



Christian Law Abatements

What is an abatement at-Law?

"Abatement is ordinarily a matter of right"
Simmons v. Superior Court (1943), 96 C.A. 2d 119,
214 P. 2d 844.

"Abatement at law is the overthrow or destruction of a pending action apart from the cause of action; in equity the suspension of the proceedings. The term 'abatement' is used, with reference to pending actions or suits, to designate the result upon a suit or action, **of defects which vitiate the propriety of the suit as brought**, in contradistinction to the existence or the statement of a cause of action; it looks to their effect; and consequently it is ordinarily defined descriptively in terms of the effect produced, so that **the extending equitable doctrines to all suits or actions is spoken of."** *1 C.J.S. Abatement, 1a, p. 27*, quoted in *Burnand v. Irigoyen* (1943), 56 C.A. 2d 624, 629.

The nature of these abatements

A Christian common Law Abatement does not require any legislature approval by statute as it stands in general recognition of and common usage in Christian Law, which is acknowledged by the every state of the union of States in America.

The facts stated within Christian common Law Abatements shows the defects in the Plaintiff's initial process and original Plaintiff's inability to bring a suit, as further evidenced in the *Handbook of Common Law Pleading, by Benjamin Shipman, Third Edition by Henry Winthrop Ballentine, West Publishing Co., St. Paul, Minnesota (1923)* at page 29:

"There are certain preliminary objections to the maintenance of the suit, **which do not attack the core or merits of the plaintiff's case. These formal defects are waived, unless they are raised by the defendant at the first opportunity.** These were known in common law pleading as matters of abatement and suspension, and were raised by the so-called "dilatory pleas", since they tend merely to delay or put off the particular suit, by questioning the method in which it is pursued, rather than by disputing the very cause of the suit or right to relief in proper form. Dilatory pleas are to the jurisdiction of the court, alleging that it has no cognizance of the subject-matter; **to the disability of the plaintiff, by reason of which he is incapable to commence or continue the suit**".

At Law, a Plea in Abatement has the common law character to suspend a suit until the plaintiff can correct errors in his original process. If the errors are corrected in response to the abatement, the plaintiff's suit continues. In nearly every matter, the plaintiff has not responded in any manner to the abatement and did not correct the factual errors brought up by the abatement, which was primarily the fact of mistaken identity of the original *purported* Defendant, a misnomer.

Abatement.

In actions at law, an abatement is an overthrow of an action caused by the defendant's pleading some matter of fact tending to impeach the correctness of the writ or declaration, which defeats the action for the present, but does not debar the plaintiff from recommencing it in a better way.

Abatements are of two types, statutory and non-statutory. Statutory abatements are merely a statutory implementation of the common law non-statutory plea in abatement.

Non-statutory abatements rely on immemorial custom and usage to their authority, and not on any statutory authority by a legislature.

But, if issued against military powers and their courts in civil and administrative cases the abatement has the effect of suspending all proceedings in a suit because the military powers have no standing to answer.

Black's Law Dictionary, 3rd Edition (1933), pages 7 to 8.
[Emphasis added]

There are two types of abatements depending on the venue: The first is at-Law; The second is a bill in equity. A bill in equity is only heard in chancery, a statutorily created Administrative court. Such a court established in statute cannot go beyond the venue of the statute that created it. This also means that a court sitting in equity does not have the power to abate any thing unless that power is found in statute. There are no longer any known statutes in any of the States concerning abatements. If a Non-Statutory Plea in Abatement - a common Christian Law Abatement - is filed with the Court by statute, the Abatement becomes a nullity for the reason that a statutorily created court cannot wander outside its *lex fori*. If the same is served by process, it remains outside of the statute venue and does not lie upon statute for recognition. Rather, such abatement lies within the Right and Power to issue the process in God's venue, a superior jurisdiction to the statute jurisdiction.

A statute court - and a party therein by appearance - cannot impeach their own record and cannot plead the 'truth' of two opposing records. Either one or the other is true, but not both at the same time. However, A Non-Statutory Plea in Abatement served to a statutorily created Military Court has the power and effect of suspending all proceedings.

The character of the party

A Christian is vested with God's Right and Power to serve process in His name because the Christian is made in His image and likeness through Repentance to Christ, sealed by His Holy Spirit. It is the Seal of His Spirit that authorizes the Christian to act in this mode and character, and not of that of any other opinion or character. The Christian and God have a Covenant under pure and perfect Seal.

"At common law and in those jurisdictions where the common law effect of a seal is still recognized, it is well settled that authority to execute a sealed instrument [*i.e.*, a Non-Statutory Plea in Abatement] can be conferred only by an instrument of equal dignity or solemnity; *i.e.*, by a contract under seal. *Van Ostrand v. Reed*, 1 Wend. (N.Y.) 424, 19 Am. Dec. 529; *Story on Agency*, 9th Ed., secs. 49, 242, and 252." *Rotwein, Law of Agency* (1949), p. 21.

"CHARACTER. The possession by a person [Christian] of certain qualities of mind or morals, distinguishing him from all others [non-Christians]". *Bouvier's Law Dictionary* (1914), p. 457. [insertions added]

Parties

As a result of due process and proper service by Law of this Non-Statutory Plea in Abatement, the original Plaintiff becomes the Defendant in a new action, while the original Defendant becomes the Demandant in the common Christian Law, not to be confused or adjoined with the exclusive statutory term 'Plaintiff'. In most instances, the issue of 'want of proper parties' is shown, which has the effect of process at-Law and suspends all proceedings in the suit, from the want of proper parties capable of proceeding therein. *Ibid., under "Chancery Practice", page 8.* Thus, it is impossible for someone to file a suit in one jurisdiction to try and reach a purported defendant in another jurisdiction.

When a Christian uses Lawful process against martial powers, He represents the *de jure* state [as opposed to the present *de facto* government of State] who is: lawfully entitled to recognition and supremacy in the administration of the state, but which is actually cut off from power and control. *Austin's Jurisprudence, page 324.*

A Party in a superior position cannot be sued by one in an inferior position in Law. Standing in and upon the mode and character of a Good and Lawful Christian, the Abatement Demandant acts within the jurisdiction of the common Christian Law, a superior jurisdiction and venue to that of the original Plaintiff's venue which is and has been under Emergency Powers, Military Law (Martial Law and Tribunals), The Law of War and -or- International and Municipal Law since 1863. The Rule of Law is that those parties, such as the original Plaintiff in this matter, under The Law of War cannot answer processes at-Law, which is the jurisdiction of the Abatement Demandant. All 'statute' military Law of War founded Courts recognize the existence and power of Christian common Law, but can do nothing about it as this is not within their jurisdiction as an inferior Court, and an inferior court cannot over-rule a superior one, even in the Law of War.

Marks

These are statements within the Abatement that list the formal defects or fatal errors in the original Plaintiff's suit or process, which the Abatement Defendant must correct if he wishes to continue his original suit. Other fatal errors that may be stated in this section besides *misnomer* are; misjoinder of causes of action, misjoinder, and misjoinder of parties. *Ibid., Common Law Pleading, page 29.*

Out of Bar

A plea in abatement is not a plea in bar, but out of bar (somewhat in theory, not Law, to that of an Administrative or Military Law Court "Special Appearance"). A court cannot hear and judge any matters (those out of bar) that have not yet come under that court's authority. For a Christian Non-Statutory Plea in Abatement to come under the Military Law Court's authority, all preliminary matters, such as errors in the original process (in this instance, those matters marked in the Abatement) must have been resolved, or the original Plaintiff fails to properly bring his case to the Abatement Demandant or to the Court itself. Subsequently, there is no case and nothing for the court to hear. The case exists only for the reason that the original Plaintiff served process on another party, but, the original Plaintiff cannot put the case in bar unless his process complies with his own Court rules.

First of these many rules is that the original Plaintiff's process must have no errors in it. Errors constitute defective process and are sufficient cause for a *purported* Defendant to issue an abatement. A misnomer is a fatal error in any suit in equity or at common law.

An exception to this is if some act by the original Abatement Respondent brings him in bar, such as not answering the original Plaintiff's process, by demurring, or making an *appearance* to the jurisdiction of the Plaintiff's court. Any *appearance*, including a statutory 'special appearance', places the party before the court in order to participate in the action. An abatement is not an appearance in bar. In most matters, the *purported* Defendant has not appeared in any manner to the Plaintiff's Court.

The persona

A flesh and blood Christian Man or Woman is not a fictional *persona*. The Christian is created by God and God alone. He has a substance by and through His Creator, whereby a *persona* has no substance or foundation other than man's legalism. A *persona* is a 'person' of created fiction with no true foundation of existence and can even be a corporation. A *persona* is created by the issuance of a Tax I. D. Number, a Social Security number, a Driver's License, or any other fictional 'benefit' or 'privilege' of its creator, the State.

The two can never be confused as the same and neither can use the law of the other. Both are bound by the respective laws of their creator. Being under different laws, there is a conflict of laws that are mutually exclusive ultimates. For example, each mutually excludes the other.

This is considered by both opposing laws as the ultimate conflict of law which is the basis or substance of their creation. God's Law and man's law are opposed at every point

in Creation. In support of this conflict of laws, God is no respecter of persons, but man's law is -see Acts 10:34.

Christians have a relationship to God as Heirs of the Father through the pure Blood and lineage of Christ Jesus. As a Christian, his name is written in the Lamb's Book of Life, and this name is only known by God. This Blood Covenant requires the Christian to abide by God's Law, and none other.

Government Imperial powers have created the *persona* to give an appearance of Lawful process, but such is a *persona* created by novation. The purported law of the *persona* is not Law because it is directly and blatantly contrary to God's Law and common Christian Law. It is based, founded and rooted not by God but by the Law of War through its lineage to the god of war, Mars, and the god of commerce, Mercury.

The nom de guerre

Man knows he has no right of dominion over other men, but he has invented ways to seek such gain by creating the *persona* which, when applied to the Law of War, becomes a *nom de guerre*. This is literally a "war name" to separate the Christian from the fictional *persona* -see The California Style Manual, published by the The California Supreme Court (1986), Section 196, page 13, "Style of Main Title" (to an action).

How a name is spelled brings to distinction the ultimate conflict of the real Man - a Christian Man - and the fictitious imitation of the Christian Man that is a *persona*. Names are spelled on all Military and Administrative Law Court papers, State Licenses, etc., with all capital letters such as JOHN J. SMITH. The Law of War uses the *nom de guerre* in all instances of spelling a proper name.

Being bound under Treaty of International Law, the *lex mercatoria*, and the Law of War, today's Chancery and Administrative Courts are prohibited from dealing with real people - Christians - and are required to deal only with fictional personae (artificial persons) by styling all parties with a *nom de guerre*. A corporation is also a fictional *persona*, and this includes State incorporated Churches. Any party who agrees to appear before the Military Law or Administrative Court must do so by a *nom de guerre* spelled in all capital letters or with a middle initial.

"An alien enemy cannot maintain an action during the war in his own name"- *Francis Wharton, Pennsylvania Digest, Section 20.94 (1853)*.

"Martial law is the law of military necessity in the actual presence of war. It is administered by the general of the

army, and is in fact his will." *Chief Justice Waite, in United States v. Diekelman, 98 U.S. 520.*

A Christian spells his name according to the Rules of English Grammar and the common Christian Law, using both capital and lower case letters, such as John Elias Smith as opposed to the *noms de guerre* JOHN SMITH or JOHN E. SMITH.

The primary use of the *nom de guerre* is to inform and openly disclose to all parties of the type of court and the venue that will hear the case, namely: a Law of War Military Chancery Court, a.k.a an Administrative Court of executive jurisdiction. Such a venue and jurisdiction sits to hear matters only between *personae* or, a *res* and *personae* in commerce. Any Christian who accepts and answers to a *nom de guerre* strips himself of his Godly Rights in common Christian Law and subjects Himself to the laws of man. All Christians are deemed alien enemies of Law of War Courts or Administrative Courts, and cannot be brought before said Courts in their Christian name. Only a *nom de guerre* can be a party to a present day Administrative Court. If there is no *nom de guerre*, there is no party to be heard.

Rules of English Grammar

Proper nouns name specific persons, places, or things and begin with a capital letter. General nouns denoting a class or group of persons, places, or things are never capitalized. The meanings of two words of the same spelling can change dramatically when one of those words begins with the first letter capitalized. For example, from *Riddle's Latin Lexicon*:

state - A Christian people with Dominion over all geographical territory which makes them the - *res publica* - lords of the soil.

State - The name of the ministerial government, occupying a feud, established by constitutional compact among the Christian people holding and occupying a fixed geographical territory.

The "state" is general and used at-Law, while the "State" is specific and denotes a created fictional "legal" entity.

In the Christian common Law Abatement, the Rules of English Grammar are precise according to Law. This is why the Abatement denotes careful uses of the words county and *not* County; united rather than United, court instead of Court, and even superior as opposed to Superior. There are the general 'laws of Florida' and there are the specific Statute 'Laws of Florida'. In like manner, there exists the 'State of Florida' and 'Florida state'. The differences denote an astute identification of the conflict between the

common Christian Law and man's fictional law. 'Florida state' is in-Law whereby 'The State of Florida' is an Administrative legal fiction.

Likewise, Florida Statutory Courts serve defective process and not Lawful process. Such defective and unlawful process will show 'The State of Florida' as opposed to 'in the state of Florida'. A 'Court Seal of the State of Florida' is *not* a 'seal from a Lawful court in Florida state'. The typical rubber stamped facsimile, most often in all capital letters, of a Judge's *persona* in Chancery is not the Lawful signature - in black ink - of a constitutionally elected Judge in the Judicial Department in Florida state.

"11.19. Numbers mentioned in connection with serious and dignified subjects [i.e., the measurement of time from the birth of Our Sovereign Lord and Savior Christ Jesus] and in formal writing are spelled out" *United States Government Style Manual (1959), "Numbers Spelled Out", p. 169.*

"12.19. Numbers appearing as part of proper names [i.e., the Year of Our Lord and Savior Christ Jesus] or mentioned in connection with serious and dignified subjects such as Executive orders, legal proclamations, and in formal writing are spelled out". *United States Government Style Manual (1986), "Numbers Spelled Out", p.169. [insertions added].*

In the same manner, a Christian in common Law properly spells out his numbers, as in 'sixty'. A *persona* and fictional "person" will write the same as '60' as is customary for the abbreviated martial law form of writing for military purposes.

All courts currently in America are captive courts of the Commander-in-Chief ever since Lincoln's executive proclamation to the immediate effect of The Leiber Code in 1863. These courts cannot make binding rulings at Law. As such, these military founded courts are required to use the rules of English within their own statutory Rules of Court, *however*, in all their 'official' process they use a special set of unpublished rules and techniques to give true notice of their real standing to the public; *i.e.*, 'IT IS SO ORDERED' or 'DONE AND ORDERED', which are really of *no* meaning in the English language or within their own Rules of Court.

Misnomer

"We are of the opinion that the word 'misnomer', which means naming amiss, is wide enough to cover the faulty indication of a Christian name by means of the initial:

Vide, Bacon's Abridgment, under misnomer. Initials are no name at all" -see 4 Bacon's Abr. of the Law (1832), of Misnomer and want of Addition and Queen v. Plenty (1869).

"Misnomer, (compounded of the French *Mes*, which in composition always signifies *amisse*, and *nomer*, Latin, *nominare*.) **the using [of] one name for another, a mis-termining, or mis-naming."** *Nomo-Lexicon, A Law Dictionary, Sherwin & Freutel, Publishers, Los Angeles (1970).*

"Misnomer is a good plea in abatement, for since names are the only marks and indicia which human kind can understand each other by, if the name be omitted or mistaken, there is a complaint against nobody. And, if the defendant has been arrested by the wrong name, the court will set aside the proceedings and discharge him if in custody". *4 Bacon's Abridgment, (D) of Misnomer, and want of Addition (1832), page 7.*

The Christian appellation comprises of the first and/or second given birth names or baptism names. The family or surname is *not* usually included in the same with the first names. First the Hebrews and then Christians have habitually only identified themselves by their given names, or, their given names are used as being from or of the family surname. For example; 'Jonathan Paul of the Peters family' or 'Jonathan Paul: Peters' according the Rules of English Grammar. This is also how names of poor feudal peasants came about. 'Williamson' meant being the 'son of William' or 'Peterson' meaning 'Peter's son'. In the Biblical New Testament, Paul - Saul - was known and called 'Saul of Tarsus' and Christ Himself was called 'Jesus of Nazareth' which denoted and signified their birth location in Hebrew Law.

A given name - or names - identifies the Godly or Lawful Christian, *i.e.*, John Robert. What is added after that identifies his family or his birthplace, *i.e.*, Smith. This is hardly a new practice as the Spanish and German peoples still use '*de*' and '*von*' meaning 'of' after their given names, such as Juan Carlos *de* Santiago or Bernhardt *von* Bismark. These are established and currently used Lawful appellations. Although it has become 'normal' in the world today to simply drop the word 'of' between given and family names, it has only been more prevalent since 1865 when common Christian Law was abolished and replaced by the Law of War, among others, where *persona* and *noms de guerre* were considered commonplace by their unlawful usage.

Maxims of Law in Non-Statutory Plea in Abatements

The Non-Statutory Plea in Abatement - Christian common Law Abatement - uses Maxims of Law from *Bouvier's Law Dictionary* (1914) and *Black's Law Dictionary* (1957 & 1968), and *Broom's Maxims*.

Error juris nocet. **Error of law is injurious.**

Ex nundo Pacto non oritur Actio. **No cause of action arises from a bare agreement** [A consideration of some sort or other is so absolutely necessary to the forming of a contract that agreement to do or pay any thing on one side without any compensation on the other is totally void in law].

Fictio juris non est ubi veritas. **Where truth is, fiction of law does not exist.**

Non est certandum de regulis juris. **There is no disputing about rules of law.**

Legatos violare contra jus gentium est. **It is contrary to the law of nations to do violence to ambassadors.** [see definition of 'ambassador' below].

Summa Ratio est quae pro Religione facit. **If ever the laws of God and man are at variance, the former are to be obeyed in derogation of the latter.**

Nullum tempus occurrit ecclesiae. **Time does not bar the right of the church.**

Quae lege communi derogant non sunt trahenda in exemplum. **Things derogatory to the common law are not to be drawn in to precedent.**

Nihil quod est contra rationem est licitum. **Nothing against reason is lawful.**

Ex Dolo malo non oritur Actio. **A right of action cannot arise out of fraud.** [a misnomer is a fraudulent name].

Causae ecclesiae publicis causis aequiparantur. **The cause of the church is a public cause.**

Definitions of Key Words and Phrases

Used in the Christian common Law Non-Statutory Plea in Abatement

Ambassador. Now then, **we are ambassadors for Christ.** *II Corinthians 5:20*

Avoidance. A making void, useless, empty, or of no effect; annulling, canceling; escaping or evading. *Black's Law Dictionary, 3rd Edition, page 176.* Of common law as in God's Law, referred to as the **Law of Avoidance.**

Common law. Common law is **God's Law that became the Customs and Usages of the people from time immemorial.** In Latin, it is the *lex non scripta*, the 'law not written', for it is written in the heart of the Christian Man. All Administrative Codes, Rules of Procedure, and Regulations that violate common law are void and do not apply to Good and Lawful Christians. **Statutes which violate the plain and obvious principles of common right and common reason are null and void.** *Bouvier's Dictionary of Law, 1856. Blackstone's Commentaries* says a law which violates the Law of God is void.

Time of war. Enemy.

Concerning what constitutes a 'time of war', it: **exists for purposes of R.C.M.1004(c)(6), and Parts IV and V of this manual in virtually every act conceivable by any person, against which the United States government has made a law, rule, or regulation.** *Manual for Court's Martial, supra, page IV-4, Article 104(c)(6)(c).*

'Enemy' is not restricted to the enemy government or its armed forces. **All the citizens of one belligerent are enemies of the government and all the citizens of the other.** *Ibid., Manual, page IV-34, Art. 99-23c(1)(b).*

General delivery.

The evidence of a **mailbox** on a house or a **Post Office Box** are **evidence of residency** and of an **enemy in the field and did not exist prior to Lincoln's War.** A doorbell or knocker is an 'invitation' to break down the door of a house because it is presumed that their existence is to allow anyone to enter for any reason by announcement without further protocol.

General delivery has never been attached to any legislation through commercial statutes. Postal laws since Lincoln's War have not changed in any manner concerning general delivery to transients. **General delivery is the only non-commercial side of the Post Office.**

General delivery is a mailing 'location', not an 'address'. Christians, as all of God's people, are sojourners - The land shall not be sold for ever; for the land is mine [God's]; for ye are strangers and **sojourners** with me . Leviticus 25:23 - and as such are **transients in His land**.

"General delivery is intended for use primarily at: c. Any post office **to serve transients and customers not permanently located**". The Post Office Domestic Mail Manual at D930, 1.1. **General delivery is a common law right recognized by the Post Office. The Post Office is not the Postal Service.** The latter is under military control.

Calling for mail in general delivery is granted by the Post Office for transients and sojourners, *i.e.*, Good and Lawful Christians.

Law of nations. In Latin; the *Jus Gentium*; that law which natural reason has established among all men is **equally observed among all nations as being the law which all nations use.** *Ibid.*, Blacks 3rd, page 1044.

L.S. The legal seal of the King and the location of this seal [marked by a Christian as ambassador of His Lord and Savior, Christ Jesus, the King of Kings].

Mark of Fraud. A token, **evidence, or proof of fraud.** *Ibid.*, Black's 3rd, page 1161.

Nil dicit. Nihil dicit.

'He says nothing'; Latin; *nil dicit*. This is the name of the judgment which may be taken as of course **against a defendant who omits to plead or answer the plaintiff's declaration or complaint within the time limited.** In some jurisdictions, it is otherwise known as judgment 'for want of a plea'. Gilder v. McIntyre, 29 Tex.91; Falken v. Housatonic R. Co., 63 Com. 258, 27A. 1117; Wilbur v. Maynard, 6 Cob. 486.

Judgment taken against a party who withdraws his answer is judgment *nihil dicit*, which amounts to **a confession of the cause of action stated,** and carries with it, more strongly, than judgment by default, **admission of justice of plaintiff's case.** Howe v. Cent. St. Bank of Coleman, Tex.Civ.App. 297 S.W. 692,694; Black's Law Dict. 4th, (1957 & 1968), p. 1195.

Suae potestate esse. A Christian having full power over His dominions with Christ. Given to God's people in Genesis 1:27-28 and reaffirmed in the New Testament in The Great Commission.
