LAW OF THE CASE

EXHIBIT"A"

Sovereignty

AFROYIM v. RUSK, 387 U.S. 253 (1967)

In our country the **people are sovereign** and the Government cannot sever its relationship to the people by taking away their citizenship. Our Constitution governs us and we must never forget that our Constitution limits the Government to those powers specifically granted or those that are necessary and proper to carry out the specifically granted ones. (emphasis added)

YICK WO v. HOPKINS, 118 U.S. 356 (1886)

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.

LEGAL TENDER CASES, 110 U.S. 421 (1884) (also referred to as Julliard v Greenman);

But be that as it may, there is no such thing as a power of inherent sovereignty in the government of the United States. It is a government of delegated powers, supreme within its prescribed sphere, but powerless outside of it. In this country, sovereignty resides in the people, and congress can exercise no power which they have not, by their constitution, entrusted to it; all else is withheld.

CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.

...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves.....

American Banana Co. v. United Fruit Co., 29 S.Ct. 511 , 513, 213 U.S. 347, 53 L. Ed. 826, 19 Ann. Cas. 1047.

The very meaning of 'sovereignty' is that the decree of the sovereign makes law.

Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am.Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative.

BUTCHERS' UNION CO. v. CRESCENT CITY CO., 111 U.S. 746 (1884)

No one of the judges who then disagreed with the majority of the court denied that the states possessed the fullest power ever claimed by the most earnest advocate of their reserved rights, to prescribe regulations affecting the health, the good order, the morals, the peace, and the safety of society within their respective limits. **When such regulations do not conflict with any constitutional inhibition or natural right, their validity cannot be successfully controverted.** (empasis added)

Ellingham v. Dye, 178 Ind. 336; 99 NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York , 154 NY 61; 47 NE 1096

"A constitution is designated as a supreme enactment, a fundamental act of legislation by the people of the state. A constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior authority." Ellingham v. Dye, 178 Ind. 336; 99 NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York , 154 NY 61; 47 NE 1096

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

"No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents."

In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Black's Law Dictionary, Fifth Edition, p. 626

The United States of America was established as a union of republican states in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated.

Spooner v. McConnell, 22 F 939, 943:

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

Glass v. Sloop Betsey, supreme Court, 1794.

"Our government is founded upon compact. Sovereignty was, and is, in the people"

The People v. Herkimer, 4 Cowen (NY) 345, 348 (1825)

“The people, or sovereign are not bound by general words in statutes, restrictive of prerogative right, title or interest, unless expressly named. Acts of limitation do not bind the King or the people. The people have been ceded all the rights of the King, the former sovereign ... It is a maxim of the common law, that when an act is made for the common good and to prevent injury, the King shall be bound, though not named, but when a statute is general and prerogative right would be divested or taken from the King (or the People) he shall not be bound." The People v. Herkimer, 4 Cowen (NY) 345, 348 (1825)

Julliard v. Greenman, 110 U.S.

"There is no such thing as a power of inherent sovereignty in the government of the United States .... In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld." --Julliard v. Greenman, 110 U.S.

Perry v. U.S. (294 US 330).

"In the United States, sovereignty resides in people.” --*Perry v. U.S*. (294 US 330).

Kawananakoa v. Polyblank, 205 U.S. 349, 353, 27 S. Ct. 526, 527, 51 L. Ed. 834 (1907)

"A Sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends." Kawananakoa v. Polyblank, 205 U.S. 349, 353, 27 S. Ct. 526, 527, 51 L. Ed. 834 (1907).

Sovereignty of the States

The states retained their sovereignty even after joining the union of the several states.

HARCOURT v. GAILLARD, 25 U.S. 523 (1827)

Each declared itself sovereign and independent, according to the limits of its territory...It has been viewed only as a recognition of pre-existing rights, and on that principle, the soil and sovereignty within their acknowledged limits, were as much theirs at the declaration of independence as at this hour.

Bank of United States v. Planters' Bank of Georgia, 22 U.S. 9 Wheat. 904 904 (1824)

As a member of a corporation, a government never exercises its sovereignty. It acts merely as a corporator, and exercises no other power in the management of the affairs of the corporation than are expressly given by the incorporating act.

The government, by becoming a corporator, lays down its sovereignty so far as respects the transactions of the corporation, and exercises no power or privilege which is not derived from the charter.

Redding v Los Angeles (1947) 81 CA2d 888, 185 P2d 430, app dismd 334 US 825, 92 L Ed 1754, 68 S Ct 1338

United States and State of California are two separate sovereignties, each dominant within its own sphere.

Taxing Power of the Federal Government

BRUSHABER v. UNION PACIFIC R. CO., 240 U.S. 1 (1916)

We are of opinion, however, that the **confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation**; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this **erroneous assumption** will be made clear by generalizing the many contentions advanced in argument to support it, as follows: (a) The Amendment authorizes only a particular character of direct tax without apportionment, and therefore if a tax is levied under its assumed authority which does not partake of the characteristics exacted by the Amendment, it is outside of the Amendment, **and is void as a direct tax in the general constitutional sense because not apportioned.** (b) As the Amendment authorizes a tax only upon incomes 'from whatever source derived,' **the exclusion from taxation of some income of designated persons and classes is not authorized**, and hence the constitutionality of the law must be tested by the general provisions of the Constitution as to taxation, and **thus again the tax is void for want of apportionment.** (c) As the right to tax 'incomes from whatever source derived' for which the Amendment provides must be considered as exacting intrinsic uniformity, therefore no tax comes under the authority of the Amendment not conforming to such standard, and hence **all the provisions of the assailed statute must once more be tested solely under the general and pre-existing provisions of the Constitution, causing the statute again to be void in the absence of apportionment**. (d) As the power conferred by the Amendment is new and prospective, the attempt in the statute to make its provisions retroactively apply is void because, so far as the retroactive period is concerned, it is governed by the pre-existing constitutional requirement as to apportionment.

AMERICAN BANANA CO. v. UNITED FRUIT CO., 213 U.S. 347 (1909)

The foregoing considerations would lead, in case of doubt, to a construction of **any statute as intended to be confined in its operation and effect to the territorial limits over which the lawmaker has general and legitimate power.** 'All legislation is prima facie territorial.' Ex parte Blain, L. R. 12 Ch. Div. 522, 528; State v. Carter, 27 N. J. L. 499; People v. Merrill, 2 Park. Crim. Rep. 590, 596. Words having universal scope, such as 'every contract in restraint of trade,'

'every person who shall monopolize,' etc., will be taken, as a matter of course, to mean **only everyone subject to such legislation, not all that the legislator subsequently may be able to catch.**

FOLEY BROS. V. FILARDO , 336 U.S. 281 (1949)

First. The canon of construction which teaches that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States,

Your Labor is Your Property

BUTCHERS' UNION CO. v. CRESCENT CITY CO., 111 U.S. 746 (1884)

These inherent rights have never been more happily expressed than in the declaration of independence, that new evangel of liberty to the people: 'We hold these truths to be self-evident'-that is, so plain that their truth is recognized upon their mere statement-'that all men are endowed'-not by edicts of emperors, or deerees of parliament, or acts of congress, but 'by their Creator with certain inalienable rights.'-that is, rights which cannot be bartered away, or given away, or taken away, except in punishment of crime-'and that among these are life, liberty, and the pursuit of happiness; and to secure these'-not grant them, but secure them- 'governments are instituted among men, deriving their just powers from the consent of the governed.' Among these inalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment. The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hinderance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property.

Neither the IRS nor the Courts can make you show your records as this has been ruled an infringement of your fifth amendment rights. Forcing you to show your records is also considered an infringement of your 4th amendment right of protection of illegal search and seizure. As a matter of fact, the filing of a tax return is considered "testimony of a 'witness'" and people cannot be compelled to file.

BOYD v. U S, 116 U.S. 616 (1886)

and we are further of opinion that a compulsory production of the private books and papers of the owner of goods sought to be forfeited in such a suit is compelling him to be a witness against himself, within the meaning of the fifth amendment to the constitution, and is the equivalent of a search and seizure-and an unreasonable search and seizure-within the meaning of the fourth amendment.

GARNER v. UNITED STATES, 424 U.S. 648 (1976)

The information revealed in the preparation and filing of an income tax return is, for purposes of Fifth Amendment analysis, the testimony of a "witness," as that term is used herein.

Due process of law cannot be denied.

The due process clause of the Fifth Amendment guarantees to each citizen the equal protection of the laws and prohibits a denial thereof by any Federal official." (See rights) Bolling v. Sharpe, 327 U.S. 497.

BRADY v. U. S. , 397 U.S. 742 (1970)

Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.

The Supreme Court has ruled there are two separate United States and the Citizens of the states have different rights than those in the other United States.

U S v. CRUIKSHANK, 92 U.S. 542 (1875)

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

In the united States of America "we the people" are sovereign over and above that of government. As such, the government only has the authority to have those specific powers that have been delegated to it through our constitutions. As stated in LEGAL TENDER CASES, 110 U.S. 421 (1884) (also referred to as Julliard v Greenman);

Downes v Bidwell, 182 U.S. 244 (Dissenting Opinion)

I take leave to say that if the principles thus announced should ever receive the sanction of a majority of this Court, a radical and mischievous change in our system of government will be the result. We will in that event pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism....The idea prevails with some -- indeed, it found expression in arguments at the bar -- that we have in this country substantially or practically two national governments -- one to be maintained under the Constitution, with all its restrictions, the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to exercise. It is one thing to give such a latitudinarian construction to the Constitution as will bring the exercise of power by Congress, upon a particular occasion or upon a particular subject, within its provisions. It is quite a different thing to say that Congress may, if it so elects, proceed outside of the Constitution. The glory of our American system of government is that it was created by a written constitution which protects the people against the exercise of arbitrary, unlimited power, and the limits of which instrument may not be passed by the government it created, or by any branch of it, or even by the people who ordained it, except by amendment or change of its provisions. "To what purpose," Chief Justice Marshall said in Marbury v. Madison, 1 Cranch 137, 5 U. S. 176, "are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation."... It will be an evil day for American liberty if the theory of a government outside of the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violation of the principles of the Constitution.

Land Ownership Rights

Elk v. Wilkins, 112 U.S. 94 (1884)

The persons declared to be citizens are "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." The evident meaning of these last words is not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired.

Wilcox v. Jackson 38 U.S. 498 (1839)

Nothing passes a perfect title to public lands, with the exception of a few cases, **but a pat**

Common Law and the Court of Record

A common law court or court of record is a superior court. Any court **not** of record is an inferior court. If you are not the plaintiff and are pulled into court, it is most likely an inferior court and does not have jurisdiction over people without that people's consent.

Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652

"Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law."

Heydenfeldt v. Superior Court, 117 Cal. 348, 49 Pac. 210; Cohen v. Barrett, 5 Cal. 195" 7 Cal. Jur. 579

"The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record. Ex parte Kearny, 55 Cal. 212. Note, however, that in California 'superior court' is the name of a particular court. But when a court acts by virtue of a special statute conferring jurisdiction in a certain class of cases, it is a court of inferior or limited jurisdiction for the time being, no matter what its ordinary status may be.

Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973)]

"The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it."

Hurtado v. California, 110 U.S. 516, 3 Sup. Ct. 111,292,28 L. Ed. 232 (1884).]

Due process of law is process according to the law of the land .... Due process of law in the latter [the Fifth Article of Amendment to the Constitution) refers to that law of the land which derives its authority from the legislative powers conferred upon Congress by the Constitution of the United States, exercised within the limits therein prescribed and interpreted according to the principles of the common law .... Mr. Justice Matthews, delivering the opinion of the court in Hurtado v. California, 110 U.S. 516, 3 Sup. Ct. 111,292,28 L. Ed. 232 (1884).]

Henry mv. Co. v. Semonian, 40 Cob. 269, 90 P. 682 (1907)

The rules of pleading at Common Law have not been abrogated
by the Code of Civil Procedure. The essential principles still remain. Henry mv. Co. v. Semonian, 40 Cob. 269, 90 P. 682
(1907) Hughes, Procedure, Its Theory and Practice 488 (Chicago 1905). cited by Joseph H. Koffler, Handbook of Cmoon Lw Pleading

The following case proves a differentiation between common law and statutes.

See Clark Cont. 470-502

If the special contract is void because it is illegal, in that it is contrary to public policy, or in violation of the common law, or of statute, neither of the parties, if in pari delicto, can recover from the other for partial performance.

Jurisdiction

Cohens v.Virginia, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821).

We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution.

Main v. Thiboutot, 100 S. Ct. 2502 (1980).

The law provides that once State and Federal Jurisdiction has been challenged, it must be proven.

Basso v. Utah Power & Light Co., 495 F 2d 906, 910.

Jurisdiction can be challenged at any time and once challenged, cannot be assumed and must be decided.

Joyce v. US, 474 F2d 215.

"...there is, as well, no discretion to ignore that lack of jurisdiction."

Bradbury v. Dennis, 310 F.2d 73 (10th Cir. 1962)

A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking.

Rosemond v. Lambert, 469 F2d 416.

The burden shifts to the court to prove jurisdiction.

Latana v. Hopper, 102 F. 2d 188;

...if the issue is presented in any way the burden of proving jurisdiction rests upon him who invokes it.

Melo v. United States, 505 F. 2d 1026

When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction.

Latana v. Hopper, 102 F. 2d 188; Chicago v. New York, 37 F Supp. 150.

Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted.

Middleton v. Low (1866), 30 C. 596, citing Prosser v. Secor (1849), 5 Barb.(N.Y) 607, 608.

No officer can acquire jurisdiction by deciding he has it. The officer, whether judicial or ministerial, decides at his own peril.

This following cite makes it a crime for a court officer to proceed without first proving he has jurisdiction.

Elliott v Peirsol, 1 Pet. 328, 340, 26 U.S. 328, 340, 7L.Ed. 164 (1828)

Where a court has jurisdiction, it has a right to decide any question which occurs in the cause, and whether its decision be correct or otherwise, its judgments, until reversed, are regarded as binding in every other court. But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers.

Dillon v. Dillon, 187 P 27.

Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term.

Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.

A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance.

In re Benny, 29 B.R. 754, 762 (N.D. Cal., 1983)

“An unlawfu

n Re Application of Wyatt, 300 P. 132; Re Cavitt, 118 P2d 846

l or unauthorized exercise of power does not become legitimated or authorized by reason of habitude.”

LAW OF THE CASE
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Latana v. Hopper, 102 F. 2d 188

...if the issue is presented in any way the burden of proving jurisdiction rests upon him who invokes it.

Norwood v. Renfield, 34 C 329; *Ex parte Giambonini*, 49 P. 732

"A universal principle as old as the law is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property."

In Re Application of Wyatt, 300 P. 132; Re Cavitt, 118 P2d 846

"Jurisdiction is fundamental and a judgment rendered by a court that does not have jurisdiction to hear is void ab initio."

McNutt v. GMAC, 298 US 178.

“The burden of proof of jurisdiction lies with the asserter.” McNutt v. GMAC, 298 US 178.

Wuest v. Wuest, 127 P2d 934, 937. Outboard Marine Corp. v. Thomas, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985)

“A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." Wuest v. Wuest, 127 P2d 934, 937. Outboard Marine Corp. v. Thomas, 610 F. Supp. 1234, 1242 (N.D. Ill., 1985)

Davis v. Wechsler, 263 US 22, 24

“Acting without statutory power at all, or misapplying one’s statutory power, will result in a finding that such action was ultra vires. The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.” Davis v. Wechsler, 263 US 22, 24

Benny, 29 B.R. 754, 762 (N.D. Cal., 1983)

“An unlawful or unauthorized exercise of power does not become legitimated or authorized by reason of habitude.” Benny, 29 B.R. 754, 762 (N.D. Cal., 1983).

Treason

U.S. v. Will, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980): Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)

The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason.

Cohens v. Virginia, 19 U.S. 264, 6 Wheat. 265, 5 L.Ed. 257 (1821)

We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution.

Persons NOT People

Church of Scientology v. U.S. Dept. of Justice 612 F. 2d 417, 425 (1979)

"The word "person" in legal terminology is perceived as a general word which normally includes in its scope a variety of entities other than human beings."

Wilson v. Omaha Indian Tribe 442 US 653 (1979); Will v. Michigan state Police 491 U.S. 58, 105 L.Ed.2nd 45 (1989); U.S. v. General Motors Corporation, D.C. Ill, 2 F.R.D. 528, 530

“The word ‘person’ as used and employed in most statutory language is ordinarily construed to exclude the sovereign, and that for one as such to be bound by statute, they must be 'specifically' named.

(United States v. Cooper Corp. 318 US 600 (1941); United States v. Fox 94 US 315; United States v. Mine Workers 330 US 258 (1947)

"Government admits that often the word 'person' is used in such a sense as not to include the sovereign but urges that, where, as in the present instance, its wider application is consistent with, and tends to effectuate, the public policy evidenced by the statute, the term should be held to embrace the government." (United States v. Cooper Corp. 318 US 600 (1941); United States v. Fox 94 US 315; United States v. Mine Workers 330 US 258 (1947)

Again people must be specifically named.

(United States v. Lacher, 134 U.S. 624, 628, 10; S.Ct. 625, 626, 33 L.Ed. 1080 (1890); United States v. Gradwell, 243 U.S. 476,485, 37 S.Ct. 407, 61 L.Ed. 857 (1916).

“The legislature cannot be deemed to have intended to punish anyone who is not 'plainly and unmistakably' within the confines of the statute." (United States v. Lacher, 134 U.S. 624, 628, 10; S.Ct. 625, 626, 33 L.Ed. 1080 (1890); United States v. Gradwell, 243 U.S. 476,485, 37 S.Ct. 407, 61 L.Ed. 857 (1916).

Judges are not judges but private persons if they proceed without jurisdiction.

LAW OF THE CASE
EXHIBIT”A”

An affirmance results when a judge acts in the clear absence of all jurisdiction, i. e., of authority to act officially over the subject-matter in hand, the proceeding is coram non judice. In such a case the judge has lost his judicial function, has become a mere private person, and is liable as a trespasser for the damages resulting from his unauthorized acts. Such has been the law from the days of the case of The Marshalsea, 10 Coke 68. It was recognized as such in Bradley v. Fisher, 13 Wall. (80 U.S.) 335, 351, 20 L. Ed. 646. In State ex rel. Egan v. Wolever, 127 Ind. 306, 26 N. E. 762, 763, the court said: `The converse statement of it is also ancient. Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.' Manning v. Ketcham, 58 F.2d 948 (1932)

Void Orders

Valley v. Northern Fire and Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920). See also Old Wayne Mut. I. Assoc. v. McDonough, 204 U.S. 8, 27 S.Ct. 236 (1907); Williamson v. Berry, 8 How. 495, 540, 12 L. Ed, 1170, 1189, (1850); Rose v. Himely, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808)

Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply VOID, AND THIS IS EVEN PRIOR TO REVERSAL." [Emphasis added]

10/13/58 FRITTS v. KRUGH. SUPREME COURT OF MICHIGAN, 92 N.W.2d 604, 354 Mich. 97

A "void" judgment as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus hereby). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And it is then as though trial and adjudication had never been.

Freytag v. Commissioner, 501 U.S. 868 (1991)

Since such jurisdictional defect deprives not only the initial court but also the appellate court of its power over the case or controversy, to permit the appellate court to ignore it. ...[Would be an] unlawful action by the appellate court itself.

Standing

People v. Superior Court (Plascencia) (2002) 103 Cal.App.4th 409, 126 Cal.Rptr.2d 793.

LAW OF THE CASE
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“Standing is typically treated as a threshold issue, in that without it no justiciable controversy exists. As a general principle, standing to invoke the judicial process requires an actual justiciable controversy as to which the complainant has a real interest in the ultimate adjudication because he or she has either suffered or is about to suffer an injury.” People v. Superior Court (Plascencia) (2002) 103 Cal.App.4th 409, 126 Cal.Rptr.2d 793

Obstruction of Justice

Rubinstein v. Collins, 20 F.3d 160, 1990

“Failure to disclose material information necessary to prevent a statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law.” Rubinstein v. Collins, 20 F.3d 160, 1990

No Immunity

Owen vs City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21

“Officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America.” Owen vs City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21

Pierce v. United States, ("The Floyd Acceptances"), 7 Wall. (74 U.S.) 666, 677

"We have no officers in this government from the President down to the most subordinate agent, who does not hold office under the law, with prescribed duties and limited authority" Pierce v. United States, ("The Floyd Acceptances"), 7 Wall. (74 U.S.) 666, 677

Cunningham v. Macon, 109 U.S. 446, 452, 456, 3 S.Ct. 292, 297 and Poindexter v. Greenhow, 114 U.S. 270, 287, 5 S. Ct. 903, 912

In these cases he is not sued as, or because he is, the officer of the government, but as an individual, and the court is not ousted of jurisdiction because he asserts authority as such officer. To make out his defense he must show that his authority was sufficient in law to protect him... It is no answer for the defendant to say I am an officer of the government and acted under its authority unless he shows the sufficiency of that authority.

Little v. Barreme 2 Cranch (6 US) 170; 2 L Ed 243 (1804); Wise v. Withers, 3 Cranch (7 US) 331; 2 L Ed 457 (1806); Osborn v. Bank of United States, 9 Wheat

(22 US) 738; 6 L Ed 204 (1824); Mitchell v. Harmony, 13 How (54 US) 115; 14 L Ed 75 (1852); Bates v. Clark, 95 US 204; L Ed 471 (1877)

Common law and constitutional principles of governmental or sovereign immunity have never permitted government agents to commit trespasses in violation of property rights. Little v. Barreme 2 Cranch (6 US) 170; 2 L Ed 243 (1804); Wise v. Withers, 3 Cranch (7 US) 331; 2 L Ed 457 (1806); Osborn v. Bank of United States, 9 Wheat (22 US) 738; 6 L Ed 204 (1824); Mitchell v. Harmony, 13 How (54 US) 115; 14 L Ed 75 (1852); Bates v. Clark, 95 US 204; L Ed 471 (1877)

Black v Sheraton Corp. of America, 184 US App DC 46,564 F2d 531, 541 (1977)

Under Federal Tort Claims Act similarly, federal law enforcement officers who generally enjoy absolute immunity from tort liability may nonetheless be held liable for the tort of trespass. Black v Sheraton Corp. of America, 184 US App DC 46,564 F2d 531, 541 (1977)

Smith v. Department of Public Health, 428 Mich 540 (1987)

Accordingly, plaintiff's complaint facially pleads a viable cause of action for trespass as a constitutional tort. Smith v. Department of Public Health, 428 Mich 540 (1987)

Land Patent

Leading Fighter v. Country of Gregory. 230 N.W. 2D 114, 116 (1975)

"Patents are issued between sovereigns… and deeds are executed by persons and private corporation" – Leading Fighter v. Country of Gregory. 230 N.W. 2D 114, 116 (1975)

Stone v U.S. 69 U.S. 2 Wall. 525, 535 (1864)

"A patent is the highest evident of title, and is conclusive, against the government and all claiming under junior titles, until it set aside or annulled by some judicial tribunal." Stone v U.S. 69 U.S. 2 Wall. 525, 535 (1864)

See also Johnson v. Christian,128 U.S. 374, 382 (1888) and Carter v Ruddy, 166 U.S. 493, 496 (1897)

“As we said in the case of Smelting Company v. Kemp; 'It is this unassailable character [of the patent] which gives it its chief, indeed its only value, as a means of quieting its possessor in the enjoyment of the lands it embraces.'” The validity of the patent could not be attacked except under fraud or clerical error and either of these circumstances has to be proven in a court of law, and the challenge must be brought within six months of the granting of the patent. In fact, in a court of law, the patent is the conclusive proof of legal title. Id. 452 “It is among the elementary principles of the law that in actions of ejectment the legal title must prevail. The patent of the United States passes that title. Whoever holds it must recover against those who have only

unrealized hopes to obtain it, or claims which it is the exclusive province of a court of equity to enforce. However great these may be, they constitute no defense in an action at law based upon the patent. That instrument must first be got out of the way, or its enforcement enjoined, before others having mere equitable rights can gain or hold possession of the lands it covers. This is so well established, so completely embedded in the law of ejectment that no one ought to be misled by any argument to the contrary." See also Johnson v. Christian,128 U.S. 374, 382 (1888) and Carter v Ruddy, 166 U.S. 493, 496 (1897)

Gibson v. Chouteau, 13 Wall. 92, 102 (1871)

"That the plaintiff in ejectment must in all cases prove a legal title to the premises in himself, at the time of the demise laid in the declaration, and that evidence of an equitable estate will not be sufficient for a recovery, are principles so elementary and so familiar to the profession as to render unnecessary the citation of authority in support of them… This legal title the plaintiff must establish either upon a connected documentary chain of evidence, or upon proofs of possession of sufficient duration to warrant the legal conclusion of the existence of such written title." In the case of lands granted under a Land Patent, a "connected documentary chain of evidence" is on public record at the Recorder of Deeds for the county in which the land is located. Even the sovereign States themselves do not have the power to overturn Land Patents and their effects upon the land, namely, the severance from the interference in them by the administration of government. Gibson v. Chouteau, 13 Wall. 92, 102 (1871)

Bagnell et. al. v. Broderick, 13 Pet. 436, 451 (1839)

"In the Federal Courts, where the distinction between legal and equitable proceedings is strictly maintained, and remedies afforded by law and equity are separately pursued, the action of ejectment can only be sustained upon the possession by the plaintiff of the legal title…in the action of ejectment in the Federal Courts, the legal title must prevail, and the patent, when regular on its face, is conclusive evidence of that title. So also in the action of ejectment in the State courts, when the question presented is whether the plaintiff or the defendant has the superior legal title from the United States, the patent must prevail. For, as said in Bagnell v. Broderick, 'Congress has the sole power to declare the dignity and effect of titles emanating from the United States; and the whole legislation of the Federal government in reference to the public lands declares the patent the superior and conclusive evidence of legal title…'" Furthermore, the states may not legislate a superior, or even an equal, instrument to the Land Patent. Bagnell et. al. v. Broderick, 13 Pet. 436, 451 (1839)18 Cal. 571-572 (citation omitted). Leo Sheep Co v United States, 440 U.S. 668, 687 (1979)

"It [the patent] passes whatever interest the United States may then have possessed in the premises. It operates in consequence as an absolute bar to all claims under the United States having their origin subsequent to the petition. But the patent has a still further operation and

effect. It is not merely a deed of the United States, conveying whatever interest they may have held in the premises at the institution of the proceedings before the Land Commission. It is also a record of the Government, showing its action and judgment with respect to the title of the patentees at the date of the cession…This instrument, as we have stated, is the record of the Government upon the title of the patentee to the land described therein, declaring the validity of that title and that it rightfully attaches to the land. Upon all the matters of fact and law essential to authorize its issuance, it imports absolute verity; and it can only be vacated and set aside by direct proceedings instituted by the Government, or by parties acting in the name and by the authority of the Government. Until thus vacated it is conclusive, not only between the patentee and the Government, but between parties claiming in privity with either by title subsequent." 18 Cal. 571-572 (citation omitted). Leo Sheep Co v United States, 440 U.S. 668, 687 (1979)

No Filing Fees

Crandall v. State of Nevada 73 U.S. 35 (1867)

"Living as we do under a common government, charged with the great concerns of the whole Union, every citizen of the United States from the most remote states or territories, is entitled to free access not only to the principal departments established at Washington, but also to its judicial tribunals and public offices in every state in the Union," (Crandall v. State of Nevada 73 U.S. 35 (1867))