or fictional." HOHFELD, FUNDAMENTAL LEGAL CONCEPTIONS (1923)· 30.

[SS] I've understood for some time that "Alfred Adask" and "ALFRED N. ADASK" are two different entities. Until now, however, I had not understood that "ALFRED N. ADASK" (the driver) is a different legal personality from "ALFRED N. ADASK" (the voter). Thus, if I'm charged with a traffic offence, it may be futile to deny that I am or represent "ALFRED N. ADASK" because—even I don't do so as a "driver"—I still do as a voter or bank customer, etc.. I have engaged (and continue to do so) in so many legal relationships (banking, voting, driving, SS, utilities, credit cards, rent, military, etc.) under the name "ALFRED N. ADASK" that it's virtually impossible to somehow renounce (or even recall) all of those legal relationships. I'd bet that if a court can find *any* instance wherein I've acted in a legal personality called "ALFRED N. ADASK," the court would dismiss as a lie any attempt by me to issue a blanket denial of my use of *all* legal personalities using that name. Thus, if I've *ever* used a legal personality named "ALFRED," the court may presume that I have again used that name in another legal personality that is the subject of litigation in his court.

The question, however, is not whether I have ever acted in a legal personality called "ALFRED N. ADASK," but whether I did so in this instance and for this specific, common purpose implicitly alleged by the plaintiff. Thus, when someone tries to subpoena me in the name (legal personality) of "ALFRED N. ADASK," my most effective response may not be "Who wants to know" or "That's not my proper name"—but rather, "For what purpose?"

Sure, I may use the name "ALFRED" for a dozen different purposes and thus for a dozen different legal personalities. But in *which* legal personality (purpose) are you addressing me? Further, if you're addressing me for a purpose which I do not currently embrace, then—while I sometimes use the legal personality "ALFRED N. ADASK" as driver, or sometimes as voter or sometimes as bank customer—I am NOT the legal personality "ALFRED N. ADASK" for the purpose of your inquiry, summons, or allegation. Therefore, I'm not party to your case. So please, buzz off.

[MM] Indeed. Since this article was written in 1928, we seem to have advanced a long way down the road of "legal personality". And if this doctrine lies as close to the heart of modern "law" as I suspect, it has helped strip us of our unalienable Rights and thereby become a truly wicked master.

[13] It would be interesting to speculate whether the application to contracts of terms of biology and horticulture, such, for example, as "ripen" and "mature," had anything to do with judicial aversion to the doctrine of anticipatory breach!

[14] For significance of habit in shaping legal institutions, see Moore, *Rational Basis of Legal Institutions* (1923) 23 COL. L. REV. 609.

[15] For other and similar "fictions," see GRAY, *op. cit. supra* note 2, at 30.

[16] This purely functional justification of the personality of a ship is only suggestive, of course, and does not profess to be historical. Justice Holmes finds its history in the primitive notion which gave life to things that moved; but thinks its survival may be due to its utility. HOLMES, THE COMMON LAW (1881) 28.

[17] The shareholder "is the least interesting, the least momentous fact in corporate life, as an individual after he has entered the corporate sphere." Deiser, *The Juristic Person* (1909) 57 U. PA. L. REv. 300, 801; see also, Vinogradoff, *Juridical Persons* (1924) 24 COL. L. REV. 594, 595.

[18] "The germ of the corporate idea lies merely in a mode of thought; in thinking of several as a group, as one." Raymond, *The Genesis of the Corporation* (1905). 19 HARV. L. REV. 350

[19] "This concept of the oneness of personality is bound up in our concept of a man. The trustee and the same man conducting his private business has one and the same personality . . . The law may take the position that one person in fact can have but one legal personality, or that he may have many . . . The legal theory that a man is one legal person . . . has this in its favor—the theory corresponds to the facts." Lewis, *The Uniform Partnership Act—A Reply to Mr. Crane's Criticism* (1915) 29 HARV. L. REV. 158, 161. [Thus, the way to establish that you are not a legal personality may be to introduce sufficient "facts" into evidence to prove that the artificial "legal personality" cannot possibly be you.]

"When a man Is executor, administrator, trustee, bailee, or agent, we do not feel it necessary to speak of corporateness or artificial personality." 3 MAITLAND, COLLECTED PAPERS (1911) 242. [But even though unspoken, Maitland implies that such artificial personalities are still presumed to exist.]

"A human being Is, in the nature of things, a unit. A philosopher might entertain a doubt upon this,—*homo* might seem to him merely a convenient word to designate a large number of molecules. But the *common law* judges seem never to have doubted." warren, *Collateral Attack on Incorporation* (1908) 21 HARV. L. REV. 305. For a recognition and treatment of this phenomenon as a distinctive feature of the subject of legal personality, see SALMOND, *op. cit. supra* note 2, at 278. "Every contract, debt, obligation, or assignment requires two persons; but *those two persons may be the same human being*." *Ibid.*

[20] 3 MAITLAND, *op. cit. supra* note 19, at 243. "A queer creature that is always turning out to be a mere mortal man just when we have need of an immortal person." 3 *ibid.* 280.

[21] Smith's Estate, 144 Pa. 428, 22 Atl. 916 (1891).

[22] Farney v. Hauser, 109 Kan. 75, 198 Pac. 178 (1921); Huffman Farm Co. v. Rush, 173 Pa. 264, 33 Atl. 1013 (1895) .

[23] Williams v. Cobb, 242 U. 5. 307, 37 Sup. Ct. 115 (1915).

[24] 1 HISTORY OF ENGLISH LAW (2d ed. 1899) 493.

[25] For another case illustrating the same sort of confusion, see *ibid.* 492.

[26] For example, in Bank of Syracuse v. Hollister, 17 N. Y. 45 (1858), S, acting as agent for the holder of a check, in contemplation of law, demanded payment of himself as teller of the bank on which it was drawn.

Acting as teller, he refused to pay himself as agent for the holder, because the drawer had no funds in the bank. Then, as teller, he handed the check back to himself as agent for the holder and as agent for the holder he returned it to himself as notary public to have it protested for non-payment. After he had protested it as notary, he delivered it back to himself as agent for the holder and, thereupon, in that capacity, turned it over to his principal, the owner. Such multiplicity we take as a matter of course.

[27] MECHEM, ELEMENTS OF PARTNERSHIP (2d ed. 1920). § 199.

[28] Thompson v. Young, 90 Md. 72, 44 Atl. 1037 (1899) .

[29] Evans v. Gore, 253 U. 5. 245, 40 Sup. Ct. 550 (1920) .

[30] "In recognizing the possibility of one man having, as we should say, two capacities, a natural and a politic or official capacity, the law made an important step; these are signs that it was not easily made." 1 POLLOCK & MAITLAND, *op. cit. supra* note 24, at 506.

whether the profession wishes to regard this as a problem in legal personality or not, the phenomenon has long been common property. In Iolanthe," one of Gilbert and Sullivan's comic operas, the old Lord Chancellor, who has fallen in love with his rich and beautiful young ward, faces with trepidation the dilemma which confronts him by reason of the numerous capacities in which he has to deal with the situation. "Can the Lord Chancellor," he asks, "give his own consent to his own marriage with his own ward? Can he marry his own ward without his own consent? And if he marries his own ward without his consent, can he commit himself for contempt of his own court? Can he appear by counsel before himself to move for arrest of his own judgment? Ah, my lords, it is indeed painful to have to sit upon a woolsack which is studded with such thorns as these."

[31] "It is *personality*, not human nature, that is *fictitiously* attributed by the law to bodies corporate." SALMOND, *op. cit. supra* note 2, at 272.

[32] *Supra* notes 4, 5.

[33] *Supra* notes 6, 7.

[34] Geldart, *op. cit. supra* note 4, at 97.

[35] Brown, *The Personality of the Corporation and the State* (1905) 21 L. Q. Rev. 365, 866.

[36] West & Co. v. The Valley Bank, 6 Ohio St. 169 (1856); Second Nat'l Bank of Oswego v. Burt, 93 N. Y. 233 (1883) .

[37] "In every group of men acting together for a common purpose, the common *purpose* inevitably begets a common spirit which is real, though it may be vague and indefinite to us because our vision is limited, or because the group is in the making. The group becomes, or tends to become, a unit, and as Bluntschli so well said, a mere sum of individuals as such can no more become a unit than a heap of sand can become a statute. So a symphony is something more than a mere concurrence of sounds and a cathedral than so much stone and mortar. . . The group is not an organism (natural), and numberless difficulties have to be overcome when the group mind seeks realization in the external world . . . The difficulties will be overcome somehow, though possibly the group may never pass beyond the state when action of the whole is only possible by combined action of each of the parts." Brown, *op. cit. supra* note 35, at 368, 369.

[38] For discussions by "realists" see: GIERKE, POLITICAL THEORIES OF THE MIDDLE AGES (1900), Maitland's Introduction; Geldart, *loc. cit. supra* note 4; Laski, *The Personality of Associations* (1916) 29 HARV. L. REV. 404; chapter on "Moral Personality and Legal Personality" 3 MAITLAND, *op. cit. supra* note 19.

"Much disinclined though he may be to allow the group a real will of its own, just as really real as the will of a man, still he has to admit that if

n men unite themselves in an organized body, jurisprudence, unless it wishes to pulverize the group, must see n plus1 persons. And that for the lawyer should I think be enough . . . A fiction that we needs must feign is somehow or another very like the simple truth." *Ibid.* 316.

For discussions by non-realists, see: FREUND, THE LEGAL NATURE OF CORPORATIONS (1896); Cohen, *Communal Ghosts and other Perils in Social Philosophy* (1919) 16 JOURNAL OF PHILOSOPHY, PSYCHOLOGY, AND SCIENTIFIC METHOD 673. The latter writer would be tempted "to conclude that the quarrel between those who believe in the reality of corporate personality and those who believe it is fictional is a quarrel over words," were it not that "no question of this sort can be *merely* verbal, because words are most potent influences in determining thought as well as action." *Ibid.* 681. If, by the reality of group personality, it is meant that group persons "have all the characteristics of those we ordinarily call persons," Mr. Cohen thinks that "we are dealing with the kind of a statement which is believed because it is absurd." *Ibid.* 680.

"Whether the corporation is a fictitious entity, or whether it is a real entity, with no real will, or whether, according to Gierke's theory, it is a real entity with a real will, seems to be a matter of no practical importance or interest. On either theory the duties *imposed by the state* are the same. GRAY, *op. cit. supra* note 2, at 55. That a corporation is only a bundle of working rules, see COMMONS, LEGAL FOUNDATIONS OF CAPITALISM (1924) c. 4.

The difficulty is that we conceive of a corporation as something ultimate, or absolute and fundamental and so attempt to define it. The limit of any useful definition is only a certain aspect or for a particular purpose. "At one time it (the corporation) appears to be an *association* of persons, at another time *a person;* at one time it is an independent existence separate from its members, at another, a dummy concealing the acts of its stockholders. At one time it is a fiction existing only in contemplation of law and limited strictly to the powers granted in the act that created it; at another it is a set of transactions giving rise to obligations not authorized expressly by the charter, but read into it by operation of law." *Ibid.* 291.

This paper is interested in the corporation as a functional aspect of an organized group of which *legal rights and duties* are predicated. Other aspects of the corporation may be just as important for other purposes, but they are strangers to its *legal personality*.

[39] The possibilities for discussion are suggested by Mr. Kocourek's distinctions. According to him, corporate personality is not a fiction but a fact. But neither, says he, is it real, nor is it either natural or artificial. Rather, it is a conceptual fact. Kocourek, *Review of Hohfeld, Fundamental Legal Conceptions* (1928), (1924) 18 ILL. L. REV. 281. *et seq.* To our mind, Mr. Kocourek's is a discriminating treatment, and yet, without further definition, a conceptual fact may as well be a fiction for lack of correspondence to an objective world. For some purposes this would satisfy the definition of a fiction.

[40] "The legal personality of the so-called natural person is as *artificial* as is that of the thing or group which is personified. In both cases the character or attribute of personality is but a *creation of the jurist's mind*—a mere conception which he finds it useful to employ in order to give logical coherence to *his* thought." WILLOUGHBY, THE FUNDAMENTAL CONCEPTS OF PUBLIC LAW (1924). 84.

[41] HOHFELD, *op. cit. supra* note 12, at 23—64; HEARN, LEGAL RIGHTS AND DUTIES (1883) 186.

[42] Dewey, *The Historic Background of Corporate Legal Personality* (1926) 35 YALE LAW JOURNAL 655; Raymond, *op. cit. supra* note 18, at 362; 3 MAITLAND, *op. cit. supra* note 19, at 308 *et seq.;* Geldart; *loc. cit. supra* note 4; 1 POLLOCK & MAITLAND, *op. cit. supra* note 24, at 502.

[43] 3 MAITLAND, *op. cit. supra* note 19, at 389. "The sovereign act was *not creation, but permission*." Raymond, *op. cit. supra* note 18, at 363; Warren, *loc. cit. supra* note 19; *ibid. De Facto Corporations* (1907) 20 HARV. L. REV. 456; Deiser, *op. cit. supra* note 17, at 304.

[44] Donnell v. Safe Co., 208 U. 5. 267, 273, 28 Sup. Ct. 288, 289 (1908) .

[45] "The extent to which a group is treated as one by those dealing with it depends entirely on the demands of practical convenience." Raymond, *op. cit. supra* note 18, at 352.

"There is therefore nothing in the nature of things which prevents a court from recognizing as a legal unit a body of persons unauthorized by the sovereign to act as a unit, but in fact acting as a unit." Warren, *op. cit. supra* note 19, at 309.

[Thus, a court can "recognize" a corporate "personality" even though an entity (like one or more men) is not, in fact, incorporated. The determining factor is not their corporate charter, but their conduct, their *actions*.]

"If the law allows men to form permanently organized groups, those groups will be for common opinion right-and-duty-bearing units; and if the law-giver will not openly treat them as such, he will misrepresent, or, as the French say, he will 'denature' the facts; in other words, he will make a mess and call it law." 3 MAITLAND, op. cit. supra note 19, at 314.

[46] HOHFELD, *op. cit. supra* note 12, at 75, 76, 198, 199, 200 and notes.

"The only entities who can really be invested with rights are natural persons." Baty, *The Rights of Ideas—And of Corporations* (1920) 33 HARV. L. REV. 858, 360.

"All rights reside in, and all duties are incumbent upon, physical or natural persons." AUSTIN, JURISPRUDENCE (5th ed. 1885) 354, quoted by HOHFELD, *op. cit. supra* at 200.

"There are not two kinds of persons. There is but one, and the law makes its enactments only for men. Deiser, *op. cit. supra* note 17, at 231.

[47] "It is beside the question that ultimate rights reside In the individuals. That question may well rest until we have to deal with the individual." Deiser, *op. cit. supra* note 17, at 234.

"Rights must at times be administered without reference to this ultimate holder—that is, without reference to the person, who may in the end derive the benefit of them." *Ibid.* 300.

It is submitted that these are more discriminating than the statements quoted in the preceding note. So is the statement that: "Every right belongs to a legal *unit* or *units;* every obligation binds a legal *unit* or *units."* Warren, *op. cit. supra* note 19, at 305.

That the personality of a corporation is only a "shorthand expression," or a mere "figment," "for the sake of brevity in discourse," does not distinguish the corporate legal personality from the legal personality of a human being. To say that X, a human being, has a right against *Y,* is merely a shorthand way of predicting that in certain contingencies governmental agencies will bring some one of a variety of sorts of pressure to bear on *Y* to make him act or forbear in certain particulars in X's favor. See Corbin, *op. cit. supra* note 3, at 164.

[I disagree. This comment ignores the rights given by God, but unenforced by governments. If the sole criteria for the existence of rights is whether a government will enforce them, then government, not God, is

the sovereign. God-given Rights exist; governments may choose not to enforce them, but they do so at their peril.]

[48] *Op. cit. supra* note 42, at 661.

[49] BURDICK, PARTNERSHIP (3d ed. 1917) 83.

[50] (1926) 5 TEX. L. REV. 77, 78, 79.

[51] "It is unfortunate that the word Person, as a technical term, should have found lodgment in jurisprudence, for the idea connoted by it is quite. distinct from the meaning attached to it by the moralist or psychologist, and, the difference not being steadily kept in mind, much confusion of thought has resulted." WILLOUGHBY, *op. cit. supra* note 40, at 31, 32.

"The power of words is such that, this word person once launched into circulation, has attached to it an absolute value." Deiser, *op. cit. supra* note 17, at 231.

"There is a danger of being led by a technical definition to apply a certain name, and then to deduce consequences which have no relation to the grounds on which the name was applied." Justice Holmes in *Guy v. Donald*, 203 U. S. 399, 406, 27 Sup. Ct. 63, 64 (1906) .

[52] One writer makes the fateful statement that "whatever deductions may be made from the theorem (of corporate personality), what corollaries may be said to flow from it, must inevitably be made," a statement hardly to be reconciled with the same writer's treatment of the theorem as a "working principle." Deiser, op. cit. supra note 17, at 307, 308.

[53] The Continental Tyre and Rubber Co. v. Daimler Co. [1915] 1 K. B. 893, [1916] 2 A. C. 307, is a happy illustration. The plaintiff in that case, suing in an English court on contract for a debt, was a corporation chartered under English law and doing business in England. All of its directors and shareholders, however, were Germans living in Germany, except the secretary who was a naturalized Englishman, formerly German, who held one share. The case was tried during the world war and the question arose whether the company was English or German within the meaning of the Enemy Trading Act. In the Court of Appeal the corporate personality prevailed, so that the enemy character of the directors and share-holders had no effect either upon the character of the firm or upon its power to sue. In the House of Lords, Lord Halsbury, disagreeing with the conclusion, had to rely on a different principle. He chose for his purpose that which makes lawful means unlawful if used for unlawful ends. [purposes] Lord Parmoor agreed with Lord Haisbury's conclusion, but as a deductive logician he displayed greater astuteness and finesse in getting the desired result without going back on the corporate entity. Like a Daniel come to judgment, he decided what he called the principle issue for the plaintiff, namely, that it was an English company despite the enemy character of its directors; but, even so, it was helpless to appoint a solicitor to represent It in litigation without the act of the Germans, so that it could not sue. "The pound of flesh is yours, but be careful of the blood!"

Having regard to the logical method exemplified in passages of these opinions, may we not yet hope to learn how many angels can sit on the point of a needle? But it would be unfair to judge the court by its method. In occasional passages the real reasons become articulate. For example, in Lord Justice Bulkley's observation that, "If the personality of the corporators can for no purpose be regarded, there is nothing to prevent alien enemies from owning and sailing British ships under the British flag," ([1915] 1 K. B. 918), or in Lord Halsbury's objection that, "It seems to me too monstrous to suppose that . . . enemies of the State, while actually at war with us, be allowed to continue trading and actually

to sue for their profits in trade in an English court of justice." [1916] 2 A. C. 316. Having regard to such passages, as well as to the conclusion finally reached, we may take comfort in the suggestion that the inevitability of a major premise is perhaps not so inevitable after all.

But the corporation is sometimes more insistent on its personality, as, for example, in People's Pleasure Park Co. v. Rohleder, 109 Va. 439, 61 S.E. 794 (1908), where a sale of lands to a *corporation* composed entirely of negroes, to be used as a recreation ground for negroes, was held not to violate a "condition" that the title should never vest in "persons of African descent."

That there is nothing ultimate or absolute in the personality of the corporation is evident from decisions holding the same corporation to be a legal person in one litigation and for one purpose, Sloan Shipyards Corporation v. Emergency Fleet Corporation, 258 U. 5. 549, 42 Sup. Ct. 386 (1921); and not a legal person in another litigation for another purpose. United States v. Walter, 263 U. 5. 15, 44 Sup. Ct. 10 (1923). [Again, we see that if you can deny that you are have a legal personality for the "purpose" of the plaintiff's claim, you can seemingly deny being a party to the suit.]

That the same is true of the impersonality of unincorporated associations is attested by decisions holding the same joint stock company to be a legal person for the purpose of being prosecuted under a criminal law, United States v. Adams Express Co., 199 Fed. 821 (W. D. N. Y. 1912); and not a legal person for the purpose of getting into the federal courts on diversity of citizenship, Rountree v. Adams Express Co., 165 Fed. 152 (C. C. A. 8th, 1908); and again, to be a legal person for being served with process, Adams Express Co. v. State, 55 Ohio 69, 44 N. E. 506 (1896). See (1926) 36 YALE LAW JOURNAL 254 *et seq.*

As courts of law are not consistent in decrying the personality of the firm, so courts of equity are not consistent in admitting it. The very same court will at one time deal with the firm as a person, and at another time assert that it is not an entity. Brannan, *The Separate Estates of Non-Bankrupt Partners in the Bankruptcy of a Partnership* (1907) 20 HARV. L. REV. 589.

[54] The position of the chairman of the committee that drafted the Uniform Partnership Act, that a legal fiction (or postulate) should not be permitted to shut off an examination of the merits of an issue is, it is believed, eminently sound. Lewis, *op. cit. supra* note 19, at 297.

[55] Y. B. 20 & 21 Edw. I, 154.

[56] Crane, *The Uniform Partnership Act, A Criticism* (1915) 28 HARV. L. REV. 762; Cowles, *The Firm as a Legal Person* (1903) 57 CENT. L. J. 343.

[57] (1926) 36 YALE LAW JOURNAL 254; (1926) 5 TEX. L. REV. 77; (1926) 10 MINN. L. REV. 598.

[58] *Persona Ficta* has repaid the hospitality of the law . . . by making the legal household permanently uncomfortable." Deiser, *op. cit. supra* note 17, at 131. If this is true, it has been unnecessarily so.

[59] Without committing him to anything that appears therein, the writer wishes to acknowledge his very great indebtedness to Prof. Walter Wheeler Cook, on whose major ideas of jurisprudence he has drawn freely in the foregoing discussion.

Letters

Editor,

Reading the Patriot Act (passed in response to the World Trade Center attack) revealed a stunning Catch-22. It's a crime, under the Patriot Act, to give funds to *any* organization which is giving, or has given money to a known terrorist or Terrorist Supporting Group—even if you don't know you did it.

Well, the Taliban is now listed as a Terrorist Supporting Group by our government. And, in the past, the U.S. Government had given the Taliban millions of dollars, thus making the Feds one of those criminal organizations supporting terrorists.

Which means, if you pay your taxes, you're a criminal.

Gotta call the IRS about this one. What fun.

Bruce Chesley

Prosecutorial misconduct

Here is your chance to contribute to fighting a growing problem (an epidemic?) in the US today: Prosecutorial Misconduct. Steve Weinberg, professor at the University of Missouri, and Neil Gordon, a Center for Public Integrity attorney are doing a major study on this issue. The following is copied from the announcement at the Truth In Justice site, http://www.truthinjustice.org/misconduct.htm:

Steve Weinberg, a veteran investigative journalist, is researching specific cases of prosecutorial misconduct that lead to wrongful convictions. He would like to hear from *anyone*—prisoners, their families and friends, lawyers, expert and lay witnesses, jurors, medical examiners, police officers, judges—with evidence of prosecutorial misconduct.

The research will be disseminated by the Center for Public Integrity, quite possibly in the form of a book from a major publisher. Weinberg and Gordon plan to name names of prosecutors who cross the line, especially in jurisdictions where wrongful convictions have occurred repeatedly.

Weinberg can be contacted in these ways:

E-mail: weinbergs@missouri.edu Telephone: 573 882-5468

Fax: 573 882-5431 807 West Blvd. South, Columbia, Mo. 65203

Dance fever

Dear You-all;

There be dancin' in street of Mudville this very eve'. I got my Appeals ruling and basically it is in my favor. Essentially the Defendants' case is gutted but the court ruled that the individual defendants have immunity, which is appealable, and that I didn't properly name Calhoun County as a defendant.

Quote: "As an initial matter, we recognize that the tax lien instrument as filed did not comply with the statutory requirements of MCL 211.664 (requiring certification of the lien) and MCL 211.665 (requiring the address of the person certifying the lien). However, we conclude that notwithstanding these deficiencies, the doctrine of governmental immunity applies and summary disposition was properly granted on that basis."

Since the Court has ruled that the requirements of law were not met, GUESS WHAT? Every person who has a federal notice of tax lien filed on his property in Michigan, has the right to go to his County Register of Deeds and have it sent back to the IRS to get a certification. The IRS will not certify those notices because of the many violations of laws that they did in the issuance of the notices of tax liens. This is probably the first time that any ruling has been gotten on these laws and violations because I'm probably the first in the Country to file a lawsuit on the Register of Deeds.

I have several options at this point on the question of immunity and I will probably take advantage of them. The important thing is that the Notices must be taken off, although the Court didn't actually say that.

God bless,

Chuck Conces chuckconces2@home.com

Choose who you will serve

Alfred,

The way I see it, federal tax money is collected from citizens of the various states and only given back to the states if they bend the collective knee to the federal government. Those who voted for such foolishness are the attorneys in fact for the subjects who gave the legislators their formal power of attorney via voter registration and acceptance of benefits. Lest anyone argue that he rescinded his voter registration (expiration is apparently not sufficient to remove one from the rolls kept in each county and updated by the Postal Service), consider the statement by William Wallace in Brave Heart: "I never took an oath [of fealty] to the King." The inquisitor, judge, jury, and executioner replied: "It matters not; he's still your king."

Any suggestions?

Jim exodusgrp@hotmail.com

Dear Jim,

The claim that you never took an oath to the "king" is insufficient to disprove your natural allegiance and duty of obedience. The question is, WHO did you take an oath of allegiance to? If you've taken no oath to any king, you'll be subject to whatever king runs the jurisdiction where you've been found. But if you've taken an oath (and/or declared your citizenship) under a *different* "king," then you might have created a conflict of law sufficient to impede the local prosecution.

As the Bible says, "Choose, this day, who you will serve." But understand you *will* serve someone. The world will not allow you to claim you are "free" in the sense most people imagine: that you will serve no one. In this life, everyone must serve some "king". Your only real freedom is to *choose* which king that will be—whether your "king" will be God or some earthly government or ruler.

Al,

Right on the mark. We are all servants of the one we obey. Whether God vs money, or God vs men, we serve something. A quick path to a jurisdiction issue is a true faith in the Creator. Last year I observed a court case where Dr. William was representing the wife and ex-wife of a man who the IRS was attempting to audit. The defense raised was that the women were believers in the biblical admonition that the man was the head of the household and as such they could not produce any records. Fed. Dist. Judge Lynn Hughes dismissed the case against both women, *with prejudice*. Of course, knowing the rules and the Constitution of the United States made a great deal of difference since Dr. William was able to get the defense into evidence.

Royce rmitchel@flash.net

The insanity OFFENSE

Dear Mr. Adask:

I am writing an article for *Suspicions* magazine about the insanity OFFENSE and would like to know: 1. If you have information that I can use for my article; and 2. If you would object to my naming your web Site as a link in my article. To explain what I am referring to, the following is a draft for the developing item: THE INSANITY OFFENSE

The "insanity *defense*" is a claim by a defendant that his/her own

self-avowed insanity is a defense against an allegation (of crime). I have coined the term "insanity *offense*" to name a legal move in which one party (typically the government) claims that the other party (often the plaintiff suing the government) is insane.

The insanity *offense* was used on a mass scale by the U.S. Veterans Administration (VA) when Vietnam veterans were physically disabled by Agent Orange (a chemical used in war by the US in Southeast Asia). The same VA tactic oppressed Desert Storm veterans who became physically ill due to contact with contaminants in the Arabian Peninsula. To deny responsibility for exposing US veterans to poisons which caused sickness and death, this disgraceful federal agency coerced desperate soldiers to sign false statements that their physical illnesses were, in fact, *mental* problems. Suffering veterans were denied VA medical benefits unless they falsely claimed that mental disorders caused their disabilities.

Sincerely,

audrey3@nameplanet.com

Dear Audrey,

I think you've touched on a very important insight: While the insanity "defense" almost never works, the "insanity offense" virtually never fails. In other words, if I try to defend myself against criminal charges by claiming I am (or was) legally insane when I allegedly committed a crime, the government is almost certain to successfully deny my claim. Look at Andrea Yates, the mother who drowned her five children—if she' wasn't insane, who is? And yet, the government and jury found her to be mentally ill, but still sufficiently sane to stand trial and face possible execution.

On the other hand, if another case turns up where I present arguments the government doesn't wish to consider, and the government claims or merely suspects that I might be insane, their mere suspicion of my insanity will almost always be accepted as true or at least sufficiently probable to send me off to a psychiatric facility for up to three to six months for "observation".

It would be illuminating to compare percentage of successful insanity "defenses" (almost zero) to the percentage of successful, government-based insanity "offensives". I'd bet that you are at least 100 (maybe 1,000) times more likely to be found insane if the government uses that "offense" than when you use that same "defense". It would be particularly interesting to discover why government "offenses" almost always work while defendant "de-

fenses" almost always fail. Is there a meaningful difference in the facts and law of the two sides? If not, then we'd have implicit evidence of a massive abuse of power tantamount to the psychiatric oppression practiced by the former Soviet Union.

Apparently, the sole criteria for determining one's sanity in court is whether it suits the government's purposes to find you sane (to stand trial for murder) or insane (to present a defense or claim the government doesn't wish to consider). Research supporting this hypothesis could make an extraordinarily important story. If you can simply assemble credible data that indicates the difference in insanity defense and "offense" success rates, you might lay the foundation for a national fire storm.

In truth, this theme could be expanded into a article that belongs in national publications with far greater circulation than my *Suspicions*. If you can assemble 300 pages on the subject, you might have a book with a chance to become a national best seller. I hope you'll pursue this subject and when the time comes, I hope you'll allow me to publish a copy of your final article—even if you wind up selling to some larger publisher first.

I think you're on the edge of a powerful and important insight.

Sincerely,

Alfred Adask

Iron sharpens iron

Dear Mr. Adask:

I recently read your PDF magazine, *Suspicions*. As a Christian and a lawyer I found your discussion of the distinction between a democracy and a republic to be excellent. I have written a book entitled "Antichrist Conspiracy" which you may be interested in reading. It is free and I would be happy to email a PDF copy of it to you, if you wish.

Sincerely Yours,

Edward Hendrie edwardmh@msn.com

P.S. I agree with you 100 % regarding the nature of corporations. Not only are they legal fictions, but Satan, through his governments, gives his creations (corporations) many advantages over God's creations (man).

Dear Mr. Hendrie,

Thanks for the compliments. More importantly, thanks for "understanding" my work. I've published for eleven years, and although my intent was not apparent in the first four of five years, it's always been my intent to work against the modern idea of "separation of church and state".

I try to show people where you can find biblical and spiritual relationships, implications and foundations in our legal system. I don't evangelize, but I try to make people aware of the way God relates to all of us on a daily basis. I usually give the readers about 5% spirituality mixed in with 95% secular law. Essentially,

I'm working to restore an awareness, a relationship, perhaps even a kind of unification or reconciliation of "church and state". I want the American people to understand that the true church of the God of the Bible must be protected from the state, but the state can have no defense against the values of that church or the authority of God. So far, not many people seem to grasp my objective. So I'm always pleased when someone seems to "get it".

Thanks also for sending a copy of your book. I've read the first thirty pages and see that your book is very well-written, well organized and well researched. I'm about halfway through Chapter 53 and I'm impressed by the historical research. I'm sure I'll learn a great deal from your book. Thank you.

I have a question, however, that you may be able to answer. I've been troubled by the stories about "corrupted" versions of the Bible. I've heard virtually every Bible version disparaged. Your first 30 pages is the first time I've seen anyone make any sense of the confusion.

You and others conclude that only the authorized King James version is valid. However, the King James is probably the version I first heard was corrupt—perhaps twenty years ago. I repeatedly heard a story that 1) King James was a sodomite who altered the Bible to minimize the "liability" attached to that life-style; and 2) King James altered the text of the Ten Commandments to read "Thou Shalt not *kill*" rather than the original, allegedly "true" text: "Thou shalt not *murder*."

The alleged difference is that "murder" is something you do to members of your family, tribe or nation, while "kill" describes the deaths of those *outside* your family or community. Thus, I was told, that under the authentic Ten Commandments, you shouldn't kill members of your community (Israel), but you could easily kill foreigners (Goy). Hence, war against "foreigners" was quite acceptable was not necessarily sinful in the eyes of God.

However, under King James version of that Commandment, you couldn't "kill" *anyone*. I haven't researched any of this. I've only heard things, so my ignorance is still fundamentally pristine. So, perhaps you can tell me if my notions on King James are without foundation. Again, thanks for sending you book. It's excellent.

Sincerely,
Alfred Adask

Dear Mr. Adask,

King James' character is really irrelevant, because he did not write the King James Bible. He simply provided a safe haven for the translators to work unmolested by the papacy. Even if his character were relevant, the accusation about him are false. I recommend the book "King James Unjustly Accused." http://www.jesus-is-lord.com/kjcoston.htm

Satan and his papal minions have an abiding hatred for God and all who serve God faithfully. I would not be concerned that the world says all sorts of evil things about King James. God said: "Blessed are ye, when

men shall revile you, and persecute you, and shall say all manner of evil against you falsely, for my sake." (*Matthew* 5:11 AV) You should be suspicious of those whom the world praises: "Woe unto you, when all men shall speak well of you! for so did their fathers to the false prophets." (*Luke* 6:26 AV)

I am unfamiliar with the allegation about the purported change of the word "murder" to "kill" in *Exodus* 20. It seems odd that King James would do that and leave the following passage in the new testament unchanged:

"And he said unto him, Why callest thou me good? there is none good but one, that is, God: but if thou wilt enter into life, keep the commandments. He saith unto him, Which? Jesus said, Thou shalt do no *murder*, Thou shalt not commit adultery, Thou shalt not steal, Thou shalt not bear false witness." (*Matthew* 19:17-18 AV; emphasis added)

The text used by the King James translators was the Masoretic (traditional) Hebrew Old Testament, which predated King James and the birth of Christ. The Hebrew word used in Exodus 20 for "kill" was "ratsach" (raw-tsakh'), which can be translated as kill, murder, or slay. The allegation that "kill" is inaccurate is simply false. I don't know why God has chosen to say "kill" in *Exodus* 20 and to say "murder" in *Matthew* 19. What I do know is that is what God has said and it is not a corruption of his words.

If God created all languages and he is sovereign and he has promised to preserve his words, don't you think that His hand would be guiding the translators of his word into from his Greek and Hebrew language to his English language? This really comes down to who is God. He is not a God of confusion. He is the sovereign creator and ruler of the universe, who has promised to preserve his most precious word.

I have learned much from your writings. I immediately recognized some of the things that you have written as self-evident truths. "Iron sharpeneth iron; so a man sharpeneth the countenance of his friend." (*Proverbs* 27:17 AV) Clearly, God has given you eyes to see spiritual truth.

Sincerely Yours,

Edward Hendrie

Etc.

A retired gentleman went to the social security office to apply for social security.

The woman behind the counter asked him for his driver's license to verify his age. He looked in his pockets and realized he'd left his wallet at home. So he told the woman, "Sorry, but I seem to have left my wallet at home. I'll have to go home and come back later."

The woman says, "Unbutton your shirt." So he opens his shirt and reveals lots of curly silver hair.

She said, "That silver hair on your chest is proof enough for me," so she processed his Social Security application.

When he gets home, the man excitedly tells his wife about his good luck at the social security office.

His wife smiled for a minute and then replied, "Too bad you didn't drop your pants—you might've gotten disability too."

A drunk is taken to court arrested for public intoxiction. The judge asks, "Where do you work?"

The drunk mumbles: "Here and there."

"What do you do for a living?"

"This and that."

Irritated, the judge says, "Bailiff, put him back in the drunk tank!"

The drunk hollers, "Hey, judgie, when will I get out?"

The judge replies, "Sooner or later."

Boss: Who said that just because I tried to kiss you at last month's company picnic, you could neglect to do your work around here?

Secretary: My lawyer.

"I have good news and bad news," the defense lawyer says to his client." "What's the bad news?" The lawyer says, "Your blood matches the DNA found at the murder scene."

"Damm!" cries the client. "What's the good news?" "Well," the lawyer says, "Your cholesterol is down to 140."

A guy walks into a post office one day to see an rumpled, middle-aged, balding man methodically placing "Love" stamps on stacks of perfumed, bright pink envelopes with hearts all over them. So he asks bald guy what he's doing.

"I'm sending out 1,000 Valentine's Day cards signed, 'Guess who?'"

"But why?" asks the man.

"I'm a divorce lawyer."

Q: What's a lawyer's ideal weight?

A: About three pounds, including the urn.

Q: What do you call a nun who just passed her bar exam?

A: Sister-in-law.

A doctor sees a sidewalk stand that says "Brains for Sale." There's another sign on the stand that says "Doctor brains $8.00 a pound, 'Paramedic brains $12.00 a pound, Nurse's brains $30.00 a pound, truck driver brains $40.00 a pound and lawyer's brains $90.00 a pound."

Stung by the apparent insult to his intellect, the doctor asks the clerk, "How come doctor brains are only worth $8.00 a pound and a lawyer's is worth $90.00?"

The clerk replied, "Do you know how many lawyers it *takes* to make a *pound* of brains?"