

ORIGINAL

No.

18-9694

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
JUN 03 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Clein Vaughn; Diane A/Dey — PETITIONER
(Your Name)

vs.

People of the State New York — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
Supreme Court United States from
New York State Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

By: Clein Vaughn; Diane A/Dey Sui Tseus
(Your Name)

^{cb}
1208 Clay Avenue Apartment 1 Suite
(Address)

Bronx New York 10456-9998
(City, State, Zip Code)

321-507-0941
(Phone Number)

QUESTION PRESENTING

- 1 whether fingerprints obtained from John Doe appellant should have been excluded from evidence from the product of false arrest, for no plates on outomobile in detention at department of correction, was illegal search under the Fourth and Fifth and violation of 1st Amendments
- 2 Whether a court which lack Article 3 Status Venue Subject Matter Jurisdiction may rule on the merit denied trial by jury, by a de facta judge who had financial interest on the take in the same case with appellee.

LIST OF PARTIES TO THE PROCEEDING BELOW

The Caption in this court contain the names of parties to the proceedings to the court of the Supreme of United States, PEOPLE OF THE STATE OF NEW YORK Appellee. Oliver-Vaughn:Douce,Al Dey, Sui Juris Appellant.

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JURIDITION

Supreme Court of United States Jurisdiction 10a

REVIEW CONFLICT ARISE 28 USC 1651 STATEMENT PURSUANT TO RULE 10 Certiorari

.....X

THE PEOPLE OF THE STATE OF NEW YORK

Respondent,

Against-

Oliver Douce Al Dey Sui Juris

Appellant

.....X

A NATURE OF THE CASE

The docket number in the court below was 2015NY067166.

The full name of the original parties were People of the State of New York against Oliver Douce.

This action commenced in Criminal Court New County lacks jurisdiction was challenge.

This Action was commenced by filing of allege criminal complaint, not verified, no Affidavit, no competent witness no court Signature Seal of any court, no Summons issue from any court.

This appeal is from a judgment by force convicting appellant over objection to bench trial, of allege unlicensed driver (VTL.. Sec 509 (1)), and sentencing him to a fine of \$75 extortion.

The appeal is from a void Judgment of conviction rendered March 30, 2017 by Petterson, J.) a de facto judge who lacks judiciary authority, credential fail to produce proof on challenge.

Appellant has been granted permission to appeal on the original record .The appendix method is not being used.

STATEMENT PURSUANT TO RULE 640.3(c)

Appellant has not applied to stay his sentence execution he is not incarcerated presently.judgment was entered on the sentence and the surcharges on June 1,2017

PRELIMINARY STATEMENT

This is an appeal from alleged judgment of the Criminal Court New County render on March 30,17, convicting a private person in propria persona appellant Oliver-

Vaughn:Douce, Al - Dey Sui Juris after willful ignored Status jurisdiction Venue Challenge credentials a forced bench trial, denial of jury trial and grand jury request, for alleged unlicensed driver (VTL Sec.509 1) against private person noncommercial, sentenced him to a fine (Peterson J., at hearing, against is objection trial and sentence).

Appellant filed a timely appeal notice and on May 25, 2017 this court grant leave to appeal as a poor person and assigned Robert S. Dean Center for Appellate Litigation as counsel, Appellant had no co defendant.

INTRODUCTION

From the very beginning of this case :Oliver-Vaughn:Douce, Al-Dey Sui Juris made timely challenge to Status Venue subject matter Jurisdiction of both court appellee and their court had financial interest, ignored force attorneys on record both fail yet every time court and attorneys ignore conspired to railroad appellant to create pretend it had authority, when it did not then abuse forge 730 evaluation but failed in securing a conviction by fraud claiming appellant had no rights to trial by jury and even denied appellant request for by Affidavit for grand jury hearing, deprive, violated 30 30, violate speedy trial right, in trying to avoid a challenge can still be raise on appeal when violation of due process of right protected by law.

STATEMENT OF FACTS

Pre Trial Appellant had Challenge Status subject matter Venue jurisdiction by Quo Warranto at a calendar by Special appearance one month 1st demand Once a jurisdiction of a court challenge it cannot proceed any act beyond that point is void, transcript of 11/18/15 pge 2, L 8 every date after.

December 1,2015 page 2 L 19.

TAKE JUDICIAL NOTICE OF FACT R.201 NOT LEGISLATIVE.ISSUES IS JURISDICTION.FRAUD ON COURT.Franklin v.Franklin See Stump V. Sparkman judge not immune when commit fraud.**18 USC 4. 28 USC 1602** Require challenge, Judiciary Act of 1789 law and facts Affidavit in support of truth by Appellant Sui Juris **Melo v. U.S.505 F2d.1026** Once A Court jurisdiction has been challenge the court lacks authority cannot proceed it must proof all facts related or cease 556d. Allege judge Patterson J. has no Oath.

January 4, 2016 pge 2,L-17 to 20, pge 3 L 1-2-5-6 fired-16-17.

Color of office pretence of official right to do an act made by one who has no such right 9 East 864 such person must be at least a de facto officer; 28 Wend 606 An Act wrongfully done be on officer; under the pretend Authority of his office and granted upon corruption to which the office is a Mere shadow of color, 41 N.Y. 464 ' Bouvier's law Dic 1897 Edit, Volume pge 353 [emphasis added]

Jesuit and C born in the kings Dominion and ordained by the pretended jurisdiction of Rome ..." Jacob A new law Dictionary 1750 edit.

Feubuary 22, 2016 pge 2 L-6-7, pge3- L-4 to 6,L8-24, pge 4-L4 to 25 pge 5 L1-3,L12 &14 **Feubuary 10.2016.**pge 2-L 23 appeal, pge 2-L 8 -18-25, pge 3-L-1-4-14- 25 pge 4-L 1-6 L 8 to 15 -16 pge 5 -L23, pge 5-L 5-6 pge 6-L-3-18-25 pge 7-L1-23 pge 8-L 1-to 25 pge 9-L1-6-,L-23 pge 10-L-5 to 20 objection on pge 11-L-18-25 jury denied, pge 12-L-4 threaten **May20, 2016** pge2-L-5-6-12 object,pge 3-L-11-16-to 23, pge 5-L-2-9 bias don't take down note,pge 6-L-1-to17 contempt,pge7 L-9-25, pge 10-L-24, pge 11-L-1-to 15, pge 12-L-11 **March 3,2017** pge 2-L-8-10 object, pge 3-L-1-23 deprive of jury,pge 4 -L-22-25,pge 5-L-1-11-to 17 demand jury, pge 6-L-4 to 25 no lawyer, pge 7-L-6 to 25, pge-8-L-1-23 challenge pge 9-L-1-4-25 **Melo v US**, pge 10-L-1-25 judge lack oath appointed by mayor void. pge 11-L-4-16 constructive fraud deprive appellants rights, pge 12-L-1-8-20 ignore objection, pge 13-L-3-8-9-16 objection no plea, **March 29, 2017** pge 10-L-4-5-25 Mayor cannot appointed judge under City charter, pge 10-L-24-25, pge 12-L-19-20, pge 13-L-1-15 objection, pge 14-L-2-22, pge 19-L-1-21-john doe 21 objection no discovery done denie due process no facts in law in complaint elements defination or competent witness, pge 20-1-25, pge 21-L-5-UCC 9-109-L-7-facts law not in evidence L-8 traveling 22 court try to stop objection. pge 21-L-17-24 define driver, pge 22-L-1-13 to arrest 25, pge 23-L-1to 24 de facto court over rule object. Pge 24-L-1-21, pge 25-L-1-22 object pge 26 L-19-25 cross,pge 27-L-9-21 pge 28-L-18-25, pge 29-L-1-25, pge 30-L-1-25, pge 31,L-6 -25, claimed reason to stop because appellant had no plate,UCC9-109.14 under common law, not required 3/29/17 pge 22-L-1-13 Pge 32-L-1to 25, pge 33-L-1to 25 after arrest many hours after On 16 day in custody found id in back seat, of a back pack without finger prints. Pge 34-L-1-25, pge 35-L-1-20 there was no id on appellant person, there is no law common law or statutory give police authority to pull over check to see license or enforce one on private persons. **Murdock v. Penn** in any state no state can require you get up a right or a privilege pge 35-L-13-16 Id found not issue by state, pge 36-L-1-25 was arrested as John doe, appellants name discover hours after the arrest there was no probable cause, but fruit of a poisonous

tree, pge 37-L-1-25, fish hunt, pge 38-L1-25 appellant was withdrawn from that system 2013 police could not find any record came months afterwards the arrest, the police was the very one that put appellant back in their system, done to cover up illegal arrest. Davis v. Mississippi, pge 38-L-21 appellant is a state citizen rights protected by NYS Bill of Rights 1787, denied totally by allege court pre-planned conviction by bias allege judges in violation NYS **Const Art 13 Sec. 1 Oath** lacking and violate **18 USC 912 IMPERSONATION** record in 3/29/17 pge 19-L-1-24. Pge 39-L-1-to-25 DMV appellant has nothing to do with commercial and not related to traffic. Pge 40-L-1, page 41-L-1-25 common law private Status is different, cannot mix them with civil commercial, in case law **Shuttlesworth v. Birmingham Alabama** the high court rule you can ignore with impunity any regulation violate 1st amend, rights cannot be regulated **Miranda v. Arizona**, were their right there can be no rulemaking, See **Thomson v. Smith** to move freely is part of liberty. Rules apply to **US Const Art 1 Sec. 8 Cl 14 and 17** only, not apply to the people, owe no such duty to any government in **Hale v. Henkel 201 US 43,74**, pge 42-L-1-25 allege AdA fiction destroy conceal evidence of common law out of the court by their allege appointed lawyer and ada has no license to practise law US court Appeals rule in **US v. High Country Broadcasting** an Attorney can only appearing court for any Corporation must be license and member of the bar follow all rules State and Federal court cases appellees violated this **28 USC 530b mandate Act BPC 6067, 6068** diversity is not train in common law he is not R. 601 competent to deal with the case 2 different jurisdiction pge 43-L-1-25 both court and their appointed attorney willfully conspired R.241,242 to rail road block kidnap appellant get in the way and obstruct justice **18 USC 1503**. Pge **44-L-1-25-L-6** Appellees STATE had no status standing jurisdiction or contract affidavit facts in law, objection **R17** Court lack ratification in commencement of action, a void judgment does not create any binding obligation federal decision addressing void state court judgments include **Kalb v. Feuerstein 1940 308 US 433**, A judgment which is void upon it face, and which requires only an inspection of the judgment roll to demonstrate its wants of validity is a dead limb upon judiciary tree which should be lopped off, if the power to do so exist **People v. Greene, 71 Cal, 100 16 Pac.197,5 Am. St.Rep.448** if a court grants relief, which under the circumstances it hasn't any authority to grant its judgment to that extent void" (1 Freeman on Judgment,120c.) an illegal order is forever void.

See **Judiciary Law Article 2 general provision relating to courts and judges Sec.3 Use of Term "Court prohibited**, in CITY Charter a Mayor can appoint judge, only executors and commissioners, See transcript 3/29/17 pge **10-L-18 to 25**, except violation of appellant rights to travel violated, base on fraud collateral attack **Trinsey v. Pagliaro** attorney paperwork file not sufficient for judgment, also violate **28 USC 1691**, rights cannot be convert to crime, one exercise of a constitutional rights can not be punish as appellant herein in every way shape, See **11 Am Jur 1st const law Sec. 329,pge 1139**. Sup Court Rule no license is required for the American people to travel on the road or highways, this appeal should reverse and dismiss with prejudice see as **Thomson v. Smith**. Pge 45-L-1-25 court and officer try to control Appellant will, **pge-46-L-1-25, pge**

47-L-1-9-14-25.pge 47-L-1-8 to 25, pge 49-L-1 to 25, pge 50-L-1-7-8-to-25, pge 51-L-1-16 to 25 judge have no judiciary authority to hear suppress stop L-20 page 52-L-1-to 25 augment pge-53 L-1-to 25, authority court and attorney lack standing no proper credentials the court lack subject matter jurisdiction Status Venue void judgment court bias action prejudicial bribery court on the take, not a judge 18 USC 912 in violation NYS Const. Art 13 sec. 1, only governor can appoint judges & Title 4 USC 101, 18 USC 1503, impersonation 453 USC 28, Mayor appoint executives and commissioners, not judges in City charter only, see transcript 3/29/17 pge10-L-18-25, no mayor can appoint judge under state constitution misrepresentation Fraud on the court. Pge 56-L-1-14-18- no consent or jurisdiction, pge 57-L-23-25 commercial only, pge 58- L-1-12-14 nothing to do with private person pge-60-1-25 relate to commercial, not relate to private persons as state citizen, people have rights to travel, privilege are for commercial, government to regulate commerce, pge 62,1- 25 no summons issued not in evidence, from illegal stop, pge 63-L-1-7-25 had no relevance with appellant private life, have more to do with commerce, pge 64-L-1-25, pge 65-L1-5 commercial color law L-25, from a court lack credentials jurisdiction, from the illegal stop, hours after in custody as John Doe found, an id name in back seat of automobile and the fingerprint evidence after was admitted in evidence over objection at trial over petitioner's timely objections that court had no jurisdiction, was challenge the fingerprints stop arrest should be excluded as the product of an unlawful detention. The Mississippi Supreme Court sustained the admission of the fingerprint evidence and affirmed the conviction. 204 So.2d 270 (1967). We granted certiorari. 393 U.S. 821 (1968). We reverse.

At the outset, we find no merit in the suggestion in the Mississippi Supreme Court's opinion that fingerprint evidence, because of its trustworthiness, is not subject to the proscriptions of the Fourth and Fourteenth [394 U.S. 721, 724] Amendments. 2 Our decisions recognize no exception to the rule that illegally seized evidence is inadmissible at trial, however relevant and trustworthy the seized evidence may be as an item of proof. The exclusionary rule was fashioned as a sanction to redress and deter overreaching governmental conduct prohibited by the Fourth Amendment. To make an exception for illegally seized evidence which is trustworthy would fatally undermine these purposes. Thus, in *Mapp v. Ohio*, 367 U.S. 643, 655 (1961), we held that "all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court." (Italics supplied.) Fingerprint evidence is no exception to this comprehensive rule. We agree with and adopt the conclusion of the Court of Appeals for the District of Columbia Circuit in *Bynum v. United States*, 104 U.S. App. D.C. 368, 370, 262 F.2d 465, 467 (1958):

Mississippi Supreme Court. However, on oral argument here, the State conceded that the arrest on October 15 and the ensuing detention through December 16 were based on neither a warrant nor probable cause and were therefore constitutionally invalid.

Please see Shapiro vs Thompson 394 U.S. 618 the right to travel by private conveyance can not be infringed no license or permission is required for private purpose upon the common way when such travel is not for the profit or gain is not license in commerce and as such is three by exempted the above name common law citizen listed is not operating in commerce exempt, Every state is forbidden by law from converting a basic right in to a privilege and require a license or a fee charge for the exercise of the basic right please See in Murdock v. Penn 319 US 105 no state may require you the people to pay fee for license or permit to exercise of a right, if any state do you can ignore it carry on with the right, because you are protected by the constitution, in Shuttlesworth v Birmingham Alabama 373 US 262 now if a citizen exercises a basic right and a law of any state is the contrary of such exercise of that basic right the said supposed law of any state is a fiction of law 100 % totally unconstitutional no court are bound to uphold it and no citizen is required to obey such unconstitutional law or license requirement please see Marbury v Madison 5 U.S. 137 (1803)which has never been over turn you may ignore it with impunity, United States Sup Court perfect defense there is no cause of action which relief may be granted by a court of law please see U.S. vs Bishop 412, Miranda v Arizona where there's rights there is no Rulemaking to abridge them.

JUDICIAL FACTS THAT SUPPORT APPELLANT POSITION

ALL Judicial powers of inferior courts come from the Judiciary Act of 1789 as the Attorney General position. Judicial power" come from Article iii Section 2 of the Constitution. The Eleventh Amendment removed All Judicial powers in law and equity Treaty contracts and the right of the State to bring suit against the people, there are no judicial Courts in America and there has not been since 1789 Judge do not enforce Statute and codes ordinances Executive administrator enforce statutes and code, there have not been any judge in America since 1789 there have just been administrators FRC.v GE 281, US 464, Keller v PE 261 US 428 1 Stat. 138 -178., the position of the Attorney General and prosecutor, of both the United States and several States comes under the judicial branch not the executive branch of the government all Attorney comes under the judicial branch and are judicial officers under the Supreme Court, not under the secretary of State as license professionals which means they can only represent the courts not the people, or the state the eleventh amendment removed all judicial power from inferior court and the prosecutors office as well as from all court officer in law equity and both the eleventh amendment makes a foreign State separation from the position of the public office position

to throw off the people the people have eleventh amendment immunity because there is no judicial power of the inferior court and the people have foreign Sovereign immunity Article iii Section 2 diversity U S Constitution, the judicial powers shall extend to all case in law and equity arising under this constitution the laws of the united states and treaty made or which shall be under their authority to all case in affecting Ambassadors other public minister and Consul ;- to all cases of Admiralty and maritime jurisdiction ;- to controversies to which the united States shall be a party;-to controversies between two or more States;- between;- a State and Citizens of another State and between Citizen of different States; between Citizen of the same state claiming land under Grant of different states and between a state or the Citizens thereof, and foreign States Citizen or subjects". Eleventh Amendment" the judicial power of the united states shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the united states by citizen of another State, or by Citizen or Subjects of any foreign States.

on the record from the void judgment court order, and defendant have, lack, standing facts in law, perpetrating fraud on the court 3-501,3-502? who are they making a presentment for?, common law, the court in attempting conveyance property breach of fiduciary duty for unjust enrichment, conflict of interest, see **Title 36 USC Chap 705** need to define the word individual mean business agent corporation entity as person, not include private person or natural person state citizen in propria persona Sui Juris, statutory does not apply to this, appellant Consul, only for **US Const Art 1 sec. 8 Cl .17.** for government., NYS Bill of Right 1/26/1787 protect the state citizen. Rule have no Authority on private right side, see a court have 2 jurisdiction private freeman Art 1 sec. 14 NYS const confederation Art 4 sec. 1, is law of the land common law substance., cannot mix the 2 'Status',with to 27 CFR. 72. 11 form and character IS fiction, color of law Commercial, the court violated 28 USC 530b requirement, the appellant in propria persona Sui Juris was invoke the 7th amend over \$20 is a mandate preserve for Assize jury of 12 the 6th amend at judicial Art 3 Sec. 2 Cl 3. impartial jury has Authority all rights over this case noted i invoke the 1988 Ex Rel private attorney general, because when state attorney general is derelict in is duty, then we the masters the people has this right to step in to address the wrong done by public officials. Transcript 3/29/17 L-24 The court and its ministerial officer are incompetent to receive of judicial power from legislature their act in attempting to exercise such powers are necessary nolities See **Burn v. Sup Ct Sf, 140 Cal.** the common law See **Hale v. Henkel 201 US Ct 43,74** the people need no permission, NYS state Bill of right 1787 protect this right Trust BLACK law 4th edit page 250 by 3 fraudulent signatures by Trustee, is malfeasance constructive fraud. LAWSuit the term mean 2 private person in law and equity to do appellant, see justice, **Shephard v. Standard Motor Co.,263, Ky.329 92 S.W.2d 337** **Stump v Sparkman** the allege Judge Patterson 18 USC 912 is not immune Fraud and is liable for perjury enforcing statutory law regulation 509,511 "on private person, not in commerce was deprive due process rights in law, A judgment may not be rendered in violation of the constitutional protections the validity of a judgment may be

affected by failure to give the constitutionally required due process equal protection of the law notice and an opportunity to be heard **Earle v. McVeigh** 91 US 503, L Ed 398 See also Restatements. **Judgment 4(b). Prather v. loyd** 86,Idaho 45, 382 P2d 910. jurisdiction mean the power right or authority to interpret and apply the law within the limits of which authority may be exercised **Black law Dic 6th Edit, 2** jurisdiction the national an the territorial DC not a state of the Union, 1963 book and thought it cannot be repeated too often that the constitution is a restrain on the government not on private individuals- that it is not the charter for government power but a charter of the citizens protections against the government by tyrant. there are two potential violators of man's rights: the criminals and the government. The great achievement of the United States was to draw a distinction between these two-by forbidding to the second the legalized version of the activities of the first, 85 percent the law congress created only apply to the statutory U S, 552a.001 FOIA DEMAND ATTORNEY DEFENDANTS, on judge & agencies. Art 1.8.Cl,14.17.

**University of Pennsylvania Law Review And American Law Register
FOUNDED 1882 Volume 65 December 1916 No. 2 COLLATERAL ATTACK UPON
JUDGMENT:ON THE**

GROUND OF FRAUD

nevertheless behind the doctrines of the common law are the fundamental principle of justice. Where two or more great underlying rules of justice may be applied to a state of facts in such way as to produce contrary results fine spun distinction arise Such hair splittings we are here to consider. it may be well to begin by examining the causes out of which they arise it is one of the fundamental principles of justice that question once litigation should be faver at rest Stare decisis . The principle commonly spoken of as "res adjudi" is but an outgrowth of this underlying rule. Interest reipublicae ut sit finis litium." On the other hand it is no less fundamental that no man should be allowed to take advantage of his own fraud. "As the allege 3/29/17 trial court tried to do" But no sooner are two principles brought into adjudication by fraud Which principle is to govern? shall the resolution of law be that the judgment must stand cause it is a thing adjudicated or must the very decision be declared void, because tainted with fraud ? if the first conclusion is reach a man may take advantage of is own fraud. if the second principle of res judicata must admit of exceptions. These considerations make it natural that we should find not only loose language in ill considered cases, but also erroneous application of principles applicable to facts it at once become essential that we should define our subject with greater care, for it is because of not keeping the definition in mind, that decisions have been erroneous.? It must needs be noticed that to permit a direct attack upon judgment in no way affect the principle of res judicata, for judgment is not, properly speaking final until every direct mode of obtaining a different result has been exhausted. The decision of any court which has assumed the form of final judgment may be attacked in two ways. it is

possible by steps taken in the very proceeding to set it aside by motion for a new trial, appeal or writ of error, or by motion to open or strike off the judgment. "This alleged judge Peterson order, " it is possible to plead or prove the invalidity are of the judgment in question, when it's bar or are enforcement are material in some other jurisdiction proceeding. we are here with collateral attack, The term is defined in *Morrill v. Morrill* as follows: A collateral attack on a judgment is any proceeding which is not instituted for the express purpose of annulling, correcting or modifying such decree. footnote for example in **Morris v. Travellers insurance Co. 189 Fed 211, (1911)** Such an attack upon a judgment. is collateral attack for cognant reason that it is not a direct. attack can be made in law or on judgment, for in the farmer case it is the validity of the judgment is recognized that relief is granted, whereas the purpose of the latter is a declaration of the nullity of this judgment herein. There two grounds which customarily are assigned for a collateral attack upon judgment: fraud and of want of jurisdiction The latter usually involves the former but the two are clearly distinguishable. the question of jurisdiction can always be raised No judgment can be binding if the court which render it was without jurisdiction. It is therefore necessary to distinguish carefully the case in which the real ground of the attack is lack of jurisdiction both fraud.

The 7th Amend - Right to trial by jury according to the common law rules Tent Commandments are the foundation of common law NYS Const A 1 sce, 14.

there are two potential violator of men the criminals and the government the greater achievement of the united states was to draw a distance between these two - by forbidding to the second legalized version of the activities of the first the constitution is a restraint on the government not for the people, state constitution is a restrain on state government not the people, the bill of rights is a protector for the peoples rights,

ARTICLE XIII

Public Officers

i₆ 1/2.1. Oath of office; no other test for public office.

Section 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear or affirm that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of, according to the best of my ability;" and no other oath, declaration or test shall be required as a qualification for any office of public trust, except that any committee of a political party may, by rule, provide for equal representation of the sexes on any such committee, and a state convention of a political party, at which candidates for public office are nominated, may, by rule, provide for equal representation of the sexes on any committee of such party.

Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938. 14. Common law and acts of the colonial and state legislatures
Common law and acts of the colonial and state legislatures.

14. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated. (Formerly 14 1/2. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.

now if you're familiar with **Owen v. Independence**, right? There the Supreme / justices ruled that officers clerks of the courts have no immunity from liability when

violating a constitutional fundamental rights for they are deemed to know the law. As I have come to learn, Judge, ignorance of the law no excuse applies to public officials Art 1 Sec.8, Cl 14, 17 not to {We} the People. " See Title 8 USC 1101.21a, court now have knowledge of their wrongful acts Amend 7th Right all trial by jury according to the common law rules Tent Commandments are the foundation of common law NYS Const A 1 sec, 14. there are two potential violator of men the criminals and the government the greater achievement of the united states was to draw a distance between these two - by forbidding to the second legalized version of the activities of the first the constitution is a restraint on the government not for the people, state constitution is a restrain on state government not the people, the bill of rights protect the peoples rights Texas v. White there are two class of citizens there are two potential violator of men the criminals and the government the greater achievement of the united states was to draw a distance between these two - by forbidding to the second legalized version of the activities of the first the constitution is a restraint on the government not for the people, state constitution is a restrain on state government not the people, the bill of rights protect the peoples rights Texas v. White 74,227 there are two class of citizens there are two potential violator of men the criminals and the government the greater achievement of the united states was to draw a distance between these two - by forbidding to the second legalized version of the activities of the first the constitution is a restraint on the government not for the people, state constitution is a restrain on state government not the people, the bill of rights protect the peoples rights Texas v. White there are two class of citizens there are two potential violator of men the criminals and the government the greater achievement of the united states was to draw a distance between these two - by forbidding to the second legalized version of the activities of the first the constitution is a restraint on the government not for

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Aston Scott

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there is no money when they look at form character when you bring an action under form and character you waive equity and it extinguishes equity because the court can look at substance when you do that remember one of the maxim of equity equity look at substance not form it look at same intent nature and key and intent nature and intent of the litigant #2 equity recognize beneficiaries which mean that when you go in there at law on the side of court which the public side you cannot bring up trust law because if they don't recognize beneficiary they don't recognize trust law #2 therefore you are dead before you ever get started., were not in law the court is a place everybody has gotten action about what a court is a place where contract is made it's not what all of these buildings are that you call courts are made are privately own trading company have duns # they have sec code pic code case code their if you go in equity this is what kings did in 1066

the kings bench had a room where he convene court there of the regist room a court of equity is a court of consciousness and substance take priority over form equity look at substance not form, this been going on for thousand of years after 1933 common law does not give you remedy equity dose like if you going to be an injury party equity will give you a temporary restraining order before your injured if your going in at law you have to get injured and then you get your TRO but equity prevent the injury before it happen as equity work as substance equity ties all of there case

involve a constructive trust in equity as soon the act was committed by actual constructive fraud a constructive trust was created by operation of law that mean that on equitable lien was created or establish and legal beneficiary and legal and beneficial title merge together when that happen equity dose what should have been done in the first instance so as soon as they did the act the constructive trust was created they all become constructive trustee date on tort because of fraud happen so title amerge a lien was created your already won your case if you go in equity they don't even teach this to lawyer in law school the bar association has manage to hide this from the general public taxes are equity interest on principal return back you have settlement closure you dealing in state law until there is

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argument between beneficiary and the trustee as to what taxes are owed complaint create an agreement between trustee and beneficiary as to what taxes are owed if you don't come in there as the beneficiary or executor of the estate then your not, you don't have standing to come into court because when you come in there as beneficiary you are expressing trust which is what kristian walters and he's exactly right] correct if heir you being I am beneficiary of the posterity trust constitution of the preamble under the constitutional trust the constitution is an express trust and posterity is the people that created it, I am also the Donor granter setler created the trust that i become the beneficiary heir to that trust so the judges of these court of equity has a fiduciary as an oath to uphold that trust if they dont they are in breach of fiduciary duty they have a duty to uphold the right on remedy of the beneficiary trust. I have right of Subrogation, the judge direct defendant to certify that i have that right. Cestui que vie Trust.

court. Citing Peaslee v. Haberstro, 15 Blatchf. 472.[Dwight v. Merritt, 4 F. 614, 615][hns. 1 and 2, (C.C. D. NY 1880[299 U.S. 99 (1936), emphases added]

All writs and process issuing from the courts of the United States shall be under the seal of the court from which they issue, and shall be signed by the clerk thereof.

[Middleton Paper Co. v. Rock River Paper Co.]

[19 F. 252, hn. 1 (C.C. W.D. Wisconsin 1884)]

[emphasis added]

Case U.S. Supreme Court McCulloch v. Maryland, 17 U.S. 4 Wheat. 316 316 (1819)
The Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land.

There is nothing in the Constitution of the United States similar to the Articles of Confederation, which exclude incidental or implied powers. To deny rights protected by the const. License Define a permission to do something that without it would be illegal, such as cooperation agency entity association Title 36 USC Chap 705 Att: washington U.S. Sup Ct Ruling constitution Art 1 Section 8, 14. and 17 stipulated, for government, not to the people. define code 509, 511, Title 18 US 31 and 6 code 260 A and B 260 not required non commercial NEW YORK VTL. 401 Define as commercial only not for the people as well as **Definition THIS STATE fiction 001307. 3-601 probate RCW 46.04310, RCW 46.04320, 46.30.001, A Vehicle not use for commercial Activity, is non commercial good it is not a type**

of vehicle required to be registered **9-109.14**, and use tax paid of wheel the tab is evidence of receipt of the tax **Bank of Boston W. Jones 4 UCC Rep service 1021, 236 A**

2d 484 UCC PP 9-109.14 UCC EXEMPT Rathie v. Wood Fri lay Sec. 202 p 987 16 Am CJC Const. Law right

New York, republic Private Attorney General 1988 and Federal Witness, the practice of law is an OCCUPATION OF COMMON RIGHT; Sims v. Aherns, 271 S.W.720 (1925) the Article 6 paragraph 2 the supreme law of the land constitutional republic the Treaty of Peace and Friendship article 20 and 21 Moors agreement.

to the apparent conflict between **Chisholm (A.D. 1793)** and **Wong (A.D. 1898)** is that the courts have seldom been consistent in their opinions. More, the government itself has had a vested interest in quashing whatever evidence of individual sovereignty might be found in our founding, organic documents.

I.e., if you and I are each a sovereign, the government must be our public servant. It's axiomatic that government always serves the sovereign(s). If government is our public servant, government employees must be our public servants. But government doesn't want to serve. Government wants to rule.

Not just our government. Every government. Therefore our government enacts laws and creates court decisions that help destroy both the people's sovereignties and the government's correlative servitude. The Supreme Court that decided **Chisholm vs Georgia** in A.D. 1793 accepted government's status as public servant and was dedicated to protecting the people's revolutionary freedoms, liberties and individual sovereignty.

The court that decided **Wong Kim Ark** in A.D. 1898 (over 100 years after Chisholm) was dedicated to growth of government power and sovereignty and therefore equally dedicated to reducing the people's status from sovereigns to subjects Justice Black's "wholesale incorporation" theory has never been adopted by the Supreme,

Court. During the heyday of the Warren Court, in the 1960s, however, the justices embarked on a process of "selective incorporation." In each case, the Court asked whether a specific provision of the Bill of Rights was essential to "fundamental fairness"; if it was, then it must apply to the states as it does to the federal government. Through this process, nearly all the important provisions of the Bill of Rights now apply to the states. A partial list would include the **First Amendment's** rights of speech, press, and religion, the **Fourth Amendment's** protection against unreasonable searches and seizures, the **Fifth Amendment** privilege against self-incrimination, and the **Sixth Amendment's** right to counsel, to a speedy and public trial, and to trial by jury. On the face, this discussion might seem to be a matter of semantics, but upon closer inspection of the law, the distinction is quite clear. The term "citizen of the united states" was not defined in the original U.S.

constitution, as that term was commonly understood to mean a "citizen of one of the several states of the union.. See **Ex Parte Frank Knowles**, 5 Cal. 300 wherein it states: See **Texas v White** 74, 227. Thompson v Smith travel case, and **Cooper v Arizona** can not war against the constitution "Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." **Miranda v. Arizona** 384 U.S. 436, 491 (1968) have right to travel up on the road unencumbered without interference. Thomson v. Shapiro.

Belligerency is a term used in international law to indicate the status of two or more entities, generally sovereign states, being engaged in a war. Wars are often fought with one or both parties to a conflict invoking the right to self-defence under Article 51 of the United Nations Charter[5] (as the United Kingdom did in 1982 before the start of the Falklands War[6]) or under the auspices of a United Nations Security Council resolution (such as the United Nations Security Council Resolution 678 which gave legal authorization for the Gulf War).

we are indigenous to the Land in common law The Treaty of Peace and Friendship Article 20,21. Statute can not violate the higher law see **Art 4 sec 1 confederation and NYS Art 1 Sec 14** see **Murdock V. Penn, Shuttlesworth v. Birmingham Alabama**, The high Courts, through their citations of authority, have frequently declared, that "...where any state proceeds against a private individual as Claimant herein a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by direct or collateral means regarding the matters involved." **Luckenbach v. The Thekla**, 295 F 1020, 226 Us 328; **Lyders v. Lund**, 32 F2d 308; "It is a general rule that an officer, executive, administrative, quasi-judicial, ministerial, or otherwise, who acts outside the scope of his jurisdiction, and without authorization of law may thereby render himself amenable to personal liability in a civil suit." **Cooper v. O'Connor**, 69 App DC 100, 99 F (2d) NYC Attorney fraud herein CJS Volume 7 Sec 4,

Judicial fraud ministerial officer are incompetent to receive grant of judicial power from the legislator their acts in attempting to exercise such powers are necessarily nullities **Burns v, Sup.Ct SF,140 Cal 1. Hale v Henkel 201 US 43.** as herein no mitake for deniel, "Judges, members of city council, and police officers as well as other public officials, may utilize good faith defense of action for damages under 42USC1983, but no public official has absolute immunity from suit under the 1871 civil rights statute." (Samuel vs University of Pittsburgh, 375 F.Supp. 1119, 'see also, White vs Fleming 374 Supp. 267.)

Trinsey v Pagliaro statement without unsupported affidavit complaint or competent witness no fact or law or damages or contract no evidence, incomplete record because it requests this court to consider facts outside the record have not been presented in the form required by **R.12b 6 and 56 (c)** statement of counsel in their briefs or argument while

enlightening to the court are not sufficient for purpose of granting a motion to dismiss or summary judgment from appellees.

See transcript March 29, 2016 page 20 line-3-L4, pge 21-L4 to L25, pge 22, L-1 to L25 pge 10-line 18 to 25. Pge 48-L-8-12. Pge 36-L-7-10 name, pge 21-L-11-25

STILL RIGHTS IN EFFECT TODAY

Attorney General annual report of the attorney general of the State of New York issue on July 21, 1909, **ALBANY NEW YORK**, pages 322-323 which reads: "There is NO requirement that the owner of a motor vehicle shall procure a license to run the same, nor is there any requirement that any other person shall do so, unless he proposes to become a chauffeur or a person conducting an automobile as an employee for hire or wages. Yours very truly, **EDWARD R. O'MALLEY** Attorney General. We the People have RIGHTS TO TRAVEL. Appellant as private person =freeholder, state citizen common law status. There is no probable cause for the stop.

NYS Bill of Rights 1787 Chap 1 Art 1 Sec 1 an Section 2 Read as follows no authority shall never in any way exercise over the people of the state as,

In Thompson v. Smith, Chief of Police. Supreme Court of Appeals of Virginia. 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604. Sept. 12, 1930 it states:

"Under UCC 9-109 there is a real distinction between goods purchased for personal use and those purchased for business use. The two are mutually exclusive and the principal use to which the property is put should be considered as determinative." **James Talcott, Inc. v Gee**, 5 UCC Rep Serv 1028; 266 Cal.App.2d 384, 72 Cal.Rptr. 168 (1968).

"The classification of goods in UCC 9-109 are mutually exclusive." **McFadden v Mercantile-Safe Deposit & Trust Co.**, 8 UCC Rep Serv 766; 260 Md 601, 273 A.2d 198 (1971).

"The classification of "goods" under [UCC] 9-109 is a question of fact." **Morgan County Feeders, Inc. v McCormick**, 18 UCC Rep Serv 2d 632; 836 P.2d 1051 (Colo. App., 1992).

"The definition of "goods" includes an automobile." **Henson v Government Employees Finance & Industrial Loan Corp.**, 15 UCC Rep Serv 1137; 257 Ark 273, 516 S.W.2d 1 (1974).

Household goods

"The term "household goods" ... includes everything about the house that is usually held and enjoyed therewith and that tends to the comfort and accommodation of the household. **Lawwill v. Lawwill**, 515 P.2d 900, 903, 21 Ariz.App. 75" 19A Words and Phrases Permanent Edition (West) pocket part 94. Cites Mitchell's Will below,

"NO Law requires you to record / pledge your private automobile"

"Bequest... of such "household goods and effects" ... included not only household furniture,

but everything else in the house that is usually held and used by the occupants of a house to lead to the comfort and accommodation of the household. **State ex rel. Mueller v Probate Court of Ramsey County, 32 N.W.2d 863, 867, 226 Minn. 346.**" 19A Words and Phrases - Permanent Edition (West) 514.

"All household goods owned by the user thereof and used solely for noncommercial purposes herein appellant, shall be exempt from taxation, and such person entitled to such exemption shall not be required to take any affirmative action to receive the benefit from such exemption." Ariz. Const. Art. 9, 2. as continued at the, claimant car was registered, in 2012 because it was Fraud.

Appellant state citizen NYS cons Art 1 Sec.14. did not and will not register is auto ever because it is not require as private person in fact there is no law require to do so that is, where is the proof, that appellees can violated appellant fundamental rights. Appellees are confuse, there are 2 jurisdiction private, and the other commerce in every court. 27 CFR 72.11. 2 class of citizen Texas v. White, record 10/16/15 pge 1-L 2 to L-4

In re Thompson v. Smith, Chief of Police. Supreme Court of Appeals of Virginia. 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604. Sept. 12, 1930 it states: the Police & court violated- Constitutional law: Citizen's right to travel upon public highways and transport his property thereon in ordinary course of life and business is common right. without License, The right of a citizen so to do is that which he has under his right to enjoy life and liberty, to acquire property, and to pursue happiness and safety. Automobiles, Highways: Citizen's right to travel upon public highways includes right to use usual conveyances of time, including horse-drawn carriage, or automobile, for ordinary purposes of life and business. Injunction: Injunction lies against enforcement of void statute or ordinance, where legal remedy is not as complete or adequate as injunction, or where threatened or attempted enforcement will do irreparable injury to person in interfering with exercise of common fundamental personal right. By "irreparable injury" is meant an injury of such a nature that fair and reasonable redress may not be had in a court of law and that to refuse the injunction would be a denial of justice. **Constitutional Law § 101 right to travel**

If men, through fear, fraud or mistake, should in terms renounce or give up any natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of Almighty God, it is not in the power of man to alienate this gift and voluntarily become a slave. Samuel Adams, our great president.

"Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness; and to 'secure,' not grant or create, these rights, governments are instituted. That property which a man has honestly acquired he retains full control of, subject to these limitations: first, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit: second, that if he devotes it to

a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation." **Budd v. People of State of New York, 143 U.S. 517 (1892).**

But whenever the operation and effect of any general regulation is to extinguish or destroy that which by law of the land is the property of any person, so far as it has that effect, it is unconstitutional and void. Thus, a law is considered as being a deprivation of property within the meaning of this constitutional guaranty if it deprives an owner of one of its essential attributes, destroys its value, restricts or interrupts its common, necessary, or profitable use, hampers the owner in the application of it to the purposes of trade, or imposes conditions upon the right to hold or use it and thereby seriously impairs its value. (Statute) **167 Am. Jur. 2d, Constitutional Law, Section 369**

Constitutional Law § 101 – law chilling assertion of rights – 7. If a law has no other purpose than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it is patently unconstitutional. **Shapiro v Thompson, 394 US 618, 22 L Ed 2d 600, 89 S Ct 1322.**

So with all of that in mind, cite/deliver the cases above and you have given the agency, etc. knowledge!

Under **USC Title 42 §1986.** Action for neglect to prevent ..., it states: Every person who, having knowledge that any wrongs conspired or to be done... and having power to prevent or aid in preventing ... Neglects or refuses so to do ... shall be liable to the party injured...and; **The means of "knowledge",** especially where it consists of **public record** is deemed in law to be "**knowledge of the facts**". As the means of "knowledge" if it appears that the individual had notice or information of circumstances which would put him on inquiry, which, if followed, would lead to "knowledge", or that the facts were presumptively within his if men, through fear, fraud or mistake, should in terms renounce or give up any natural right, the eternal law of reason and the grand end of society would absolutely vacate such renunciation. The right to freedom being the gift of Almighty God, it is not in the power of man to alienate this gift and voluntarily become a slave. **Samuel Adams, our great president.**

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[Trial by jury; how waived] also U.S.A. Art 3 Sec. 2. Cl. 3. Court denied.

if 1/2. Trial by jury in all cases in which it has heretofore been guaranteed by constitution-all provision shall remain inviolate forever; the state must address therefore 452 USC 28 give access to Federal law & Supreme Court cases apply to state court cases." Howlett v. Rose, 496 U.S. 356 (1990). Lau v. Nichols using stare decisis see 11 Am juris const law 329 page 1135 The high Courts, through their citations of authority, have frequently declared, that "...where any state proceeds against a private individual in a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by direct or collateral means regarding the matters involved." Luckenbach v. The Thekla, 295 F 1020, 226 Us 328; Lyders v. Lund, 32 F2d 308; "It is a general rule that an officer, executive, administrative, quasi-judicial, ministerial, or otherwise, who acts outside the scope of his jurisdiction, and without authorization of law may thereby render himself amenable to personal liability in a civil suit." Cooper v. O'Connor, 69 App DC 100, 99 F (2d)

Justice Brandeis eloquently affirmed his condemnation of abuses practiced by Government officials, who were defendants, acting as Government officials. In the case of **Olmstead vs. U.S. 277 US 438, 48 S.Ct. 564, 575; 72 L ED 944 (1928)** he declared:
NO Law requires you to record / pledge your private automobile UCC 9-109.14

There should be no arbitrary deprivation of life or liberty, or arbitrary spoliation of property. (Police power, Due Process) **Barber v. Connolly, 113 U.S. 27, 31; Yick Wo v. Hopkins, 118 U.S. 356** But whenever the operation and effect of any general regulation is to extinguish or destroy that which by law of the land is the NYS Art 1 Sec. 14, property of any private person, so far as it has that effect, it is unconstitutional and void. Thus, a law is considered as being a deprivation of property within the meaning of this constitutional guaranty if it deprives an owner of one of its essential attributes, destroys its value, restricts or interrupts its common, necessary, or profitable use, hampers the owner in the application of it to the purposes of trade, or imposes conditions upon the right to hold or use it and thereby seriously impairs its value. (Statute) 167 Am. Jur. 2d, Constitutional Law, Section 369.

March 29, 2017 pge 22-L-6-7 transcript pge 55-L-1-6

ELEMENTS DEFINE 18 USC Sec. 31

VTL, 511 and 509a For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined in section five hundred nine-a of this chapter.

The word Traveller is missing, because it does not apply to the state citizen We the People.

**LAWS OF THE STATE OF NEW-YORK,
BILL OF RIGHTS
PASSED BY THE LEGISLATURE AT THEIR TENTH SESSION.
CHAP. 1.**

**AN ACT concerning the rights of the citizens of this State.
PASSED the 26th of January, 1787.**

Be it enacted by the People of the State of New York represented in Senate and Assembly and it is hereby enacted and declared by the authority of the same.

First

That no authority shall, on any pretence whatsoever be exercised over the citizens of this State but such as is or shall be derived from and granted by the people of this State.

Second

That no citizen of this State shall be taken or imprisoned or be disseised of his or her freehold or liberties of free customs or outlawed or exiled or condemned or otherwise destroyed, but by lawful judgment of his or her peers or by due process of law.

Third

That no citizen of this State shall be taken or imprisoned for any offence upon petition or suggestion unless it be by indictment or presentment of good and lawful men of the same neighbourhood where such deeds be done, in due manner or by due process of law.

Fourth

That no person shall be put to answer without presentment before justices, or matter of record, or due process of law according to the law of the land and if anything be done to the contrary it shall be void in law and holden for error.

The Treaty of Peace and Friendship Article 20, 21, of 1787 Moors agreement.

WHEN ALL CRIMES ARE COMMERCIAL

CFR 27 SECTION 72.11 See 3/29/18 pge 54-L1-25

Victimized by our so-called "legal system?"

See FRCP R.2 ALL CIVIL

Have you or a family member been victimized by our so-called "legal system?"

There is help, however it will not come from an "**attorney at law**" for **they are the problem**, not the solution! The Citizen's Rights Task Force is here to help. Why? Consider the following facts:

- According to the late **Chief Justice William H. Rehnquist**, 100% of the people that are in Federal or State Penitentiaries are there **VOLUNTARILY!!!!** Don't believe it? We have some simple "yes" or "no" questions to prove how one is duped into forfeiting their Rights and trading them for statutory privileges.
- An "**attorney at law**" is an **arm of the state and their FIRST duty is to the court, then the government...** NOT to you! Furthermore, whenever any "duty" to you interferes with their first duty, **YOU** are the one that is to take "back seat."
- According to **27 CFR 72.11**, burglary; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of weapons; prostitution; extortion; swindling; and many other things, like simple addiction to drugs or marijuana use, are considered and defined as "**Commercial Crimes**" where you are converted to an object for "**commercial use**" and Due Process of Law becomes a farce! **Transcript 3/29/17 pge 21-L-1-4-11 to 25, VTL 511, 509, Elements regulation only for commercial, not for private person traveling both Attorney general opinion and Supreme Ct State Supreme agreed.**

AGO 1959 No. 88 - Dec 10 1959

Attorney General John J. O'Connell

MOTOR VEHICLES - OPERATORS' LICENSES - LAW ENFORCEMENT OFFICERS - AUTHORITY TO STOP MOTORIST TO SEE OPERATOR'S LICENSE.
A law enforcement officer has no authority, either statutory or common law, to stop a motorist for the sole purpose of determining whether the motorist has a valid operator's license on his person.

December 10, 1959

Honorable J. Bruce Burns

State Representative, 27th District

1215 Ridgewood Avenue

Tacoma, Washington Cite as: AGO 59-60 No. 88

Dear Sir:

By letter previously acknowledged, you requested the opinion of this office on the following question:

Does a law enforcement officer, either by statute or common law, have the authority or right to stop a motorist on the highways of the state of Washington, who has not committed a misdemeanor in the officer's presence and is not suspected by the officer of having

committed a felony, for the sole purpose of determining whether or not the motorist has a valid operator's license on his person?

We answer your question in the negative.

ANALYSIS

The facts implicit in your question are assumed to be as follows:

A motorist is operating a motor vehicle upon a public highway when he is confronted by a uniformed peace officer. The officer, by use of an arm signal, or some mechanical device such as a red light or siren, directs the operator to drive to the side of the highway and stop. After the vehicle stops, the peace officer demands to see the operator's driver's license. The purpose of this inspection is solely to determine whether the operator has a valid driver's license on his person. Appellant March 29,2017 transcript pge 20, l to 25, pge21,L 1-to 25, [[Orig. Op. Page 2]]

Under these circumstances, there can be no doubt that such operator's freedom of locomotion -or liberty to come or go -is restrained. The question remains, however, whether such restraint constitutes an arrest. 4 Am.Jur., Arrest, § 2, contains the following definition: "An arrest is the taking, seizing, or detaining of the person of another, either by touching or putting hands on him, or by any act which indicates an intention to take him into custody and subjects the person arrested to the actual control and will of the person making the arrest. . . . However, in all cases in which there is no manual touching or seizure or any resistance, the intentions of the parties to the transaction are very important; there must have been intent on the part of one of them to arrest the other, and intent on the part of such other to submit, under the belief and impression that submission was necessary. . . ."

"Arrest," as the term is commonly used in the law, has been variously defined by the courts. Perhaps one of the most comprehensive definitions is found in **Black's Law Dictionary, 4th ed., which reads:**

"To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. **Ex parte Sherwood**, 29 Tex. App. 334, 15 S.W. 812. Physical seizure of person by arresting officer or submission to officer's authority and control is necessary to constitute an 'arrest.' **Thompson v. Boston Pub. Co.**, 285 Mass. 344, 189 N.E. 210, 213. It is a restraint, however slight, on another's liberty to come and go. **Turney v. Rhodes**, 42 Ga. App. 104, 155 S.E. 112. It is the taking, seizing or detaining the person of another, touching or putting hands upon him in the execution of process, or any act indicating an intention to arrest. [Citing cases]"

In order to constitute an arrest, it is generally recognized that four elements must be present:

1. Intent to arrest.
2. Under real or pretended authority.
3. Accompanied by seizure or detention of the person.
4. Which is so understood by the person arrested. 6 C.J.S., Arrest § 1.

[[Orig. Op. Page 3]]

In the present instance it would appear that all of the aforementioned elements required of an arrest are present.

First the officer's intent to **seize or detain the vehicle operator is made manifest by his direction to such operator to stop.**

Second the officer's uniform, possibly coupled with his police vehicle, gives ample notice of the officer's assumption of authority, real or pretended.

Third when the motorist stops in compliance with the direction of the peace officer, it cannot be denied that the former is, in fact, detained.

Fourth when the motorist submits to the direction of the uniformed officer to stop, he must have understood that he was detained under authority of law, else he would be free to continue on, in disregard of the officer's signal.

Application of the foregoing assumed facts to the definition of arrest, and the elements thereof, impels the conclusion that an arrest is technically affected when a motor vehicle operator submits to the direction of a uniformed peace officer to stop. While we are unable to find any decision of the supreme court of this state ruling upon this precise issue, the courts of **Oklahoma (Webster v. State, 96 Okla. Cr. Rep. 44 [[96 Okla. Crim. 44]])**, **248 P. (2d) 646 (1952)**), Tennessee (**Robertson v. State, 184 Tenn. 277, 198 S.W. (2d) 633 (1947)**), and **Florida(City of Miami v. Aronovitz, 114 So. (2d) 784 (1959)**), appear in accord with that conclusion.

Having resolved that the stopping of a motor vehicle by a peace officer constitutes at least a technical arrest as to the vehicle operator, it is necessary to determine whether such an arrest is one which the laws of this state authorize. **Miranda v Arizona** where there is a right there can be no rulemaking to abridge and no state can license a right **Murdock v Pennsylvania** and if a state do license a right you can ignore it with impunity **Shuttleworth v. Alabama** so the only illegal reason why appellant is at court for is that the commissioner, executives pretending to be judge without oath is trying with their officers to steel and abuse power try to seize the Estate Blk law 4th pge 250 business trust because they are debtors bankrupt they are robbing the US treasury and the people.

ARGUMENT .

law, Travel and 1st 4th 5th Amend violation state city no standing

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." **Robertson vs.**

Department of Public Works, 180 Wash 133, 147. The words of Justice Tolman ring most prophetically in the ears of Citizens throughout the country today as the use of the public roads has been monopolized by the very entity which has been empowered to stand guard over our freedoms, i.e., that of state government. **RIGHTS** The "most sacred of liberties" of which Justice Tolman spoke was personal liberty. The definition of personal liberty is: "Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property ... and is regarded as inalienable." 16 C.J.S., Constitutional Law, Sect.202, p.987 This concept is further amplified by the definition of personal liberty: "Personal liberty largely consists of the Right of locomotion -- to go where and when one pleases -- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." II Am.Jur. (1st) Constitutional Law, Sect.329, p.1135 and further ..."Personal liberty -- consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law." **Bouvier's Law Dictionary**, 1914 ed., **Black's Law Dictionary**, 5th ed.; **Blackstone's Commentary** 134; **Hare, Constitution**, Pg. 777 Justice Tolman was concerned about the State prohibiting the Citizen from the "most sacred of his liberties," the Right of movement, the Right of moving one's self from place to place without threat of imprisonment, the Right to use the public roads in the ordinary course of life.

When the State allows the formation of a corporation it may control its creation by establishing guidelines (statutes) for its operation (charters). Corporations who use the roads in the course of business do not use the roads in the ordinary course of life. There is a difference between a corporation and an individual. The United States Supreme Court has stated: "...We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for examination on the suit of the State. The individual may stand upon his Constitutional Rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom,

beyond the protection of his life, liberty, and property. His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights."

"Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose." **Hale vs. Henkel, 201 US 43, 74-75**

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit."...Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, infra.), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former, the legislative power is confined to regulation, as to the latter, it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege." **Hadfield vs. Lundin, 98 Wash 516** It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or "privilege." We will attempt to reach a sound conclusion as to what is a "Right to use the road" and what is a "privilege to use the road". Once reaching this determination, we shall then apply those positions to modern case decision."Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." **Miranda vs. Arizona, 384 US 436, 491** and ..."The claim and exercise of a constitutional Right cannot be converted into a crime." **Miller vs. U.S., 230 F. 486, 489** and ...

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." **Sniper vs. Cullen, 481 F. 946** Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure."The use of the highways for the purpose of travel and

beyond the protection of his life, liberty, and property. His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights."

"Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose." **Hale vs. Henkel, 201 US 43, 74-75**

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit."...Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, infra.), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former, the legislative power is confined to regulation, as to the latter, it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege." **Hadfield vs. Lundin, 98 Wash 516** It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or "privilege." We will attempt to reach a sound conclusion as to what is a "Right to use the road" and what is a "privilege to use the road". Once reaching this determination, we shall then apply those positions to modern case decision."Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." **Miranda vs. Arizona, 384 US 436, 491** and ..."The claim and exercise of a constitutional Right cannot be converted into a crime." **Miller vs. U.S., 230 F. 486, 489** and ...

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." **Sniper vs. Cullen, 481 F. 946** Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure."The use of the highways for the purpose of travel and

transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived."Chicago Motor Coach vs. Chicago, 169 NE 2271; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163 and ..."The Right of the Citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is not a mere privilege which a city can prohibit or permit at will, but a common Right which he has under the right to life, liberty, and the pursuit of happiness."Thompson vs. Smith, 154 SE 579 So we can see that a citizen has a Right to travel upon the public highways by automobile and the Citizen cannot be rightfully deprived of his Liberty. So where does the misconception that the use of the public road is always and only a privilege come from?"... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose, no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion."State vs. Johnson, 243 P. 1073;

Cummins vs. Homes, 155 P. 171; Packard vs. Banton, 44 S.Ct. 256; Hadfield vs. Lundin, 98 Wash 516 Here the court held that a Citizen has the Right to travel upon the public highways, but that he did not have the right to conduct business upon the highways. On this point of law all authorities are unanimous."Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain."Willis vs. Buck, 263 P. 1 982; Barney vs. Board of Railroad Commissioners, 17 P.2d 82 and ..."The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus."State vs. City of Spokane, 186 P. 864 What is this Right of the Citizen which differs so "radically and obviously" from one who uses the highway as a place of business? Who better to enlighten us than Justice Tolman of the Supreme Court of Washington State? In State vs. City of Spokane, supra, the Court also noted a very "radical and obvious" difference, but went on to explain just what the difference is:"The former is the usual and ordinary right of the Citizen, a common right to all, while the latter is special, unusual, and extraordinary."and ..."This distinction, elementary and fundamental in character, is recognized by all the authorities." State vs. City of Spokane, supra. This position does not hang precariously upon only a few cases, but has been proclaimed by an impressive array of cases ranging from the state courts to the federal courts."the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The

former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary."

Ex Parte Dickey, (Dickey vs. Davis), 85 SE 78 1 and ..."The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business." **Thompson vs. Smith, supra.**;

Teche Lines vs. Danforth, Miss., 12 S.2d 784 There is no dissent among various authorities as to this position. (See Am. Jur. [1st] Const. Law, 329 and corresponding Am. Jur. [2nd].)

"Personal liberty -- or the right to enjoyment of life and liberty -- is one of the fundamental or natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from nor dependent on the U.S. Constitution. ... It is one of the most sacred and valuable rights [remember the words of Justice Tolman, *supra*.] as sacred as the right to private property ... and is regarded as inalienable." **16 C.J.S. Const. Law, Sect.202, Pg. 987** As we can see, the distinction between a "Right" to use the public roads and a "privilege" to use the public roads is drawn upon the line of "using the road as a place of business" and the various state courts have held so. But what have the U.S. Courts held on this point? "First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit." **Stephenson vs. Rinford, 287 US 251; Pachard vs Banton, 264 US 140, and cases cited; Frost and F. Trucking Co. vs. Railroad Commission, 271 US 592; Railroad commission vs. Inter-City Forwarding Co., 57 SW.2d 290; Parlett Cooperative vs. Tidewater Lines, 164 A. 313** So what is a privilege to use the roads? By now it should be apparent even to the "learned" that an attempt to use the road as a place of business is a privilege. The distinction must be drawn between ...Travelling upon and transporting one's property upon the public roads, which is our Right; and ...Using the public roads as a place of business or a main instrumentality of business, which is a privilege." [The roads] ... are constructed and maintained at public expense, and no person therefore, can insist that he has, or may acquire, a vested right to their use in carrying on a commercial business." **Ex Parte Sterling, 53 SW.2d 294;**

Barney vs. Railroad Commissioners, 17 P.2d 82; Stephenson vs. Binford, supra.

"When the public highways are made the place of business the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways." **Thompson vs. Smith, supra.** [The state's] right to regulate such use is

based upon the nature of the business and the use of the highways in connection therewith."I bid."We know of no inherent right in one to use the highways for commercial purposes. The highways are primarily for the use of the public, and in the interest of the public, the state may prohibit or regulate ... the use of the highways for gain."**Robertson vs. Dept. of Public Works, supra.**

There should be considerable authority on a subject as important as this deprivation of the liberty of the individual "using the roads in the ordinary course of life and business." However, it should be noted that extensive research has not turned up one case or authority acknowledging the state's power to convert the individual's right to travel upon the public roads into a "privilege." allege peterson did on 3/29/17, Therefore, it is concluded that the Citizen does have a "Right" to travel and transport his property upon the public highways and roads and the **exercise of this Right is not a "privilege."**

DEFINITIONS

In order to understand the correct application of the statute in question, we must first define the terms used in connection with this point of law. As will be shown, many terms used today do not, in their legal context, mean what we assume they mean, thus resulting in the misapplication of statutes in the instant case.

AUTOMOBILE AND MOTOR VEHICLE

There is a clear distinction between an automobile and a motor vehicle. An automobile has been defined as: "The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."**American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; 95 NH 200** While the distinction is made clear between the two as the courts have stated:

"A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received."**International Motor Transit Co. vs. Seattle, 251 P. 120** The term 'motor vehicle' is different and broader than the word 'automobile.'"**City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232**

The distinction is made very clear in **Title 18 USC 31:** "Motor vehicle" means every description or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, or passengers and property.

"Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other considerations, or directly or indirectly in connection with any business, or other undertaking intended for profit. Clearly, **an automobile is private property in use for private purposes**, while a motor vehicle is a machine which may be used upon the highways for trade, commerce, or hire.

TRAVEL transcript 3/29/17 page 20 L 1 to L-20, L-8

The term "travel" is a significant term and is defined as:

"The term 'travel' and 'traveler' are usually construed in their broad and general sense ... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) and who have occasion to pass over them for the purpose of business, convenience, or pleasure."**25 Am.Jur. (1st) Highways, Sect.427, Pg. 717**

"Traveler -- One who passes from place to place, whether for pleasure, instruction, business, or health." **Locket vs. State, 47 Ala. 45; Bouvier's Law Dictionary, 1914 ed., Pg. 3309**

"Travel -- To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey."**Century Dictionary, Pg. 2034**

Therefore, the term "travel" or "traveler" refers to one who uses a conveyance to go from one place to another, and included all those who use the highways as a matter of Right.

Notice that in all these definitions, the phrase "for hire" never occurs. This term "travel" or "traveler" implies, by definition, one who uses the road as a means to move from one place to another. Therefore, one who uses the road in the ordinary course of life and business for the purpose of travel and transportation is a traveler.

DRIVER

The term "driver" in contradistinction to "traveler," is defined as: "Driver -- One employed in conducting a coach, carriage, wagon, or other vehicle ..."

Bouvier's Law Dictionary, 1914 ed., Pg. 940

Notice that this definition includes one who is "employed" in conducting a vehicle. It should be self-evident that this individual could not be "travelling" on a journey, but is using the road as a place of business.

OPERATOR

Today we assume that a "traveler" is a "driver," and a "driver" is an "operator." However, this is not the case."It will be observed from the language of the ordinance that a distinction is to be drawn between the terms 'operator' and 'driver'; the 'operator' of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the 'driver' is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both "operator" and "driver."

Newbill vs. Union Indemnity Co., 60 SE.2d 658

To further clarify the definition of an "operator" the court observed that this was a vehicle "for hire" and that it was in the business of carrying passengers.

This definition would seem to describe a person who is using the road as a place of business, or in other words, a person engaged in the "privilege" of using the road for gain.

This definition, then, is a further clarification of the distinction mentioned earlier, and therefore:

Travelling upon and transporting one's property upon the public roads as a matter of Right meets the definition of a traveler.

Using the road as a place of business as a matter of privilege meets the definition of a driver or an operator or both.

TRAFFIC

Having defined the terms "automobile," "motor vehicle," "traveler," "driver," and "operator," the next term to define is "traffic": "... Traffic thereon is to some extent destructive, therefore, the prevention of unnecessary duplication of auto transportation service will lengthen the life of the highways or reduce the cost of maintenance, the revenue derived by the state ... will also tend toward the public welfare by producing at the expense of those operating for private gain, some small part of the cost of repairing the wear ..." **Northern Pacific R.R. Co. vs. Schoenfeldt, 213 P. 26 Note:** In the above, Justice Tolman expounded upon the key of raising revenue by taxing the "privilege" to use the public roads "at the expense of those operating for gain."

-instant case these facts not in complaint or record 10/16/15 pge 1 -L-1 to L5.-

In this case, the word "traffic" is used in conjunction with the unnecessary Auto Transportation Service, or in other words, "vehicles for hire." The word "traffic" is another word which is to be strictly construed to the conducting of business.

"Traffic -- Commerce, trade, sale or exchange of merchandise, bills, money, or the like. The passing of goods and commodities from one person to another for an equivalent in goods or money ..." **Bouvier's Law Dictionary, 1914 ed., Pg. 3307**

Here again, notice that this **definition** refers to one "conducting business." No mention is made of one who is traveling in his automobile. This definition is of one who is engaged in the passing of a commodity or goods in exchange for money, i.e., vehicles for hire.

Furthermore, the words "traffic" and "travel" must have different meanings which the courts recognize. The difference is recognized in **Ex Parte Dickey, supra:**

"...in addition to this, cabs, hackney coaches, omnibuses, taxicabs, and hacks, when unnecessarily numerous, interfere with the ordinary traffic and travel and obstruct them."

The court, by using both terms, signified its recognition of a distinction between the two. But, what was the distinction? We have already defined both terms, but to clear up any doubt:

"The word 'traffic' is manifestly used here in secondary sense, and has reference to the business of transportation rather than to its primary meaning of interchange of commodities."

Allen vs. City of Bellingham, 163 P. 18 Here the Supreme Court of the State of Washington has defined the word "traffic" (in either its primary or secondary sense) in reference to business, and not to mere travel! So it is clear that the term "traffic" is business related and therefore, it is a "privilege." The net result being that "traffic" is brought under the (police) power of the legislature. **The term has no application to one who is not using the roads as a place of business.**

LICENSE

"March 29 2017 record pge 22-L1 to 25 pge 61-L-1-17-21".

It seems only proper to define the word "license," as the definition of this word will be extremely important in understanding the statutes as they are properly applied:

"The permission, by competent authority to do an act which without permission, would be illegal, a trespass, or a tort." **People vs. Henderson**, 218 NW.2d 2, 4 "Leave to do a thing which licensor could prevent." **Western Electric Co. vs. Pacent Reproducer Corp.**, 42 F.2d 116, 118.

In order for these two definitions to apply in this case, the state would have to take up the position that the exercise of a Constitutional Right to use the public roads in the ordinary course of life and business is illegal, a trespass, or a tort, which the state could then regulate or prevent. Transcript 3/29/17 pge 22-L-1-13

This position, however, would raise magnitudinous Constitutional questions as this position would be diametrically opposed to fundamental Constitutional Law. (See "Conversion of a Right to a Crime," *infra*.) In the instant case, the proper definition of a "license" is: "a permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or corporation, to pursue some occupation or to carry on some business which is subject to regulation under the police power." **Rosenblatt vs. California State Board of Pharmacy**, 158 P.2d 199, 203. This definition would fall more in line with the "privilege" of carrying on business on the streets. Most people tend to think that "licensing" is imposed by the state for the purpose of raising revenue, yet there may well be more subtle reasons contemplated; for when one seeks permission from someone to do something he invokes the jurisdiction of the licensor which, in this case, is the state. In essence, the licensee may well be seeking to be regulated by the licensor. "A license fee is a charge made primarily for regulation, with the fee to cover costs and expenses of supervision or regulation." **State vs. Jackson**, 60 Wisc.2d 700; 211 NW.2d 480, 487. The fee is the price; the regulation or control of the licensee is the real aim of the legislation.

Are these licenses really used to fund legitimate government, or are they nothing more than a subtle introduction of police power into every facet of our lives? Have our "enforcement agencies" been diverted from crime prevention, perhaps through no fault of their own, instead now busying themselves as they "check" our papers to see that all are properly endorsed by the state? How much longer will it be before we are forced to get a license for our lawn mowers, or before our wives will need a license for her blender or mixer? They all have motors on them and the state can always use the revenue.

POLICE POWER

The confusion of the police power with the power of taxation usually arises in cases where the police power has affixed a penalty to a certain act, or where it requires licenses to be obtained and a certain sum be paid for certain occupations. The power used in the instant case cannot, however, be the power of taxation since an attempt to levy a tax upon a Right would be open to Constitutional objection. (See "taxing power," *infra*.) Each law relating to the use of police power must ask three questions: "Is there threatened danger? Does a regulation involve a Constitutional Right? Is this regulation reasonable?" **People vs. Smith**, 108 Am.St.Rep. 715; within the 9 and 10 Amendments.

Bouvier's Law Dictionary, 1914 ed., under "Police Power" When applying these three questions to the statute in question, some very important issues emerge. First, "is there a threatened danger" in the individual using his automobile on the public highways, in the ordinary course of life and business? The answer is No! There is nothing inherently dangerous in the use of an automobile when it is carefully managed. Their guidance, speed, and noise are subject to a quick and easy control, under a competent and considerate manager, it is as harmless on the road as a horse and buggy. It is the manner of managing the automobile, and that alone, which threatens the safety of the public. The ability to stop quickly and to respond quickly to guidance would seem to make the automobile one of the least dangerous conveyances. (See *Yale Law Journal, December, 1905.*) "The automobile is not inherently dangerous." *Cohens vs. Meadow, 89 SE 876; Blair vs. Broadmore, 93 SE 532* To deprive all persons of the Right to use the road in the ordinary course of life and business, because one might, in the future, become dangerous, would be a deprivation not only of the Right to travel, but also the Right to due process. (See "Due Process," infra.) Next; does the regulation involve a Constitutional Right? This question has already been addressed and answered in this brief, and need not be reinforced other than to remind this Court that this Citizen does have the Right to travel upon the public highway by automobile in the ordinary course of life and business. It can therefore be concluded that this regulation does involve a Constitutional Right. The third question is the most important in this case. "Is this regulation reasonable?" The answer is No! It will be shown later in "Regulation," infra., that this licensing statute is oppressive and could be effectively administered by less oppressive means. Although the Fourteenth Amendment does not interfere with the proper exercise of the police power, in accordance with the general principle that the power must be exercised so as not to invade unreasonably the rights guaranteed by the United States Constitution, it is established beyond question that every state power, including the police power, is limited by the Fourteenth Amendment (and others) and by the inhibitions there imposed. Moreover, the ultimate test of the propriety of police power regulations must be found in the Fourteenth Amendment, since it operates to limit the field of the police power to the extent of preventing the enforcement of statutes in denial of Rights that the Amendment protects. (See *Parks vs. State, 64 NE 682.* "With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority." *Connolly vs. Union Sewer Pipe Co., 184 US 540;* *Lafarier vs. Grand Trunk R.R. Co., 24 A. 848; O'Neil vs. Providence Amusement Co., 108 A. 887* "The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." *Buchanan vs. Warley, 245 US 60; Panhandle Eastern Pipeline Co. vs. State Highway Commission, 294 US 613* "It is well settled that the Constitutional Rights protected from invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions." *Tiche vs. Osborne, 131 A. 60*" As a rule, fundamental limitations of regulations under the police

power are found in the spirit of the Constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language."

Mehlhos vs. Milwaukee, 146 NW 882 As it applies in the instant case, the language of the Fifth Amendment is clear: "No person shall be ... deprived of Life, Liberty, or Property without due process of law." As has been shown, the courts at all levels have firmly established an absolute Right to travel. In the instant case, the state, by applying commercial statutes to all entities, natural and artificial persons alike, has deprived this free and natural private person of the Right of Liberty, without cause and without due process of law. **DUE PROCESS** "The essential elements of due process of law are ... Notice and The Opportunity to defend." **Simon vs. Craft, 182 US 427** Yet, not one individual has been given notice of the loss of his/her Right, let alone before signing the license (contract). Nor was the Citizen given any opportunity to defend against the loss of his/her right to travel, by automobile, on the highways, in the ordinary course of life and business. This amounts to an arbitrary deprivation of Liberty. "There should be no arbitrary deprivation of Life or Liberty ..." **Barbour vs. Connolly, 113 US 27, 31; Yick Wo v. Hopkins, 118 US 356** and ..."The right to travel is part of the Liberty of which a citizen cannot be deprived without due process of law under the Fifth Amendment. This Right was emerging as early as the **Magna Carta**." **Kent vs. Dulles, 357 US 116 (1958)** The focal point of this question of police power and due process must balance upon the point of making the public highways a safe place for the public to travel. If a man travels in a manner that creates actual damage, an action would lie (civilly) for recovery of damages. The state could then also proceed against the individual to deprive him of his Right to use the public highways, for cause. This process would fulfill the due process requirements of the Fifth Amendment while at the same time insuring that Rights guaranteed by the U.S. Constitution and the state constitutions would be protected. **Transcript pge 35-L-1-25, pge 31-L-6** no lawful reason.

But unless or until harm or damage (a crime) is committed, there is no cause for interference in the private affairs or actions of a Citizen. One of the most famous and perhaps the most quoted definitions of due process of law, is that of **Daniel Webster in his Dartmouth College Case (4 Wheat 518)**, in which he declared that by due process is meant: "a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial." See also **Daniel Webster in his Dartmouth College Case (4 Wheat 518)** Somewhat similar is the statement that is a rule as old as the law that: "no one shall be personally bound (restricted) until he has had his day in court," by which is meant, until he has been duly cited to appear and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination; it is judicial usurpation and it is oppressive and can never be upheld where it is fairly administered. **(12 Am.Jur. [1st] Const. Law, Sect. 573, Pg. 269)**

Note: This sounds like the process used to deprive one of the "privilege" of operating a motor vehicle "for hire." It should be kept in mind, however, that we are discussing the arbitrary deprivation of the Right to use the road that all citizens have "in common." The

futility of the state's position can be most easily observed in the 1959 Washington Attorney General's opinion on a similar issue:"The distinction between the Right of the Citizen to use the public highways for private, rather than commercial purposes is recognized ..."and ..."Under its power to regulate private uses of our highways, our legislature has required that **motor vehicle operators be licensed (I.C. 49-307)**. Undoubtedly, the primary purpose of this requirement is to insure, as far as possible, that all motor vehicle operators will be competent and qualified, thereby reducing the potential hazard or risk of harm, to which other users of the highways might otherwise be subject. But once having complied with this regulatory provision, by obtaining the required license, a motorist enjoys the privilege of travelling freely upon the highways ..."

Washington A.G.O. 59-60 No. 88, Pg. 11 This alarming opinion appears to be saying that every person using an automobile as a matter of Right, must give up the Right and convert the Right into a privilege. This is accomplished under the guise of regulation. This statement is indicative of the insensitivity, even the ignorance, of the government to the limits placed upon governments by and through the several constitutions. This legal theory may have been able to stand in 1959; however, as of 1966, in the **United States Supreme Court decision in Miranda**, even this weak defense of the state's actions must fall."Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda vs. Arizona, 384 US 436, 491 Thus the legislature does not have the power to abrogate the Citizen's Right to travel upon the public roads, by passing legislation forcing the citizen to waive his Right and convert that Right into a privilege. Furthermore, we have previously established that this "privilege" has been defined as applying only to those who are "**conducting business in the streets**" or "**operating for-hire vehicles**." The legislature has attempted (by legislative fiat) to deprive the Citizen of his Right to use the roads in the ordinary course of life and business, without affording the Citizen the safeguard of due process of law. This has been accomplished under supposed powers of regulation.

REGULATION

"In addition to the requirement that regulations governing the use of the highways must not be violative of constitutional guarantees, the prime essentials of such regulation are reasonableness, impartiality, and definiteness or certainty."**25 Am.Jur. (1st) Highways, Sect. 260**

and ..."Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance of permission."**Davis vs. Massachusetts, 167 US 43; Pachard vs. Banton, supra.**

One can say for certain that these regulations are impartial since they are being applied to all, even though they are clearly beyond the limits of the legislative powers. However, we must consider whether such regulations are reasonable and non-violative of constitutional guarantees.

First, let us consider the reasonableness of this statute requiring all persons to be licensed (presuming that we are applying this statute to all persons using the public roads). In determining the reasonableness of the statute we need only ask two questions: Does the statute accomplish its stated goal? The answer is No! The attempted explanation for this regulation "to insure the safety of the public by insuring, as much as possible, that all are competent and qualified."

However, one can keep his license without retesting, from the time he/she is first licensed until the day he/she dies, without regard to the competency of the person, by merely renewing said license before it expires. It is therefore possible to completely skirt the goal of this attempted regulation, thus proving that this regulation does not accomplish its goal. Furthermore, by testing and licensing, the state gives the appearance of underwriting the competence of the licensees, and could therefore be held liable for failures, accidents, etc. caused by licensees.

Is the statute reasonable? The answer is No! This statute cannot be determined to be reasonable since it requires the Citizen to give up his or her natural Right to travel unrestricted in order to accept the privilege. The purported goal of this statute could be met by much less oppressive regulations, i.e., competency tests and certificates of competency before using an automobile upon the public roads. (This is exactly the situation in the aviation sector.) But isn't this what we have now? The answer is No! The real purpose of this license is much more insidious. When one signs the license, he/she gives up his/her Constitutional Right to travel in order to accept and exercise a privilege. After signing the license, a quasi-contract, the Citizen has to give the state his/her consent to be prosecuted for constructive crimes and quasi-criminal actions where there is no harm done and no damaged property. These prosecutions take place without affording the Citizen of their Constitutional Rights and guarantees such as the **Right to a trial by jury of twelve persons** and the Right to counsel, as well as the normal safeguards such as proof of intent and a corpus delicti and a grand jury indictment. These unconstitutional prosecutions take place because the Citizen is exercising a privilege and has given his/her "implied consent" to legislative enactments designed to control interstate commerce, a regulatable enterprise under the police power of the state.

We must now conclude that the Citizen is forced to give up Constitutional guarantees of "Right" in order to exercise his state "privilege" to travel upon the public highways in the ordinary course of life and business.

SURRENDER OF RIGHTS

A Citizen cannot be forced to give up his/her Rights in the name of regulation.

"... the only limitations found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation for compensation are (1) that the state must not exact of those it permits to use the highways for hauling for gain that they surrender any of their inherent U.S. Constitutional Rights as a condition precedent to obtaining permission for such use ..." **Riley vs. Lawson, 142 So. 619; Stephenson vs.**

Binford, supra. If one cannot be placed in a position of being forced to surrender Rights in order to exercise a privilege, how much more must this maxim of law, then, apply when one is simply exercising (putting into use) a Right?

Hoke vs. Henderson, 15 NC 15 and ... "We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another." **Simons vs. United States, 390 US 389** Since the state requires that one give up Rights in order to exercise the privilege of driving, the regulation cannot stand under the police power, due process, or regulation, but must be exposed as a statute which is oppressive and one which has been misapplied to deprive the Citizen of Rights guaranteed by the United States Constitution and the state constitutions.

TAXING POWER

"Any claim that this statute is a taxing statute would be immediately open to severe Constitutional objections. If it could be said that the state had the power to tax a Right, this would enable the state to destroy Rights guaranteed by the constitution through the use of oppressive taxation. The question herein, is one of the state taxing the Right to travel by the ordinary modes of the day, and whether this is a legislative object of the state taxation. The views advanced herein are neither novel nor unsupported by authority. The question of taxing power of the states has been repeatedly considered by the Supreme Court. The Right of the state to impede or embarrass the Constitutional operation of the U.S. Government or the Rights which the Citizen holds under it, has been uniformly denied." **McCulloch vs. Maryland, 4 Wheat 316** The power to tax is the power to destroy, and if the state is given the power to destroy Rights through taxation, the framers of the Constitution wrote that document in vain.

"... It may be said that a tax of one dollar for passing through the state cannot sensibly affect any function of government or deprive a Citizen of any valuable Right. But if a state can tax ... a passenger of one dollar, it can tax him a thousand dollars." **Crandall vs. Nevada, 6 Wall 35, 46**

and ..."If the Right of passing through a state by a Citizen of the United States is one guaranteed by the Constitution, it must be sacred from state taxation." *Ibid.*, Pg. 47 Therefore, the Right of travel must be kept sacred from all forms of state taxation and if this argument is used by the state as a defense of the enforcement of this statute, then this argument also must fail. Transcript 3/29/18 Pge 37-L-9-17-25,

CONVERSION OF A RIGHT TO A CRIME

As previously demonstrated, the Citizen has the Right to travel and to transport his property upon the public highways in the ordinary course of life and business. However, if one exercises this Right to travel (without first giving up the Right and converting that Right into a privilege) the Citizen is by statute, guilty of a crime. This amounts to converting the exercise of a Constitutional Right into a crime. Recall the **Miller vs. U.S. and Snare vs. Cullen** quotes from Pg. 5, and:

"The state cannot diminish Rights of the people." **Hurtado vs. California, 110 US 516**

and ..."Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them." **Miranda, supra.**

Indeed, the very purpose for creating the state under the limitations of the constitution was to protect the rights of the people from intrusion, particularly by the forces of government. So we can see that any attempt by the legislature to make the act of using the **public highways as a matter of Right into a crime, is void upon its face.** Any person who claims his Right to travel upon the highways, and so exercises that Right, **cannot be tried for a crime of doing so.** And yet, this Freeman stands before this court today to answer charges for the "crime" NYS Const. Art 1 Sec.14 of exercising his Right to Liberty. As we have already shown, the term "drive" can only apply to those who are **employed in the business of transportation for hire.** It has been shown that freedom includes the Citizen's Right to use the public highways in the ordinary course of life and business without license or regulation by the police powers of the state.

CONCLUSION

It is the duty of the court to recognize the substance of things and not the mere form. "The courts are not bound by mere form, nor are they to be misled by mere pretenses. They are at liberty -- indeed they are under a solemn duty -- to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purported to have been enacted to protect ... the public safety, has no real or substantial relation to those objects or is a palpable invasion of Rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution." **Mugler vs. Kansas, 123 US 623, 661** and ..."It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon." **Boyd vs. United States, 116 US 616** The courts are duty bound to recognize and stop the stealthy encroachments which have been made upon the Citizen's Right to travel and to use the roads to transport his property in the "ordinary course of life and business." (Hadfield, *supra*.) Further, the court must recognize that the Right to travel is part of the **Liberty** of which a Citizen cannot be deprived without specific cause and without the due process of law guaranteed in the **Fifth Amendment. (Kent, supra.)** The history of this invasion of the Citizen's Right to use the public highways shows clearly that the legislature simply found a heretofore untapped source of revenue, got greedy, and attempted to enforce a statute in an unconstitutional manner upon those free and natural individuals who have a Right to travel upon the highways. This was not attempted in an outright action, but in a slow, meticulous, calculated encroachment upon the Citizen's Right to travel. This position must be accepted unless the prosecutor can show his authority for the position that the "use of the road in the ordinary course of life and business" is a privilege.

To rule in any other manner, without clear authority for an adverse ruling, will infringe upon fundamental and basic concepts of Constitutional law. This position, that a Right cannot be regulated under any guise, must be accepted without concern for the monetary loss of the state.

"Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interests of the public." **Slote vs. Examination**, 112 ALR 660 and ..."Economic necessity cannot justify a disregard of Constitutional guarantee." **Riley vs. Carter**, 79 ALR 1018;

16 Am.Jur. (2nd), Const. Law, Sect. 81 and ..."Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them." **Watson vs. Memphis**, 375 US 526 Therefore, the Court's decision in the instant case must be made without the issue of cost to the state being taken into consideration, as that issue is irrelevant. The state cannot lose money that it never had a right to demand from the Sovereign state People **Texas v. White**. In Propria persona Sui Juris Finally, we come to the issue of public policy. It could be argued that the licensing scheme of all persons is a matter of public policy. However, if this argument is used, it too must fail, as: "No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution." **16 Am.Jur. (2nd), Const. Law, Sect. 70** So even public policy cannot abrogate this Citizen's Right to travel and to use the public highways in the ordinary course of life and business. Therefore, it must be concluded that:

"We have repeatedly held that the legislature may regulate the use of the highways for carrying on business for private gain and that such regulation is a valid exercise of the police power."

Northern Pacific R.R. Co., supra. and ..."The act in question is a valid regulation, and as such is binding upon all who use the highway for the purpose of private gain." *Ibid.* Any other construction of this statute would render it unconstitutional as applied to this Citizen or any Citizen. The Accused therefore moves this court to dismiss the charge against him, with prejudice. **16 Am Jur 2d page 97.**

US v. BISHOP Transcript 3/29/17 Pge 61-L-1-17-21, people private rights can not be regulated there are, no contract, damage, regulation apply to only interstate commerce.

A Ca. Case involve suspended expired license court rule agency had no standing in facts or law to bring claim CASE MENTIONED: 7 Cal.App.2d 395, 46 P.2d 234 JOHN J. O'NEIL, Appellant, v. DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS et al, Respondents. Civ. No. 10276. District Court of Appeal, Second District, Division 2, California. June 5, 1935. Reverse.

CONCLUSION

FOR REASON FACT IN LAW THE INTENT OF THE LEGISLATORS, STATED ABOVE THE JUDGMENT IS VOID ON ITS FACE SHOULD BE REVERSED DISMISS WITH PREJUDICE.

May 27, 2019

RESPECTFULLY PRESENTED
Oliver-Vaughn:Doucet,Ai-Dey Sui Juris
 By: Oliver-Vaughn:Doucet, Ai-Dey Sui Juris
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