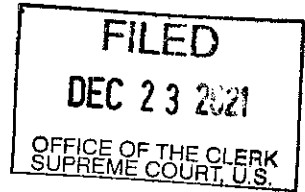


No. **21-6865**

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Justin Odell Langford — PETITIONER
(Your Name)

VS.

Warden Tim Garrett — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Justin Odell Langford-1159546
(Your Name)

LCC, 1200 Prison Road
(Address)

Lovelock, Nev. 89419
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Has this Court walked away from the Separation of Power doctrine. If not is there ever a time a judge can write laws and or bills then the Legislature pass it as an emergency act under the State Constitution. Can the Legislature by way of a senate bill create a commission for statute revision and dictate that Judge do the work along dictating that when there done with the revision work it is to become law of the state?
- 2) Is there ever a way for a statute to override a bill that created a statute, i.e., Senate Bill No. 2 (1957) states that the Nev. Rev. Stat. are the law but Nev. Rev. Stat. 220,170(3) say they are prima facie evidence of the law. Then use that as an excuse to ignore a constitutional mandate?
- 3) Does fraud upon the Court apply to criminal case as a ground for relief. If so can a district attorney file a criminal information in district court with more charges and different dates than what the Justice Court Ordered in its bind over order
- 4) When if ever can a court time bar, procedurally bar or waive claims of Fraud upon the Court and lack of Jurisdiction

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

[] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Bound v. The Wisconsin Cent. Ry. Co., 45 Wis 543 (1878)	7
Cain v. Robbins, 131 P2d 516, 518, 61 Nev. 416 (1942)	14; 15
Chisholm v. Georgia, 2 Dallas (2 U.S.) 419, 456 (1793)	6
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NC-DSH v. Garner, 125 Nev. 647, 648, 218 P3d 853; 2009 Nev. LEXIS 55	21
Nevada v. Rogers, 10 Nev. 250, 255, 256 (1875)	15; 19
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State v. Naftalin, 74 N.W. 2d 249, 261, 246 Minn. 181 (1956)	17
State v. Reilly, 95 Atl. 1005, 1006, 38 N.J. Law 104 (1915)	13
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State of Nevada v. Rogers, 10 Nev. 120, 261 (1875)	
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OTHER	
Earl T. Crawford, The Constitution Construction of Statutes, St. Louis, 1940, 389, p. 125	18

H. Walker, Law Making In The United State, p. 316. Some laws also have an "optional" preamble	12
Harvey Walker, Law Making In The United States, N. Y., 1934, p. 268	7
Harvey Walker, The Legislative Process, N. Y., Ronald Press Co. (1948), p. 346	13
Ruling Case Law, vol. 25, "Statutes", 384, p. 836	14
walker, Law Making In The United States, 1934 , p. 272	9

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the Eighth Judicial District Ct. court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____A____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was Nov. 17th 2021. A copy of that decision appears at Appendix A.

☒ A timely petition for ^{review}rehearing was thereafter denied on the following date: Dec. 2nd 2021, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____A____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Article 1, §9, cl.3 No bill of attainder or ex post facto law shall be passed

United States Constitution Article 4, §3, cl.2 The congress shall have power to dispose of and make all needfull rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state

United States Constitution Article 6, §2 This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

United States Constitution Amendment 14 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within jurisdiction the equal protection of the laws.

United States Constitution Amendment 8 Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

United States Constitution Amendment 6 In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Nevada Constitution Article 4, §23 The enacting clause of every law shall be as follows: "The people of the State of Nevada represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

Nevada Constitution Article 3, §1 The powers of the Government of the State of Nevada shall be divided into three separate departments, — the Legislative, — the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions; appertaining to either of the others, except in the cases herein expressly directed or permitted in this constitution.

Nevada Constitution Article 4, §1 The Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of Nevada" and the sessions of such Legislature shall be held at the seat of government of the State.

Nevada Constitution Article 5, §1 The Supreme power of this state shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada

Nevada Constitution Article 6, §1 The judicial power of this State is vested in a court system, comprising a Supreme Court, a court of appeals, district courts and justices of the peace. The Legislature may also establish, as part of the system, courts for municipal purposes only in incorporated cities and towns.

Nevada Constitution Article 1, §8, cl. 2 No person shall be deprived of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

On Feb. 9TH, 2021, The Petitioner Filed his third state petition For Writ of Habeas Corpus (Post-Conviction), But Petitioner Filed it as a Petition For Writ of Habeas Corpus Pursuan To The All Writs Act. Then On Feb. 11TH, 2021, the 8TH Judicial Court For Clark County issued an order for the Respondents to respond within 45 days and set a date of May 19TH, 2021 For a hearing on the Petition. Between the Petition itself and the supplement there was 7 claims For relief, with 90+ pages of exhibits along with several caselaw and ~~Constitutional~~ Constitutional Provisions to back/support the claims.

On April 5TH, 2021, The state of Nevada Filed a response claiming all the claims For relief are waived, procedurally barred or procedurally defaulted. Then went on say the claims are unsensical, incoherent and bare, naked and belied by the record. Then state claimed one ground was previously raised For the Criminal Information. Then on April 27TH, 2021 the Petitioner Filed his response to The state of Nevadas' Response. On May 19TH, 2021 the 8TH Judicial District Court Denied the Petition based on the arguments above, even though Petitioner clearly showed those argument are invalid as 5 claims were for lack of Jurisdiction and 2 were for Fraud upon the Court.

Then on June 3rd, 2021 petitioner Filed his notice of appeal challenging the denial of his Petition for writ of habeas corpus. And that was on
2021.

REASONS FOR GRANTING THE PETITION

GROUND 1

STATUTE REVISION COMMISSION ILLEGALLY WROTE NEVADA LAWS

We are not bound to the legislature by its terms, but by our own terms, as Justice Wilson of the U.S. Supreme Court said:

The only reason, I believe, why a freeman is bound by human laws, is that he binds himself.

Chisholm v. Georgia, 2 Dallas (2 U.S.) 419, 456 (1793)

Thus the legislative bodies are given certain powers to enact certain laws within the confines of certain limitations which the people have agreed to be bound by. The fact remains that this is the way things are. The State Legislature or Congress can make laws that we the people are subject to, as there is a legal relationship between them.

Many debates have also existed regarding the legality of such codes. An Alabama court stated that the criminal code enacted in its state was "not within the letter or spirit of the mandated of the Constitution, *** nor can it be supposed that it was within the contemplation of the framers of the Constitution". Ex parte Thomas, 21 So. 369, 370 (Ala. 1897). The Court also said that the code was done for the sake of "convenience". These works are a revision of all the statutes of the state, and thus embrace every subject in a multi-volume publication.

To understand the nature and validity of today's modern codes and revisions, we need to understand the established or constitutional method of enacting and publishing laws. When laws are passed by both houses of a legislative body, the bill is sent to the Governor to sign. If it is signed the enacted bill goes to the Office of the Secretary of State, who is the keeper of all official government documents. Nev. Const. Art. 5, 320. The Secretary of State is the official who possesses the State seal, and affixes that seal to the true and valid documents and records that comes to its Office.

Most State Constitutions prescribe these facts. Thus the laws passed by the legislature which are generally recognized as such are those that are

issued or published by the Secretary of State;

We consider that the Secretary of State has an indisputable legal duty to publish validly enacted laws; a duty imposed upon him Article IV, section 4(b) of the Florida Constitution, requiring him to "Keep the records of the official acts of the legislature legislative and executive departments.

Florida Optometric Ass'n v. Firestone, 465 So. 2nd 1319, 1321 (1985)

As to whether a bill has become a law or not, the fact that the publication was verified by the Secretary of State is proof that it has.

The publication of an act in the volume of session laws of the year in which it purports to have been approved and verified by the Secretary of State, creates a presumption that it became a law pursuant to the requirements of the constitution

Bound v. The Wisconsin Cent. Ry. Co., 45 Wis. 543 (1878)

As more laws became enacted, the usual or traditional mode of recording and publishing them gradually underwent a change;

The acts passed by each legislative session of congress or of a state legislature are compiled at the end of the session in what is known as the "Statutes at Large" in the national government, or as "Session Laws" in the states. After a few years it became very difficult for judges, attorneys and the general public to know what the law is. Amendments have been made, many sections have been repealed, and even the legislators are often at a loss. At such time a compilation may be made. This is simply a gathering together, usually into a single volume, of all the laws in effect in a given jurisdiction.

Changes in punctuation and spelling may be made, and repealed and unconstitutional laws eliminated, but little more. If a more constructive result is desired, a revision or codification may be ordered.

Harvey Walker, Law Making in the United States, N.Y., 1934, p-268

Which is what was done in 1951 by Senate bill No. 182. Senate Bill No. 182 created a ~~permanent~~ "Commission" for the revision and compilation of the laws in the State of Nevada. That was later amended by Senate Bill No. 188 (1953) which changed the title to "An Act establishing a permanent commission for the

revision, compilation, annotation, and publishing of the Laws of the State of Nevada....". The Statutes at Large and Session Laws are themselves a compilation of laws. But a "revision" or "Codification" is very different from a mere compilation. They are different because they are written or drafted by a commission or committee or some non-legislative source. Further, the laws are not just compiled together, they are altered and modified along with additions or deletions made to the contents. Which is what Senate Bill No. 2 (1952) was "An act to revise the laws and statutes of the State of Nevada...". They then are passed off as the laws of the legislature.

within Senate Bill No's 182, 188, 2 the Legislature called for a "definite plan for revision and publication of the Statutes".

Thus the Legislature was getting away from the idea of a mere compilation. It empowered the committee to prepare and submit a complete revision, broader in its scope and more comprehensive in its purpose. Fidelity & Columbia Trust Co. v. Meek, 171 S.W.2nd 41, 43, 44 (1943)

The legislature was giving more power and authority to this committee it had commissioned to "revise" the laws of the state. This change was noted by state Supreme Court:

The Kentucky Revised Statutes were, therefore, enacted as the law of the Commonwealth and not adopted as a compilation. This distinction is important. A compilation is merely an arrangement and classification of the legislation of a state in the exact form in which it was enacted with no change in language. It is merely a bringing together in a convenient form of the various acts of legislation enacted over a period of time. It does not purport to restate the law or to be a substitute for prior laws. It does not require any legislative action in order to have the effect it is intended to have. *** A revision, on the other hand, contemplates a redrafting and simplification of the entire body of statute law. *** A revision is a complete restatement of the law. It requires enactment by the legislature in order to be effective and upon enactment it becomes the law itself, replacing all former statutes

Ibid., p. 44

And in Nevada we had a commission/committee of judges recreating the laws of the State. Such commission/committees have become the new source of law in

nation. While the legislature will "enact the revision into law," this is no different than when the legislature approves the by-laws of a corporation. The laws of the corporation do not become laws of the legislature because of this. Rather, they are laws of the artificial legal entity (or corporation) which the legislature created, just as the "Nevada Revised Statutes" are laws of the artificial legal entity or commission that the legislature created.

This process is also no different than when the Legislature authorizes the laws of a city, or approves a city charter. The laws and charter are not regarded as those of the legislature, or as laws of the state. While the laws which the "Commission" drafts are based upon original statutes of the Legislature, they are a complete restatement of them. New material is added, items are removed, provisions are modified. The results are, in legal parlance, laws that are of this legal entity known as "Statute Revision Commission". This legal entity is no different than a corporation or any other legal entity which the Legislature created or commissioned.

The laws which this entity writes cannot be deemed the lawful statutes of the State. This is especially so since the various Constitutions of the land specify how each law is to come into being. It was never the intent that such a comprehensive mass of legislation containing every law of the State, and passed in one act, would be the mode for making laws. There are inherent problems associated with this method, as explained by one legal writer.

The usual practice is to introduce the revision [of statutes] as a single bill, sending it through the same process as any other bill. Obviously, however, the members of the legislature cannot give such a comprehensive measure adequate consideration. It is almost as difficult for a committee to do so.

Walker, Law Making in the United States, p. 272

When the mass of laws from the committee is complete, the legislature is to approve it as a single statute, but because it is so massive not one (1) single legislator will read the new body of law. There are no discussions in the legislature on any of the hundreds of new or revised laws of the committee. Further, it is required by fundamental law and constitutional mandates that a bill be read on three separate days in the legislature. This was never done for Senate Bill No. 2 (1957), on Jan. 22nd, 1957 "it was allegedly read once then it was declared an emergency measure under the constitution and placed on third reading and

- Final passage. The third and Final reading was allegedly done on "Jan. 22nd 1957".
- The Senate logs also show that Enrolled and delivered to Secretary of State and
- that the sections labeled "Passed" and "title approved" are not dated meaning it
- was never done. The three(3) day requirement is impossible with the comprehensive
- codes that have been adopted in modern times.

- According to the Constitution, enacting and changing laws for a state falls upon the
- legislative branch of government, and that branch cannot delegate that power to any
- other branch. The "Statute Revision Commission" may be composed of some
- members of the Legislature, but it is also composed of lawyers, judges and private
- persons. It thus has been noted that "revisers have no legislative authority, and are
- therefore powerless to lessen or expand the letter or meaning of the law".

- Therefore the work of these committees cannot be regarded as law pursuant to
- the Constitution. The law they produce is another manner of law coming from a source
- other than the Constitutionally authorized source. Those comprehensive revision or
- codifications are like a private law approved by the legislature.

- In Nevada a "statute revision commission" was created in 1951 by Senate Bill
- No. 182, this "Commission" consisted of three(3) Nevada Supreme Court Justices. This
- "Commission" became increasingly involved in bill drafting as an adjunct to its statute
- revision work. The Commission was unlawful for several reasons, the most obvious
- being its very operation by the "Justices" who served on it did so in violation of
- the Nevada Constitution, Nevada Constitution Articles 3, 31 ; 4, 31 ; 6, 31 and the
- Separation of Powers Doctrine.

- The Separation of Powers Doctrine was violated as three(3) Justices were
- involved in the drafting of legislation and the passage of bills in the Legislature, a
- "purely Legislative Function", the "Statute Revision Commission" was completely
- responsible for the generation of the "Nevada Revised Statute". The generation of
- the Nevada Revised Statutes specifically state that there were actual changes
- in the statement of laws as they were compiled into the Nevada Revised
- Statutes, changes were made to existing statutes, entire words were
- deleted as being redundant, grammar was changed. Sentence structures were
- altered, as discussed supra this can only be done by the legislature, meaning a
- duly appointed/elected person elected to the assembly or senate. So this
- issue of the "Statute Revision Commission" revising all the statutes and

drafting the Senate Bill to pass them into law was completely Unconstitutional in of itself. Which makes Senate Bill No. 182 (1951) and Senate Bill No. 188 (1953) Unconstitutional in of themselves as it was the legislature delegating Legislative authority away to others in the Judicial branch which cant be done, making everything the "Statute Revision Commission/Legislative Counsel Bureau" did VOID Ab Initio as they were the product of Unconstitutional Acts. This also renders Senate Bill No. 2 (1957) VOID Ab Initio as it was the product of a Unconstitutional Act by the "Statute Revision Commission."

The State Courts have gone as far ~~to quoting~~ as quoting NRS's 281A.160; 220.110; 220.120; 220.170 in an attempt to circumvent the Constitution and the Senate Bill that created them. Senate Bill No. 2 (1957) states in pertinent part:

An act to revise the laws and statutes of Nevada of a general or public nature; to adopt and enact such revised laws and statutes, to be known as the Nevada Revised Statutes, as the law of the state of Nevada; to repeal all prior laws and statutes of a general, public and permanent nature; providing penalties; and other matters relating thereto.

Also the Legislative Councils Preface to the Nevada Revised Statutes states in pertinent part:

End the end that upon the convening of the 1957 legislature Nevada Revised Statutes was ready to present for approval. By the provisions of chapter 2, statutes of Nevada 1957, Nevada Revised Statutes, consisting of NRS 1.010 to 710.590, inclusive, was 'adopted and enacted as the law of the state of Nevada'.

this can be found at [HTTPS://WWW.LEG.STATE.NEV.US/DIVISION/RESEARCH/LIBRARY/DOCUMENTS/HISTDOCS/PREFACE.PDF](https://www.leg.state.nv.us/Division/Research/Library/Documents/HistDocs/Preface.pdf), So as you can see from those two sections the 'Nevada Revised Statutes' are the law of Nevada, and under Nev. Const. Art. 4, 323 they are required to have an enacting clause on them. Senate Bill No. 2 (1957) at section 8 states in pertinent part:

Omission From Session Laws. The provisions of NRS 1.010 to 710.590, inclusive, appearing following section 9 of this act shall not be printed or included in the Statutes of Nevada as provided by NRS 218.500 and NRS 218.510; but there shall be inserted immediately following section 9 of this act the words: "(Here Followed NRS 1.010 to 710.590, inclusive.)"

You'll find all of those statutes published in the statutes of Nevada, where there

not suppose to be, thus provide no legal defense to any of the issues at hand.

COUNT 2

SENATE CONCURRENT RESOLUTION NO. 1 (1957) AND ALL NEVADA REVISED STATUTES HAVE NO ENACTING CLAUSE ON THEM

All written constitutions prescribe the mode and process of making laws, this includes the reading of the bill on three(3) different days in each house, that if passed it is to be signed by the speaker of the house and by the president of the Senate, the recording of the votes upon the journal, being signed by the governor, and other such procedures.

But the constitutions also regulate the form and style in which laws are to be enacted to make them laws of the State. The form and style are regulated as essential parts of the law and thus must be included at all times with the law to make it a valid law. Laws or statutes traditionally have three main parts;

The three essential parts of every bill or law are: (1) the title, (2) the enacting clause, and (3) the body.

Hi Walker, Law Making in the United States, p. 316. Some laws also have an optional "preamble".

We will first examine the enacting clause as this is the main item that directly relates to authority of law. An enacting clause, sometimes called an enacting style or enacting authority, is that part of a law which usually comes after the title and before the body of the law. The following shows the manner in which this provision is prescribed in Nev. Const. Art. 4, §23:

The enacting clause of every law shall be as follows: "The people of the State of Nevada represented in senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

The Supreme Court of Georgia in 1967, said that "the Constitutions of 46 states specify the form of the enacting clause Only the constitutions of Delaware, Georgia, Pennsylvania, and Virginia, as well as the constitution for the United States, are silent on the point." The Court also stated the function and purpose of such a provision:

The enacting clause is that portion of a statute which gives it Jurisdictional identity and constitutional authenticity. *** The purpose of an enacting clause is to establish the act; to give

it permanence, uniformity and certainty; to afford evidence of its legislative, statutory nature, and thus prevent inadvertence, possible mistake, and fraud.

Joiner v. State, 155 S.E. 2nd 8, 10, 223 Ga. 367 (1967)

The enacting clause gives a statute its "Constitutional authenticity," which makes its use essential since the constitution is the source of the legislature's authority for enacting laws. A law cannot be regarded as coming from a constitutionally authorized source if it does not have an enacting clause. The enacting clause provides evidence that the law which follows is of the proper legislative source or jurisdiction. This function and purpose of such a constitutional provision has often been expressly stated:

What is the object of the style of a bill or enacting clause anyway? To show the authority by which the bill is enacted into law; to show that the act comes from a place pointed out by the constitution as the source of legislation. Ferrill v. Keel, 151 S.W. 269, 272, 105 Ark. 380 (1912)

The enacting clause is a short formal statement, appearing after the title, indicating that all which follows is to become law, and giving the authority by which the law is made. There is no excuse for not using it.

Harvey Walker, The Legislative Process, N.Y., Ronald Press Co. (1948), p. 346

The enacting clause is the section of a bill or statute which establishes the whole document as law. Pearce v. Vittum, 61 N.E. 1116, 1117, 193 Ill. 192 (1901)

The enacting part of a statute is that which declares its enactment and identifies it as an act of legislation. State v. Reilly 95 AH. 1005, 1006, 88 N.J. Law 104 (1915)

Since the legislature, and not any other body or agency, is given certain law making authority, an enacting clause is necessary to show that the law in question comes from that duly assembled legislature. If any law is to have authority behind it, it must have an enacting clause preceding it, as is required by the constitutional and fundamental law.

The question has often been raised as to whether constitutional provisions that call for a particular form and style of laws, or procedure for their enactment, are to be regarded as directory or mandatory. The question is critical since its use will have an affect on the validity of a statute or law. If such provisions are directory, then they are treated as legal advice which those in government can decide whether or not to follow.

But if mandatory such provisions must be strictly followed or else the resulting act or law is unconstitutional and invalid,

while a few courts at an early period held that such provisions were merely directory, the great weight of authority has deemed them to be mandatory. In speaking on the mandatory character of enacting clause provisions, one legal textbook states:—

[T]he view that this provision is merely directory seems to conflict with the fundamental principle of constitutional construction that whatever is prohibited by the constitution, if in fact done, is ineffectual. And the vast preponderance of authority holds such provisions to be mandatory and that a failure to comply with them renders a statute void. Buling Case Law, vol. 25, "statutes", § 84, p. 836.

When something is "directory" its usage is only an advisable guide, and can be ignored. But the requirement of an enacting clause is based upon its ancient usage in legislative acts.

A declaration of the enacting authority in laws is a usage and custom of great antiquity, *** and a compulsory observance of it is founded in sound reason.

Caine v. Robbins, 131 P.2d 516, 518, 61 Nev. 466 (1942)

The Supreme Court of Illinois had under consideration an ordinance with no enacting clause. The Court expounded upon why the lack of the clause invalidated the law:

upon looking into the constitution, it will be observed that "The style of the laws of this State shall be: 'Be it enacted by the People of the State of Illinois, represented in the General Assembly.' (Art. 4, § 11). ***

The foregoing sections of articles 3, 4 and 5, of the Constitution, are the only ones in that instrument proscribing the mode in which the will of the people, acting through the legislative and executive departments of the government, can become law. ***

That these provisions, giving the form and mode by which, *** valid and binding laws are enacted, are, in the highest sense mandatory, cannot be doubted. *** Then it follows that this resolution cannot be held to be a law. It is not the will of the People, constitutionally, expressed, in the only mode and manner by which that will can ~~eng~~ acquire the force and validity, under the constitution, of law, for this legislative act is without a title,

has no enacting clause,*** and is sufficient to deprive this expression of the legislative will of the force and effect of law; and the same did not become, therefore, and is not, legally binding and obligatory upon the respondents.

City of Carlye v. Nicolay, 165 N.E. 211, 215, 216 (Ill.), affirmed, Liberty Nat. Bank of Chicago v. Metrick, 102 N.E. 2nd 308, 310, 410 Ill. 429 (1951).

The court concluded that the constitutional provisions regulating the form and mode of laws, such as the enacting clause and title, are "essential and indispensable parts" of the process of making laws.

In a case in Nevada a law passed the legislature without a proper enacting clause, raising the question of whether the constitutional enacting clause was a requisite to a valid law. The Court said it was because the provision was mandatory:

[T]he said section of the Constitution is imperative and mandatory, and a law contravening its provisions is null and void. If one or more of the positive provisions of the Constitution may be disregarded as being directory, why not at all? And if all, it certainly requires no argument to show what the result would be. The Constitution, which is the paramount law, would soon be looked upon and treated by the legislature as devoid of all moral obligations; without any binding force and effect; a mere "rope of sand", to be held together or pulled to pieces at its will and pleasure. We think the provisions under consideration must be treated as mandatory.

Every person at all familiar with practice of legislative bodies is aware that one of the most common methods adopted to kill a bill and prevent its becoming a law, is for a member to move to strike out the enacting clause. If such a motion is carried the bill is lost. Can it be seriously contended that such a bill, with its head cut off, could thereafter by any legislative action become a law? Certainly not.

Nevada v. Rogers, 10 Nev. 250, 255, 256 (1878); approved in Caine v. Robbins, 131 P.2nd 516, 518, 61 Nev. 416 (1942).

This case was cited and approved by the Supreme Court of Michigan, which also stated:

It will be an unfortunate day for constitutional rights when courts begin the insidious process of undermining constitutions by

holding unambiguous provisions and limitations to be directory merely, to be disregarded at pleasure,

People v. Dettenbaler, 77 N.W. 450, 453, 118 Mich. 595 (1898).

In Montana a case arose that involved a statute with a "defective enacting clause". The Supreme Court of Montana, after quoting the constitutional section relating to the enacting clause, held that:

These provisions are to be construed as mandatory and prohibitory, because there is no exception to their requirements expressed anywhere in the Constitution. * * * We think the provisions of the Constitution are so entirely free from ambiguity that there can be no substantial ground for any other conclusion than that chapter 199 was not enacted in accordance with the mandatory provisions of that instrument, and that the Act must be declared invalid.

Vaugh & Baggdale Co. v. State Bd. of Equalization, 96 P.2d 420, 423, 424, 109 Mont. 52 (1939).

These provisions relating to the mode of enacting laws "have been repeatedly held to be mandatory, and that any legislation in disregard thereof is unconstitutional and void." State v. Burlington & M.R.R. Co., 84 N.W. 254, 255, 60 Neb. 741 (1900).

While it has been well decided that the passage of a bill in the legislature without an enacting clause on the bill renders it void as a law, we need to consider the result of not using an enacting clause after it leaves the legislature. This is the important question today in light of the fact that the state "Codes" and "Revised Statutes" and the "U.S. Code" are publications which purport to be law, but which use no enacting clauses. Is a publication of a law without an enacting clause a valid and lawful law?

If laws are only required to have an enacting clause while in the legislative system, only to be thereafter removed, then what is their value and purpose to the public? If they are to serve as evidence of law's legislative nature, and as identification of its source and authority as a law, what good does that function do only for the legislators? The vast majority of the public never sees the bill under consideration until it passes and is printed in public records or statute books. They generally only see the finished "law".

When we read the provisions which require an enacting clause, they say that "all laws shall...", or "the laws of this State shall...". They do not say "all bills shall..." The...

Terms "bill" and "law" are clearly distinguished from one another in most constitutions. In prescribing the procedure of the legislative process, such as:

"No law shall be passed except by bill"

"No bill shall become a law except by a vote of a majority."

"Every bill which shall pass both houses shall be presented to the governor of the State; and every bill he approves shall become a law."

A bill is a form or draft of a law presented to a legislature. "A bill does not become a law until the constitutional prerequisites have been met." State v. Nattalin, 74 N.W. 2nd 249, 261, 246 Minn. 181 (1956). Thus a bill is something that becomes a law. Laws do not exist in the legislature, rather only bills do. Laws exist only when the legislative process is followed and completed as prescribed in the constitution.

Clearly the legislature cannot enact a law. It merely has the power to pass bills which may become laws when signed by the presiding officer of each house and are approved and signed by the Governor.

Vaughan & Ragsdale Co. v. State Bd. of Eq., 96 P.2nd 420, 423 (1939).

since all constitutional provisions place the requirement of an enacting clause on "laws" it includes the statute as it exists outside the legislative process, that is, as it is published in statute books. We have to also regard the fundamental maxim which states: "A law is not obligatory unless it be promulgated." Black's Law Dictionary, 2nd edition, p. 826. An act is not even regarded as a law, or enforceable as a law, unless it be made publicly known. This is usually done through a publication by the proper public authority such as the Secretary of State. But a law is not properly or lawfully promulgated without an enacting clause or title published with the law.

since the constitution requires "all laws" to have an enacting clause, it makes it a requirement on published laws as well as on bills in the legislature. "If" the constitution said "all bills" shall have an enacting clause of a law is to be "On the Face". To be on its face means to be in the same plain of view:

Face has been defined as the surface of anything; especially the front, upper, or outer part or surface; that which particularly offers itself to the view of a spectator.

Cunningham v. Great Southern Life Ins. Co., 66 S.W.2nd 765, 773 (Tex. Civ. App.).

The face of an instrument is that which is shown by the language employed without any explanation, modification or addition from extrinsic facts or evidence.

In re Stoneman, 146 N.Y.S. 172, 174.

For the enacting clause to be of any use it must appear with a law, that is, on its face, so that all who look at the law know that it came from the legislative authority designated by the constitution. The enacting clause would not serve its intended purpose if not printed in the statute book on the face of the law.

The purpose of an enacting clause in legislation is to express on the face of the legislation itself the authority behind the act and identify it as an act of legislation.

Pruckel v. Byrne, 243 N.W. 823, 826, 62 N.D. 356 (1932)

The purpose of provisions of this character [enacting clauses] is that all statutes may bear upon their faces a declaration of the sovereign authority by which they are enacted and declared to be the law, and to promote and preserve uniformity in legislation. Such clauses also import a command and obedience and clothe the statute with a certain dignity, believed in all times to command respect and aid in the enforcement of laws.

State v. Burrow, 104 S.W. 526, 529, 119 Tenn. 376 (1907)

It is necessary that every law should show on its face the authority by which it is adopted and promulgated, and that it should clearly appear that it is intended by the legislative power that enacts it that it should take effect as a law.

People v. Dettenthaler, 77 N.W. 450, 451, 118 Mich. 596 (1895), citing Swan v. Buck, 90 Miss. 269 (1866).

The enacting clause, sometimes referred to as the commencement or style of the act, is used to indicate the authority from which the statute emanates. Indeed, it is a custom of long standing to cause legislative enactments to express on their face the authority by which they were enacted or promulgated.

Earl T. Crawford, The Construction of Statutes, St. Louis, 1940, 387, p. 125

A law is "promulgated" by its being printed and published and made available or
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accessible by a public document such as an official statute book. When this promulgation occurs, the enacting clause is to appear "on the face" of that law, thus being printed in that statute book along with the law.

The enacting clause must be readily visible on the face of the statute so that citizens don't have to search through the legislative journals or other records or books to see if one exists. Thus a statute book without the enacting clause is not a valid publication of laws. In regards to the validity of a law that was found in their statute books without an enacting clause, The Supreme Court of Nevada held:

our Constitution expressly provided that the enacting clause of every law shall be, "The people of the State of Nevada, represented in senate and assembly, do enact as follows." This language is susceptible of but one interpretation. There is no doubtful meaning as to the intention. It is, in our judgement, an imperative mandate of the people, in their sovereign capacity, to the legislature, requiring that all laws, to be binding upon them, shall, upon their face, express the authority by which they were enacted; and, since this act comes to us without such authority appearing upon its face, "it is not a law."

State of Nevada v. Rogers, 10 Nev. 120, 261 (1875)

The manner in which the law came to the court was by the way it was found in the statute book, cited by the Court as "Stat. 1875, 66" and that is how they judge the validity of the law. Since they saw that the act, as it was printed in the statute book, had an insufficient enacting clause on its face, it was deemed to be "not a law". It is only by inspecting the publicly printed statute book that the people can determine the source, authority & authenticity of the law they are expected to follow.

The common mode by which a law is "promulgated" is by it being printed and published in some authorized public statute book. Thus that mode of promulgation must show the enacting clause of each law therein on its face, that is, on the face of the law as it is printed in the statute book. This is the only way that the "Courts of Justice and the public are to judge of its authenticity and validity". Thus whatever is published without an enacting clause is void, as it lacks the required evidence or statement of authority.

Now on to Senate Concurrent Resolution No. 1 (1957) allowed for the "Official engrossed copy of Senate Bill No. 2 (1957)" to be used as the enrolled bill. Is missing

the Constitutionally mandated enacting clause on it, without this enacting clause on it Senate Concurrent Resolution No. 1 (1957) is a void act, and with the act being void it also renders the enrolled copy of senate bill No. 2 (1957) as non-existent. Without the enrolled copy of senate bill No. 2 (1957) there is "No Nevada Revised Statutes" as Senate Bill No. 2 (1957) created the Nevada Revised Statutes. This would also Render All Nevada Convictions as void as all Nevada Inmates are convicted by a statute created by Senate Bill No. 2 (1957) The Supreme Court of Nevada has held:

- Finally, (The enacting clause of every law shall be as follows: The People of
- the State of Nevada, represented in Senate and Assembly do enact as follows; and no law shall be enacted except by bill, Nev. Const. Art. IV, §23 (emphasis added), We have previously ruled that this enacting clause is
- mandatory and must be included in every law created by the Legislature,
- see State v. Rogers, 10 Nev. 250 (1875). Since Concurrent Resolution No. 29 and other similar resolutions do not contain the requisite enactment language, they cannot represent the law of this State.

Nevada Highway Patrol Association v. The State of Nevada, DMV # 15, 107 Nev. 547, 815 P.2d 608 (1991)

So as this Honorable Court can see Senate Concurrent Resolution No. 1 (1957) has to have an enacting clause on it and without it, it leaves the act within it as void as Senate Concurrent Resolution No. 1 (1957) is Unconstitutional for not having the enacting clause as mandated by Nev. Const. Art. 4, §23. Without the act within Senate Concurrent Resolution No. 1 (1957) being done, it also leaves the Legislative Process for Senate Bill No. 2 (1957) unfinished and all Nevada Revised Statutes as void and all inmates Convictions as Unconstitutional as all Nevada Inmates are being held in violation of U.S. Const. Amend's I, V, VI, VIII, XIV due to being held under unconstitutional laws.

Also all of the legislative acts for the Nevada Revised Statutes are recorded and/or promulgated in the wrong location, currently they are located in the "Statutes of Nevada" even though Senate Bill No. 2 (1957) section 8 says they are to be excluded from them. When you look at the "Statutes of Nevada" you'll see the bills for laws passed, and you'll see the bill has the Enacting Clause But every^{where} you can find a copy of a Nevada Revised Statutes you'll see none have an Enacting clause on them. The State of Nevada has gone as far as quoting Nevada Revised Statutes 220.110, 220.120, 220.170 in an attempt to circumvent the Nevada Constitution and Senate Bill No. 2 (1957) in an attempt to keep kidnapping its citizens and falsely imprisoning them under false pretense, if this court looks at Nevada Revised statute 201.230 it will see no enacting clause on it at any location the public can view it, all other statutes are the same for the state of Nevada.

COUNT 3

FRAUDULENT CHARGING DOCUMENT EQUALS LACK OF JURISDICTION AND FRAUD UPON THE COURT

A case of fraud upon the court calls into question the very legitimacy of the judgment. Put another way, when a judgment is shown to have been procured by fraud upon the Court, no worthwhile interest is served in protecting the judgment. *NC-DSH v. Garner*, 125 Nev. 647, 648; 218 P.3d 853; 2009 Nev. Lexis 55. There is no time limit on setting aside a judgment on the basis of fraud on the court, nor can laches bar consideration of the matter. *Ibid* at 125 Nev. 647. This is also a prosecutorial misconduct issue as this was intentionally and maliciously done by the prosecution, this claim was only just noticed as petitioner

This claim is based on the fact that the "State of Nevada" took the Petitioner to trial on a Fraudulent Charging document. The Petitioner was originally arraigned on 9 counts Jan. 22, 2014, Then on March 11, 2014 the Petitioner had his Preliminary hearing, where upon the completion of the hearing the Judge bound the Petitioner over on only 8 charges in a "bind over order". Instead the "State of Nevada" Prosecution chose to file 12 charges in the 8th Judicial District Ct. on March 27th, 2014.

So the final position is the "State of Nevada" Prosecution was only authorized to take the Petitioner to trial on 8 charges and had not filed for authorization to add the 4 extra charges to the Information or done a Preliminary for them to be added under a new case,

With the "State of Nevada" Prosecution getting the bind over order before filing the Information in District Court. With the "Prosecution" being an Officer of the Court, the first prong is met with an accessory by Petitioners trial Attorneys. All of which never brought this to the Courts attention, as Petitioners trial Attorneys are also officers of the court. For the Prosecution to file 12 charges against Petitioner even though they had the bind over order 2 days before filing the first Information and 15 days before the 2nd Information was filed in open court, That makes the actions of the "Prosecution" willfull and intentionally done to decieve the Judicial machinery, which is the second prong of fraud upon the courts. Prongs 3, 4, & 5 are also met. SEE *Demjanjuk v. Petrovsky*, 10 P.3d 338, 350; 1993 U.S. App. Lexis 29691, 27 Fed. R. Serv. 3d. Which sets the prongs for fraud upon the court as: 1) on the part of an officer of the Court; 2) That is directed to the "Judicial Machinery" itself;

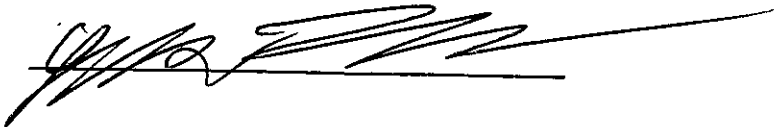
3) That is intentionally false, willfully blind to the truth or is in reckless disregard for the truth; 4) That is a positive averment or is concealment when one is under a duty to disclose; 5) That deceives the Court.

All Five(s) prongs are simply met in this issue by the actions of the prosecution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of several stylized, overlapping strokes, positioned above a horizontal line.

Date: 12/23/21