FLAWED TAX ARGUMENTS TO AVOID

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This article provided courtesy of
constitutional attorney Larry Becraft

Gal. 4:16: "Am I therefor made your enemy because I tell you the truth?"

This section introduces some of the bogus theories that patriots and tax protester groups have come up with over the years that will clearly get people into trouble. You should avoid these costly and time consuming pitfalls in any of your dealings with the IRS or in court.

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The purpose of this file is simply educational. I've noticed too many innocents who today

believe certain legal arguments popular years ago, but which were litigated by ill prepared, desperate people and lost. To continue going down such dead end roads and to follow these dead arguments will only result in disaster.

Furthermore, there are lots of self proclaimed "legal gurus" writing books and conducting seminars all around the country. These gurus espouse their views and personal opinions which they pretend are "the law." Everyone has a right to express their personal opinions, but most of these "opinions" are being marketed as "the law." There are publications on the Net suggesting the United States is still a part of Great Britain, a "missing 13th amendment" still exists, and our society is legally based upon contract; there are arguments that a birth certificate means something more sinister than birth certificate, etc. While these works and arguments may be interesting, most are pure fiction composed of personal opinions parading as "the law." Too many people get into trouble following these fairy tales.

But do not think that by posting this information I believe that all is lost and there are no important legal issues left. To the contrary, I have a very long list of solid legal issues which need to be litigated and these are issues which will further our "freedom" cause. For example, even though I post below the losses regarding my favorite issue, the money issue, there are some good issues left, but they will be raised only in the best of circumstances and the best of cases. Some of these other issues are explained on my web site. But I am protecting these remaining issues from destruction by the desperate who grab an issue and throw it in court; these folks have no plans nor skills to engage in the legal battle, and they slaughter our good issues on the altar of stupidity.

I. The Money Issue:

In the seventies and early eighties, advocates of the specie provisions in Art. 1, §10, cl. 1 of the U.S. Constitution made a concerted effort to educate people about this constitutional provision, consequently people (mostly those who were desperate and ill prepared) acting pro se began litigating the issue. The courts have rendered the following adverse decisions on this issue:

Adverse Federal Decisions:

1. *Koll v. Wayzata State Bank*, 397 F.2d 124 (8th Cir. 1968)
2. *United States v. Daly*, 481 F.2d 28 (8th Cir. 1973)
3. *Milam v. United States*, 524 F.2d 629 (9th Cir. 1974)
4. *United States v. Scott*, 521 F.2d 1188 (9th Cir. 1975)
5. *United States v. Gardiner*, 531 F.2d 953 (9th Cir. 1976)
6. *United States v. Wangrud*, 533 F.2d 495 (9th Cir. 1976)
7. *United States v. Kelley*, 539 F.2d 1199 (9th Cir. 1976)
8. *United States v. Schmitz*, 542 F.2d 782 (9th Cir. 1976)
9. *United States v. Whitesel*, 543 F.2d 1176 (6th Cir. 1976)
10. *United States v. Hurd*, 549 F.2d 118 (9th Cir. 1977)
11. *Mathes v. Commissioner*, 576 F.2d 70 (5th Cir. 1978)
12. *United States v. Rifen*, 577 F.2d 1111 (8th Cir. 1978)
13. *United States v. Anderson*, 584 F.2d 369 (10th Cir. 1978)
14. *United States v. Benson*, 592 F.2d 257 (5th Cir. 1979)
15. *Nyhus v. Commissioner*, 594 F.2d 1213 (8th Cir. 1979)
16. *United States v. Hori*, 470 F.Supp. 1209 (C.D.Cal. 1979)

17. *United States v. Tissi*, 601 F.2d 372 (8th Cir. 1979)
18. *United States v. Ware*, 608 F.2d 400 (10th Cir. 1979)
19. *United States v. Moon*, 616 F.2d 1043 (8th Cir. 1980)
20. *United States v. Rickman*, 638 F.2d 182 (10th Cir. 1980)
21. *Birkenstock v. Commissioner*, 646 F.2d 1185 (7th Cir. 1981)
22. *Lary v. Commissioner*, 842 F.2d 296 (11th Cir. 1988).

Adverse State Decisions:

1. *Chermack v. Bjornson*, 302 Minn. 213, 223 N.W.2d 659 (1974)
2. *Leitch v. Oregon Dept. of Revenue*, 519 P.2d 1045 (Or.App. 1974)
3. *Radue v. Zanaty*, 293 Ala. 585, 308 So.2d 242 (1975)
4. *Rush v. Casco Bank & Trust Co.*, 348 A.2d 237 (Me. 1975)
5. *Allen v. Craig*, 1 Kan.App.2d 301, 564 P.2d 552 (1977)
6. *State v. Pina*, 90 N.M. 181, 561 P.2d 43 (N.M. 1977)
7. *Dorgan v. Kouba*, 274 N.W.2d 167 (N.D. 1978)
8. *Trohimovich v. Dir., Dept. of Labor & Industry*, 21 Wash.App. 243, 584 P.2d 467 (1978)
9. *Middlebrook v. Miss. State Tax Comm.*, 387 So.2d 726 (Miss. 1980)
10. *Daniels v. Arkansas Power & Light Co.*, 601 S.W.2d 845 (Ark. 1980)
11. *State v. Gasser*, 306 N.W.2d 205 (N.D. 1981)
12. *City of Colton v. Corbly*, 323 N.W.2d 138 (S.D. 1982)
13. *Epperly v. Alaska*, 648 P.2d 609 (Ak.App. 1982)
14. *Solyom v. Maryland-National Capital Park & Planning Comm.*, 452 A.2d 1283 (Md.App. 1982)
15. *People v. Lawrence*, 124 Mich.App. 230, 333 N.W.2d 525 (Mich.App. 1983)
16. *Union State Bank v. Miller*, 335 N.W.2d 807 (N.D. 1983)
17. *Richardson v. Richardson*, 332 N.W.2d 524 (Mich.App. 1983)
18. *Cohn v. Tucson Elec. Power Co.*, 138 Ariz. 136, 673 P.2d 334 (1983)
19. *First Nat. Bank of Black Hills v. Treadway*, 339 N.W.2d 119 (S.D. 1983)
20. *Herald v. State*, 107 Idaho 640, 691 P.2d 1255 (1984)
21. *Allnutt v. State*, 59 Md.App. 694, 478 A.2d 321 (1984)
22. *Spurgeon v. F.T.B.*, 160 Cal.App.3d 524, 206 Cal.Rptr. 636 (1984)
23. *Rothaker v. Rockwall County Central Appraisal Dist.*, 703 S.W.2d 235 (Tex.App. 1985)
24. *De Jong v. County of Chester*, 98 Pa. Cmwlth. 85, 510 A.2d 902 (1986)
25. *Baird v. County Assessors of Salt Lake & Utah Counties*, 779 P.2d 676 (Utah 1989)
26. *State v. Sanders*, 923 S.W.2d 540 (Tenn. 1996).

I wish to ultimately win this issue, but to do so will require experienced legal scholars who know what they are doing. The only person in America who should be in charge of money issue litigation is Dr. Edwin Vieira; see one of his articles posted to my main page. One of the goals of The Wallace Institute is to raise sufficient funds to turn Dr. Vieira loose to litigate this issue and win.

II. The IRS is a Delaware corporation:

Back in 1982 or 1983, somebody started circulating the argument that the IRS was a private corporation which had been created in Delaware in 1933. If it was created only in 1933, then why do we have the following appropriations for this agency found in acts of Congress a decade before 1933:

42 Stat. 375 (2-17-22); 42 Stat. 454 (3-20-22); 42 Stat. 1096 (1-3-23); 43 Stat. 71 (4-4-24); 43 Stat. 693 (12-5-24); 43 Stat. 757 (1-20-25); 43 Stat. 770 (1-22-25); 44 Stat. 142 (3-2-26); 44 Stat. 868 (7-3-26); 44 Stat. 1033 (1-26-27); 45 Stat. 168, 1034 (1928); 68 Stat. 86, 145, 807 (1954).

This is indeed a frivolous argument and has properly been rejected by the courts; see *Young v. IRS*, 596 F.Supp. 141, 147 (N.D. Ind. 1984). The real issue is whether the IRS has been created by law.

III. The IMF Argument:

Some contend that the Secretary of the Treasury is in reality a foreign agent under the control of the IMF; this argument has been rejected by the courts.

1. *United States v. Rosnow*, 977 F.2d 399, 413 (8th Cir. 1992)
2. *United States v. Jagim*, 978 F.2d 1032, 1036 (8th Cir. 1992)
3. *United States v. Higgins*, 987 F.2d 543, 545 (8th Cir. 1993).

IV. Non-resident Aliens:

Some contend we are for tax purposes non-resident aliens; again, this argument has been rejected by the courts.

1. *United States v. Sloan*, 939 F.2d 499, 501 (7th Cir. 1991)
2. *United States v. Jagim*, 978 F.2d 1032, 1036 (8th Cir. 1992)
3. *United States v. Hilgeford*, 7 F.3d 1340, 1342 (7th Cir. 1993)
4. *United States v. Mundt*, 29 F.3d 233 (6th Cir. 1994) ("federal zone" case)
5. *Larue v. United States*, 959 F.Supp. 957 (C.D.Ill. 1997).

V. The Form 1040 is Really a Codicil to a Will:

This argument was rejected in *Richey v. Ind. Dept. of State Revenue*, 634 N.E. 2d 1375 (Ind. 1994), along with other popular arguments of that date. However, David Gould still thinks it is a marvelous legal argument.

VI. Filing 1099s against IRS Agents:

At one time, some asserted that when an agent of the government inflicted damage upon somebody, the proper response should be filing a Form 1099 against the agent because the agent was "enriched" by the damage so inflicted. Parties doing this went to jail.

1. *United States v. Yagow*, 953 F.2d 423 (8th Cir. 1992)
2. *United States v. Kuball*, 976 F.2d 529 (9th Cir. 1992)
3. *United States v. Dykstra*, 991 F.2d 450 (8th Cir. 1993).

Of course, today we have essentially the same thing in the format of filing common law liens. More than enough people have gone to jail with such lunacy. Recently Roger Elvick, who

went to jail for doing this, has again incorporated into his "redemption process" this same scheme.

VII. Land Patents:

Back in 1983 and 1984, Carol Landi popularized an argument that the land patent was the highest and best form of title and that by updating the patent in your own name, you could defeat any mortgages. This contention violated many principles of real property law and when Carol started trying to get patents for most of the land in California brought up into her own name, she went to jail. Others who have raised this crazy argument lost the issue.

1. *Landi v. Phelps*, 740 F.2d 710 (9th Cir. 1984)
2. *Sui v. Landi*, 209 Cal.Rptr. 449 (Cal.App. 1 Dist. 1985)
3. *Hilgeford v. People's Bank*, 607 F.Supp. 536 (N.D.Ind. 1985)
4. *Nixon v. Individual Head of St. Joseph Mtg. Co.*, 612 F.Supp. 253 (N.D. Ind. 1985)
5. *Nixon v. Phillipoff*, 615 F.Supp. 890 (N.D. Ind. 1985)
6. *Wisconsin v. Glick*, 782 F.2d 670 (7th Cir. 1986)
7. *Britt v. Federal Land Bank Ass'n. of St. Louis*, 505 N.E.2d 387 (Ill. App. 1987)
8. *Charles F. Curry Co. v. Goodman*, 737 P.2d 963 (Okl.App. 1987)
9. *Federal Land Bank of Spokane v. Redwine*, 755 P.2d 822 (Wash.App. 1988).

VIII. Notice of Levy:

A popular argument currently circulating is that a mere notice of levy is not equal to a levy and thus may not be used for tax collection purposes. The courts have not accepted this idea.

1. *United States v. Eiland*, 223 F.2d 118, 121 (4th Cir. 1955)
2. *Rosenblum v. United States*, 300 F.2d 843, 844-45 (1st Cir. 1962)
3. *United States v. Pittman*, 449 F.2d 623, 627 (7th Cir. 1971)
4. *In re Chicagoland Ideel Cleaners, Inc.*, 495 F.2d 1283, 1285 (7th Cir. 1974)
5. *Wolfe v. United States*, 798 F.2d 1241, 1245 (9th Cir. 1986)
6. *Sims v. United States*, 359 U.S. 108, 79 S.Ct. 641 (1959).

Perhaps there are some remaining methods to prevail on this argument, but serious damage has already been done.

IX. The UCC Argument:

Back in the early nineties, Hartford Van Dyke promoted the theory that "commercial law" was the foundation for all law around the world. Based upon Hartford's contention regarding commercial law, he developed the idea that an "affidavit of truth" submitted "in commerce" could create a lien which simply had to be paid. Hartford claimed that his findings were well known everywhere and that this lien process had been used for thousands of years. I obtained his memo regarding this argument and went to the law library. His contention that this "principle" manifested itself in the law was wrong; I could find nothing which supported this argument. This theory was a complete fabrication.

Did others act upon Hartford's ideas anyway? Leroy Schweitzer of the Montana Freemen took Hartford's ideas to heart and claimed that he created liens against public officials. Based

upon these liens, Leroy started issuing sight drafts drawn upon some "post office" account and started passing them out to many gullible people who believed that such drafts were required to be paid by the feds. Not only did Leroy get into deep trouble, so did many who got drafts from him. There have been lots of people who have been prosecuted, convicted and jailed for using drafts allegedly justified by this crazy theory.

One of the most recent prosecutions of someone for using one of Leroy's drafts is Pete Stern, a patriot from North Carolina. Several years ago, Pete issued some of these drafts to the IRS. Pete has been one of the most vocal advocates of the UCC argument, "we are Brits," nom de guerre, etc. While I like Pete, still he has followed crazy arguments. Pete's federal criminal case is filed in the Western District of North Carolina and you may visit the clerk's web site by clicking here. Once you get to this page, look on the left side of the page to the sidebar and click on the case information section called "docket/image." When that page comes up, insert Pete's case number of 2:1999cr00081 and his name. His file will come up and you can read all the pleadings. Is he using for his own defense the arguments he advocates?

As best I can tell, the popular "UCC" argument has its origins in Howard Freeman's flaky theories, Hartford's work and the "improvements" made by Leroy. The UCC argument is one of the most legally baseless ideas I have ever encountered, yet organizations like "Wrong Way Law" and people like Jack Smith continue to promote it. Here are some published cases which have correctly rejected this lunacy:

1. *Jones v. City of Little Rock*, 314 Ark. 383, 862 S.W.2d 273, 274 (1993)(In reference to traffic tickets, the court stated, "The Uniform Commercial Code does not apply to any of these offenses")
2. *United States v. Stoecklin*, 848 F.Supp. 1521 (M.D. Fla. 1994)
3. *Barcroft v. State*, 881 S.W.2d 838, 840 (Tex.App. 1994)("First, the UCC is not applicable to criminal proceedings; it applies to commercial transactions")
4. *United States v. Greenstreet*, 912 F.Supp. 224 (N.D.Tex. 1996)(also raised flag and common law court issues)
5. *United States v. Andra*, 923 F.Supp. 157 (D.Idaho 1996)("The complaint filed by the plaintiff is not a negotiable instrument and the Uniform Commercial Code is inapplicable")
6. *Watts v. IRS*, 925 F.Supp. 271, 276 (D.N.J. 1996)("The IRS's Notice of Intent to Levy is not a negotiable instrument")
7. *United States v. Klimek*, 952 F.Supp. 1100 (E.D.Pa. 1997)(returning lawsuit complaint marked "Refusal For Cause Without Dishonor UCC 3-501" and refusing other court pleadings "for fraud" based upon UCC argument got nowhere; also raised nom de guerre and flag issues)
8. *City of Kansas City v. Hayward*, 954 SW2d 399 (Mo.App. W.D. 1997).

A substantial part of the UCC argument was "developed" by Howard Freeman. Freeman contended that some super secret treaty back in 1930 put this and other countries around the world in "bankruptcy" with the "international bankers" being the "creditor/rulers." Once these banker/rulers were ensconced in power, they needed some way to "toss out the old law" based upon the common law, and erect commercial law as the law which regulated and controlled everything. Roosevelt and his fellow conspirators then set to work and developed a plan to achieve the destruction of the "common law" and the erection of commercial law. This was accomplished by the decision in the Erie Railroad case in 1938. According to this theory, Erie RR banished the common law, leaving in its place only commercial law via the UCC. Freeman also alleged that lawyers were informed of this "takeover" by the "international

bankers" and that they were required to take a secret oath to not tell the American people about the takeover. Of course, as the direct result of this change in the law from common law to commercial law, no court could ever cite a case decided prior to 1938.

But there are the tremendous flaws in this argument. I do not challenge the fact that big international bankers are economically powerful and that such power enables them to secure favorable legislation. However I do disagree with the "secret treaty" contention. Back in the 1930s and indeed all the way up to about 1946, all treaties adopted by the United States were published in the U.S. Statutes at Large. As a student of treaties, I looked for this secret treaty and could not find it and I had access to complete sets of all books containing treaties, especially those in the Library of Congress in DC. The major premise of this argument is this contention regarding the secret treaty, which even the proponents of the argument cannot produce. Their argument, "I cannot produce this secret treaty, but believe me anyway," simply is unacceptable to me as I want proof.

The advocates of this argument also contend that the Erie RR case was the one which banished the common law and erected commercial law in its place. The problem with this contention is that Erie RR does not stand for this proposition. This was a personal injury case; Thompkins was injured while walking along some railroad tracks as a train passed. Something sticking out of the train hit Thompkins and injured him, hence his suit for damages. Please read this case of Erie R. Co. v. Tompkins, 304 U.S. 64 (1938), which stands for the proposition that federal courts must follow the common law of the state where the injury occurred. How this case is alleged to declare the exact opposite escapes me, but in any event, Erie RR does not support the contention of the UCC advocates.

To prove that Erie RR changed the law, it is alleged that no court can cite a case decided prior to 1938. This is perhaps the simplest contention to disprove, achieved just by reading cases (which apparently the UCC activists do not do). All my life I have read cases which cited very old cases and I have never seen such a sharp demarcation where the courts did cite pre-1938 cases before 1938 and then ceased afterwards. Here are just a few post-1938 cases which cite pre-1938 cases, the constitution, the Federalist Papers and lots of other old authority:

INS v. Chadha, 462 U.S. 919 (1983)

New York v. United States, 505 U.S. 144 (1992)

Printz and Mack v. United States, 521 U. S. 898 (1997)

When you scan these cases, please note the parentheses like "(1997)" above for Richard Mack's case. This denotes the year any particular case was decided. You can easily see that these recent cases do in fact cites cases decided as far back as 1798. The contention that pre-1938 cases are not cited is nothing but lunacy, believed by folks like Dave DeReimer, a "redemption process" advocate.

This argument also contends that the state of this nation were placed in "bankruptcy" via

the "secret treaty." If this were true, why did the Supreme Court decide in 1936 that states and their subdivisions could not bankrupt? See *Ashton v. Cameron County Water Improvement Dist.*, 298 U.S. 513, 56 S.Ct. 892 (1936).

Finally, I must inform you that neither I nor any other lawyer I know has ever taken the "secret oath" as alleged by this argument. When I was sworn in as an Alabama lawyer in September, 1975, it was on the steps of the Alabama Supreme Court down in Montgomery in front of God, my parents and everybody else. I swore to uphold and protect the United States and Alabama Constitutions. Nothing in that oath could remotely be the alleged "secret oath." I have also been admitted to practice before the U.S. Supreme Court, and the U.S. Courts of Appeals for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 11th Circuits; I did not take the "secret oath" when I was admitted to practice before these courts, nor when I was admitted to practice before several U.S. district courts. I have not taken any other oath and I know that the only oath most other lawyers have taken is the same. But, I do not doubt that some lawyers are members of other secret societies who may have taken oaths of which I am unaware.

My advice is that if you hear anyone making some argument about the UCC, run away as fast as you can. The argument is crazy.

X. The CFR Cross Reference Index:

The Code of Federal Regulations contains a separate volume which lists various statutes and the regulations which implement those statutes. This particular publication is not an exclusive list nor is it an admission made by the government that there are no regulations for Title 26, U.S.C. Parties making this argument have suffered defeat.

1. *United States v. Cochrane*, 985 F.2d 1027, 1031 (9th Cir. 1993)
2. *Russell v. United States*, 95 CCH Tax Cases ¶ 50029 (W.D. Mich. 1994)
3. *Reese v. CIR*, 69 TCM 2814, TC Memo 1995-244 (1995)(this and several other arguments described as "legalistic gibberish")
4. *Morgan v. CIR*, 78 AFTR2d 96-6633 (M.D.Fla. 1996)
5. *Stafford v. CIR*, TCM 1997-50.

XI. The Flag Issue:

A currently popular argument is that the gold fringed flag indicates the admiralty jurisdiction of the court. Naturally, pro ses have made this argument and lost.

1. *Vella v. McCammon*, 671 F.Supp. 1128, 1129 (S.D. Tex. 1987)(the argument has "no arguable basis in law or fact")
2. *Comm. v. Appel*, 652 A.2d 341, 343 (Pa.Super. 1994)(the contention is a "preposterous claim")
3. *United States v. Schiefen*, 926 F.Supp. 877, 884 (D.S.D. 1995)(in this case, the CFR cross reference index argument, those regarding the UCC, common law courts and the flag issue were rejected)
4. *McCann v. Greenway*, 952 F.Supp. 647 (W.D.Mo. 1997)
5. *Sadlier v. Payne*, 974 F.Supp. 1411 (D.Utah 1997)
6. *Schneider v. Schlaefer*, 975 F.Supp. 1160 (E.D.Wis. 1997).

XII. Common Law Court:

These courts have been declared non-existent.

1. *Kimmel v. Burnet County Appraisal Dist.*, 835 S.W.2d 108, 109 (Tex.App. 1992).

XIII. "Nom de Guerre":

According to a book written by Berkheimer, a "nom de guerre" is a war name symbolized by a given name being written in capital letters. The argument contends that because of events in 1933, we have been made "enemies" and government indicates our status as enemies by the nom de guerre. If this is true, then why have the styles of the decisions of the United States Supreme Court since its establishment been in caps? This argument has gotten lots of people in trouble. For example, Mike Kemp of the Gadsden Militia defended himself on state criminal charges with this argument and he was thrown into jail. I have not even seen a decent brief on this issue which was predicated upon cases you can find in an ordinary law library.

In any event, several courts have rejected this argument:

1. *Jaeger v. Dubuque County*, 880 F.Supp. 640 (N.D.Iowa 1995)
2. *United States v. Heard*, 952 F.Supp. 329 (N.D.W.Va. 1996)
3. *Boyce v. C.I.R.*, 72 T.C.M. ¶ 1996-439 ("an objection to the spelling of petitioners' names in capital letters because they are not 'fictitious entities'" was rejected)
4. *United States v. Washington*, 947 F.Supp. 87, 92 (S.D.N.Y. 1996)("Finally, the defendant contends that the Indictment must be dismissed because 'Kurt Washington,' spelled out in capital letters, is a fictitious name used by the Government to tax him improperly as a business, and that the correct spelling and presentation of his name is 'Kurt Washington.' This contention is baseless")
5. *United States v. Klimek*, 952 F.Supp. 1100 (E.D.Pa. 1997)
6. *In re Gdowik*, 228 B.R. 481, 482 (S.D.Fla. 1997)(claim that "the use of his name JOHN E GDOWIK is an 'illegal misnomer' and use of said name violates the right to his lawful status" was rejected)
7. *Russell v. United States*, 969 F.Supp. 24, 25 (W.D. Mich. 1997)("Petitioner ... claims because his name is in all capital letters on the summons, he is not subject to the summons"; this argument held frivolous)
8. *United States v. Lindbloom*, 97-2 U.S.T.C. ¶ 50650 (W.D. Wash. 1997) ("In this submission, Mr. Lindbloom states that he and his wife are not proper defendants to this action because their names are not spelled with all capital letters as indicated in the civil caption." The CAPS argument and the "refused for fraud" contention were rejected)
9. *Rosenheck & Co., Inc. v. United States*, 79 A.F.T.R.2d (RIA) 2715 (N.D. Ok. 1997) ("Kostich has made the disingenuous argument the IRS documents at issue here fail to properly identify him as the taxpayer. Defendant Kostich contends his 'Christian name' is Walter Edward, Kostich, Junior and since the IRS documents do not contain his 'Christian name,' he is not the person named in the Notice of Levy. The Court expressly finds Defendant WALTER EDWARD KOSTICH JR. is the person identified in the Notice of Levy, irrespective of the commas, capitalization of letters, or other alleged irregularities Kostich identifies as improper. Similarly, the Court's finding applies to the filed pleadings in this matter")

10. *United States v. Weatherley*, 12 F.Supp.2d 469 (E.D.Pa. 1998)

11. *United States v. Frech*, 149 F.3d 1192 (10th Cir. 1998)("Defendants' assertion that the capitalization of their names in court documents constitutes constructive fraud, thereby depriving the district court of jurisdiction and venue, is without any basis in law or fact").

More recently, Jon Roland of The Constitution Society web site wrote the following about this argument:

Typographic Conventions in Law
Jon Roland, Constitution Society

> One of the persistent myths among political dissidents is that such usages as initial or complete capitalization of names indicates different legal entities or a different legal status for the entity. They see a person's name sometimes written in all caps, and sometimes written only in initial caps, and attribute a sinister intent to this difference. They also attach special meanings to the ways words may be capitalized or abbreviated in founding documents, such as constitutions or the early writings of the Founders.
>
> Such people seem to resist all efforts to explain that such conventions have no legal significance whatsoever, that they are just ways to emphasize certain kinds of type, to make it easier for the reader to scan the documents quickly and organize the contents in his mind.
>
> They also seem to go to enormous lengths looking for dictionaries or court rules to tell them what such typography means, without ever seeming to find what they are looking for, other than the actual usages themselves in important court cases.
>
> Well, there is an authoritative reference, the one used by courts and lawyers all over the world. It is The Bluebook: A Uniform System of Citation, compiled by the editors of the Columbia Law Review, the Harvard Law Review Association, the University of Pennsylvania Law Review, and The Yale Law Journal, 16th ed. 1996. Copies can be obtained from any law book store or by writing The Harvard Law Review Association, Gannett House, 1511 Massachusetts Av., Cambridge, MA 02138.
>
> To explain how typographic conventions originated, and what they mean, I am reminded of the story of the first grader whose teacher became alarmed by the crayon drawings of one of her students. She called in the school counselor and she became alarmed, so she called in a child psychologist, who also became alarmed in turn. Fearing for the mental health of the child, they called in her parents.
>
> The parents, now themselves concerned about their child, arrived at the meeting. "What happened?", the father said. The school staff persons showed his daughter's art work to him and to his wife. The father looked the drawings over, and said, "Look pretty good to me. I couldn't do that well at

that age."

"But the colors!" the teacher said. "She does everything in black, grey, and brown!" said the counselor. "It seems morbid" said the psychologist.

So the father said, "Why don't we ask my daughter?" The school staff looked aghast at this audacious suggestion, but, not having any better ideas, they asked the little girl to come in.

She saw her parents, and the school staffers, all gathered around her art work, looking concerned, and became a bit concerned herself. But her father knew what to say. "Hon, your teachers want to know why you are drawing everything in black, grey, and brown."

"I gave most of my crayons to the other kids when they used theirs up", she said. "Black, grey, and brown are the only colors I have left."

Lawyers continued to hand write legal documents long after typewriters were invented. As a profession, they tend to be the last to adopt new technology. When things were hand written, they had only a few ways to highlight words. They could use block printed characters instead of cursive, or they could underline. Typesetters converted the block printed characters to all caps, sometimes with different font sizes, and the underlined words to italics.

As lawyers and legal staff began to use typewriters, they could not conveniently underline, and they didn't have italic fonts, so putting words in all caps was about the only way they had to show emphasis. Judges began rewarding lawyers (or so they thought) with better decisions if they put some words, like the names of parties, in all caps, to make it easier for overworked judges to quickly scan through many pages of pleadings and make sense of them.

Then computers came along. People started using them to produce legal documents. But a lot of them only had capital letters on their printers, or did not distinguish between upper and lower case. Programs in COBOL are examples of this. It was also found that it was easier to read words printed in all caps on forms, and to distinguish the newly-printed words from the pre-printed words on the forms.

In the meantime, there were advances in typesetting typography. People became able to print special symbols, bold face, different fonts and sizes, superscripts, underlined, and colors. And with that came demands for using differences in typography to highlight words in legal documents, including treatises, law review articles, briefs, etc.

Now we have personal computers and laser printers that can do anything the typesetter can do, and legal workers are now under pressure to produce nicely composed legal documents according to the same conventions that typesetters

are asked to use.

> This explosion of choices could have led to confusion, so the various courts have established rules for how they want legal documents prepared, and these rules are matched by similar but sometimes different rules of the major law review editors.
>
> Basically, they have settled on three font styles: upper-and-lower case Roman, Italics, and Roman all-caps with larger point size for initials.
> Of course, if these are saved as ASCII text files, the Italics are lost, and the all-caps only show up as a single point size. Sometimes, to show Italics, as a legacy of underscoring, the words to be italicized are surrounded by underscore characters, as we do in the text above in the text version of this article.
>
> The Bluebook calls for different typographics for the same kinds of things in different places. For example, a case cite like *Marbury v. Madison* would be italicized in the body of a law review article, but not in a footnote. Why? Who knows. It doesn't have to make sense. It's what they do. If you submit it using different conventions, the editors will change it to their journal's conventions.
>
> The important thing to remember, however, is that there is no legal significance to the typography of a name, other than how well it distinguishes one object from others with which it might be confused. It is the object that matters. A misspelling is a "scrivener's error". Doesn't changed anything. Just needs to be corrected. Caps, complete or initial, don't mean anything. Just whatever the writer thought would aid the reader to get through the document quickly and with a minimum of confusion.
>
> Constitution Society, 1731 Howe Av #370, Sacramento, CA 95825
> 916/568-1022, 916/450-7941VM

The nom de guerre position is one rabidly advocated by Wrong Way Law. It is all based upon hype and emotions; the speakers who advocate this argument know how to push the emotional "hot buttons" at patriot pep rallies. I have reviewed the "best" briefs regarding this issue and they are all trash. Yet I continue to see people call themselves "John, of smith," "John: Smith," etc., and I just simply conclude that such parties have attended a Wrong Way Law seminar and have accepted a pack of lies. Further, it is remarkable that all the people who believe this idea have never checked it out; they just accept it because some patriot guru claimed it was correct.

XIV. Title 26 is not positive law:

One of the files on my web page contains a good memo explaining the titles of the Code and why they were adopted. But against this explanation, people still run around asserting a contrary and groundless position; see *Ryan v. Bilby*, 764 F.2d 1325, 1328 (9th Cir. 1985) (stating that "Congress's failure to enact a title into positive law has only evidentiary significance and does not render the underlying enactment invalid or

unenforceable"); *United States v. Zuger*, 602 F. Supp. 889, 891-92 (D. Conn. 1984) (holding that "the failure of Congress to enact a title as such and in such form into positive law . . . in no way impugns the validity, effect, enforceability or constitutionality of the laws as contained and set forth in the title"), aff'd without op., 755 F.2d 915 (2d Cir.), cert. denied, 474 U.S. 805 (1985); *Young v. IRS*, 596 F. Supp. 141, 149 (N.D. Ind. 1984) (asserting that "even if Title 26 was not itself enacted into positive law, that does not mean that the laws under that title are null and void"); *Berkshire Hathaway Inc. v. United States*, 8 Cl. Ct. 780, 784 (1985) (averring that the I.R.C. "is truly 'positive law'"), aff'd, 802 F.2d 429 (Fed. Cir. 1986).

XV. District Court's are "non-judicial":

The "Zip Code" contention was first started by the now deceased Bob Wangrud and he later promoted that crazy "bill or particulars" argument which had no substance. Later, he promoted another crazy idea that the federal district courts are not courts at all. In a recent e-mail before his death, Wangrud alleged:

> "I have never seen Becraft challenge the non-judicial Federal Courts are not authorized by the Constitution for the United States." [sic: the whole sentence is "sic" as well as "sick"]

Mr. Wangrud castigated those who didn't follow his legal views and brilliant legal theories.

Was Mr. Wangrud correct when he proclaimed that the US district courts are non-judicial? Your attention is directed to *Smith v. Kitchen*, 156 F.3d 1025 (10th Cir. 1997), involving a fellow who believed in the UCC "Refusal for Fraud" argument. He also raised Wangrud's issue which was addressed as follows:

> "Smith's final contention of error involves his complaint that the district court should have responded to his argument that by captioning its documents 'UNITED STATES DISTRICT COURT,' the court below was functioning as a 'territorial' court rather than as an Article III court. Smith has raised this argument at every stage of this litigation, but he has yet to clarify his point. As best we can determine, Smith has cobbled together stray quotations from various sources to claim that a federal district court can function either as a 'territorial' court under Article I or as a 'constitutional' court under Article III. Without giving any credence to Smith's bizarre argument, and despite our inability to see how Smith's distinction would matter in this case, we hold that the United States District Court for the District of Colorado was fully empowered under Article III to consider Smith's constitutional claims.

XVI. Implementing regulations:

United States v. Hartman, 915 F.Supp. 1227 (M.D.Fla. 1996): argument regarding implementing regs and the cross references in CFR index held frivolous.

Stafford v. CIR, TCM 1997-50.

XVII. Taxes are contractual:

In *McLaughlin v. CIR*, 832 F.2d 986, 987 (7th Cir. 1987), this argument was held to be without merit:

> "The notion that the federal income tax is contractual or otherwise consensual in nature is not only utterly without foundation but... has been repeatedly rejected by the courts."

See also *United States v. Drefke*, 707 F.2d 978, 981 (8th Cir. 1983). Others strenuously argue that social security is a contract. The problem with this contention, however, is that it is constitutionally impossible for social security to be a contract. Please see another file posted on this web site by clicking here. Contentions that driver licenses are contracts will get you nowhere; see *Hershey v. Commonwealth Dep't. of Transportation*, 669 A.2d 517, 520 (Pa.Cmwlth. 1996); and *State v. Gibson*, 697 P.2d 1216 (Idaho 1985).

XVIII. Simple facts regarding the "we are subjects of the British Crown" issue:

Several years ago, some folks developed an argument that "we are still subjects of the British crown" and started promoting it. You are free to believe that argument which will waste your time. Here is a simple refutation of that argument:

1. The Articles of Confederation provided as follows:

> "Article II. Each state retains its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

2. Our country and the British Crown signed the Treaty of Peace on September 3, 1783, the first provision of which reads as follows:

> "His Britannic Majesty acknowledges the said United States, viz, New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, to be free, sovereign and independent States; that he treats with them as such; and for himself, his heirs and successors, relinquishes all claims to the government, proprietary and territorial rights of the same, and every part thereof."

Does this 1783 Peace Treaty still exist? All one needs to do to confirm this is to check out a government publication entitled "Treaties in Force" which can be found in any good library, especially a university library. Under the list of our treaties with Great Britain and the United Kingdom, you will find that this 1783 treaty is still in effect, at least a part of it: "Only article 1 is in force." Art.1 was the section of this treaty acknowledging our independence. The War of 1812 resulted in modifications of this Treaty and so did later

Treaties.

3. The courts have not been silent regarding the effect of the Declaration of Independence and the Treaty of Peace. For example, the consequences of independence was explained in *Harcourt v. Gaillard,* 25 U.S. (12 Wheat.) 523, 526-27 (1827), where the Supreme Court stated:

> "There was no territory within the United States that was claimed in any other right than that of some one of the confederated states; therefore, there could be no acquisition of territory made by the United States distinct from, or independent of some one of the states.
>
> "Each declared itself sovereign and independent, according to the limits of its territory.
>
> "[T]he soil and sovereignty within their acknowledged limits were as much theirs at the declaration of independence as at this hour."

In *M'Ilvaine v. Coxe's Lessee*, 8 U.S. (4 Cranch) 209, 212 (1808), the Supreme Court held:

> "This opinion is predicated upon a principle which is believed to be undeniable, that the several states which composed this Union, so far at least as regarded their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign states, and that they did not derive them from concessions made by the British king. The treaty of peace contains a recognition of their independence, not a grant of it. From hence it results, that the laws of the several state governments were the laws of sovereign states, and as such were obligatory upon the people of such state, from the time they were enacted."

In reference to the Treaty of Peace, this same court stated:

> "It contains an acknowledgment of the independence and sovereignty of the United States, in their political capacities, and a relinquishment on the part of His Britannic Majesty, of all claim to the government, propriety and territorial rights of the same. These concessions amounted, no doubt, to a formal renunciation of all claim to the allegiance of the citizens of the United States."

Finally, in *Inglis v. Trustees of the Sailor's Snug Harbor*, 28 U.S. (3 Peters) 99, 120-122 (1830), the question squarely arose as to whether Americans are "subjects of the crown," a proposition flatly rejected by the Court:

> "It is universally admitted both in English courts and in those of our own country, that all persons born within the colonies of North America, whilst subject to the crown of Great Britain, were natural born British subjects, and it must necessarily follow that that character was changed by the separation of the colonies from the parent State, and the acknowledgment of their independence.

> "The rule as to the point of time at which the American antenati ceased to be British subjects, differs in this country and in England, as established by the courts of justice in the respective countries. The English rule is to take the date of the Treaty of Peace in 1783. Our rule is to take the date of the Declaration of Independence."

In support of the rule set forth in this case, the court cited an English case to demonstrate that the English courts had already decided that Americans were not subjects of the crown:

> "The doctrine of perpetual allegiance is not applied by the British courts to the American antenati. This is fully shown by the late case of Doe v. Acklam, 2 Barn. & Cresw. 779. Chief Justice Abbott says: 'James Ludlow, the father of Francis May, the lessor of the plaintiff, was undoubtedly born a subject of Great Britain. He was born in a part of America which was at the time of his birth a British colony, and parcel of the dominions of the crown of Great Britain; but upon the facts found, we are of opinion that he was not a subject of the crown of Great Britain at the time of the birth of his daughter. She was born after the independence of the colonies was recognized by the crown of Great Britain; after the colonies had become United States, and their inhabitants generally citizens of those States, and her father, by his continued residence in those States, manifestly became a citizen of them.' He considered the Treaty of Peace as a release from their allegiance of all British subjects who remained there. A declaration, says he, that a State shall be free, sovereign and independent, is a declaration that the people composing the State
> shall no longer be considered as subjects of the sovereign by whom such a declaration is made."

(Note: the linked copies of these cases highlight the important parts of these opinions for your convenience).

Notwithstanding the fact that English and American courts long ago rejected this argument, I still encounter e-mail from parties who contend that this argument is correct. For example, just recently I ran across this note which stated:

> "In other words, the interstate system of banks is the private property of the King... This means that any profit or gain anyone experienced by a bank/thrift and loan/employee credit union ?? any regulated financial institution carries with it ?? as an operation of law ?? the identical same full force and effect as if the King himself created the gain. So as an operation of law, anyone who has a depository relationship, or a credit relationship, with a bank, such as checking, savings, CD's, charge cards, car loans, real estate mortgages, etc., are experiencing profit and gain created by the King ?? so says the Supreme Court. At the present time, Mr. Condo, you have bank accounts (because you accept checks as payment for books and subscriptions), and you are very much in an EQUITY RELATIONSHIP with the King."

This note also alleged that George Mercier, who wrote an article apparently popular among those who believe the "contract theory" of government, was a retired judge, which is false. Just because you read it on the Net does not make it true.

One of the advocates of this flaky idea is David Gould ("Goul") who has a web site named "The Amazing Vision of David Gould," where he promotes this trash. In the summer of 1999, Goul joined a couple of e-mail lists which I receive and started blasting this theory in a series

of e-mail notes. According to Goul, one of the reasons "we are Brits" is because the King of England via a treaty in 1782 loaned the United States funds to engage in the war against him; Goul maintains that the fact that the King was loaning money to us to fight him really shows that even today we are still subjects of the Crown. In reply, I pointed out that the treaty he mentions was really a French treaty where the United States borrowed money for the Revolution from the King of France, not the King Great Britain. I sent out a series of e-mail notes which refuted everything that Goul declared and it did not take long before Goul stopped his nonsense.

However, my belief that I had corrected Goul and educated him about an incorrect legal argument proved erroneous. I have examined his web site recently and he has only become more virulent in his argument that we are Brits. Clearly, Goul is not only crazy and a fit candidate for the nut house, but he is also deliberately lying to people; he is a "liaryer." What makes him particularly dangerous is the fact that he blends religion with his arguments. I absolutely dislike people who combine Christianity with false legal arguments; I dislike people who hold my religion up to disrepute by associating it with nutty ideas.

XIX. The US is "foreign" to the states:

A popular belief promoted in the freedom movement is the concept or idea that the United States is a foreign sovereign as regards the states. How this idea got started is beyond me because the U.S. Supreme Court and other courts have concluded otherwise; see *Claflin v. Houseman*, 93 U.S. 130, 136 (1876)("The United States is not a foreign sovereignty as regards the several States"); *Severson v. Home Owners Loan Corp.*, 88 P.2d 344, 347 (Ok. 1939)(quoting *Claflin*); *Bowles v. Heckman*, 64 N.E.2d 660, 662 (Ind. 1946)(quoting *Claflin*); *Kersting v. Hardgrove*, 48 A.2d 309, 310 (N.J. 946) (summarizes *Claflin*); *Harrison v. Herzig Bldg. & Supply Co.*, 290 Ky. 445, 161 S.W.2d 908, 910 (1942)(quoting *Claflin*); *Robinson v. Norato*, 71 R.I. 256, 43 A.2d 467, 471 (1945)(quoting *Claflin* and further stating "the several States of the Union are neither foreign to the United States nor are they foreign to each other").

There are lots of theories which float through the freedom movement and people are very prone to accept any contention or position without question or investigation. But if they fail to check out the sources upon which they rely, they run the risk of believing something which has no foundation and will not work in court.

XX. Citizenship:

In *Boyd v. Nebraska*, 143 U.S. 135 (1892), the U.S. Supreme Court stated as follows:

> "Mr. Justice Story, in his Commentaries on the Constitution, says: 'Every citizen of a state is ipso facto a citizen of the United States.' Section 1693. And this is the view expressed by Mr. Rawle in his work on the Constitution. Chapter 9, pp. 85, 86. Mr. Justice Curtis, in *Dred Scott v. Sandford*, 19 How. 393, 576, expressed the opinion that under the constitution of the United States 'every free person, born on the soil of a state, who is a citizen of that state by force of its constitution or laws, is also a citizen of the United States.' And Mr. Justice Swayne, in *The Slaughter-House Cases*, 16 Wall. 36, 126, declared that 'a citizen of a state is ipso facto a citizen of the

United States.' "

See also *Minor v. Happersett*, 88 U.S. 162 (1875).

XXI. The "law" is not copyrighted:

There is an argument (promoted by David Goul) floating around the freedom movement that the "law" is copyrighted, which is utterly crazy. The "law" is owned by the public and cannot be copyrighted. Back in 1834, two reporters for the U.S. Supreme Court got involved in a legal battle regarding the cases of the Supreme Court. In *Wheaton v. Peters*, 8 Pet. 591, 668, 33 U.S. 591 (1834), the Supreme Court declared that "no reporter ... can have any copyright in the written opinions delivered by this court". Decisions of the courts belong to the public and nobody can copyright those decisions.

West Publishing Company, one of the largest publishers of legal materials, knows that it cannot copyright cases. It places in its electronic versions of the cases the following caveat:

> "Copyright (c) West Group 1998 No claim to original U.S. Govt. works
> 952 F.Supp. 647, McCann v. Greenway, (W.D.Mo. 1997)
>
> "Copyright (c) West Group 1998 No claim to original U.S. Govt. works
> 974 F.Supp. 1411, Sadlier v. Payne, (D.Utah 1997)"

But what about statutes? This is addressed in 17 U.S.C. §105: "Subject matter of copyright: United States Government works:"

> "Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise."

Those arguing that the "law is copyrighted" are utterly wrong. But this argument is an important part of the argument for those who promote the grand theory that "we are still subjects of the British crown" under the apparent contention that the "King" (or Queen Elizabeth) still today "owns" the law.

As shown above, public documents belong to the public and cannot be copyrighted. When any court decides any case, anyone may go obtain a copy of that decision. I can get any decision, you can and West Publishing can. I may, you may and West does publish those cases. I could start my own company publishing these cases and making them available to whoever would buy them. However, I doubt that I would stay in business long against West. It has hundreds of people employed by it who get these cases, read them, and make little "headnotes" about various legal points in the cases. It publishes these cases in nicely bound books. It takes the "headnotes" it generates for these cases and puts them into a legal encyclopedias which group all "headnotes" of all cases in specific categories. Using West, studying and finding "law" has been made a lot easier.

West also has a competitor, Lawyers Co-op. The federal government publishes acts of Congress in a set of books called the Statutes at Large ("Stat."). In large university libraries, you can find the Statutes at Large. However, the feds also publish the United States Code,

which is simply stated the Statutes at Large organized in a more methodical fashion via titles. You can find the "true blue" (but it is really red in color) U.S. Code in many libraries. However, since the Code is a public document, anybody can copy it. Here, West and Lawyers Co-op are fierce competitors, with one publishing USCA and the other USCS. Both contain accurate reprints of the various uncopyrightable sections and titles of the official U.S. Code. However, West employs hundreds of people who read and categorize cases. West puts summaries of many cases at the end of sections of the U.S. Code, so when you engage in legal research, cases regarding a specific statute are there at your fingertips. Lawyers Co-op does the same thing. All of this other writing in these versions of the Code was created by these companies and this is the material which is copyrighted in these books.

I never use the official U.S. Code and neither does anyone else. It just sits up there on the top shelf in our local law library gathering dust. The reason nobody uses the official version is because of the absence of the handy research materials like case summaries and other references. If I have a conspiracy case, I pull USCS, turn to Title 18, U.S.C., §371, and start reading the very refined annotations at the end of the section which quickly point you to the relevant cases. It wasn't always this way, however. Years ago, the states officially published their own legal materials, cases and codes and West was the competitor. As time passed, West acquired dominant market share because its books were superior. Legislatures would appropriate funds for official case books, which were often large, expensive books with large print. West published smaller books with smaller print and its publications were obviously cheaper. Why would anyone buy from the state its publication of the cases when (for probably the same price) you could buy from West its regional reporter containing cases not only from your own state but also several others? In short, free enterprise beat the socks off the government. Today, many states just let West do all the publishing of cases. Of course, anyone could compete against West.

But West is not fearful of copyright infringement from the public at large. I violate the copyright laws every time I go to the law library and so does everyone else. The law schools are perhaps the biggest violators and law students copy away at copyrighted materials. West does not care, in fact it wants everyone using its products. It fears, however, another competitor like Lexis. Lexis back in the early 80s started putting cases on computer, but it used West's page numbers from its case volumes. West sued and won for infringement, the court holding that the only thing West could copyright were its own page numbers from its books as well as the headnotes it wrote for the cases. As a result, West and Lexis formed a partnership and now cases are on CD. Formerly to buy all of West's Supreme Court Reporter, it would have cost you several thousands of bux. Now, two discs with all Supreme Court cases can be bought for a couple hundred bux. Private enterprise has thus run circles around government.

XXII. The "Straw Man" Sight Drafts (posted September 18, 1999):

There is a "new" theory floating around the movement which is absolutely crazy, yet it is promoted as "the hot new solution." This new theory has its origins with a fellow named Roger Elvick, who has been involved with some con jobs in the past; see *Bye v. Mack*, 519 N.W.2d 302 (N.D. 1994). Roger Elvick was years ago "into" the idea of sending forms 1099 to the IRS for its agents who stole your constitutional rights. This was a part of his "redemption process" back then and if you wish to learn about what happened to one party who followed Elvick's advice, read *United States v. Wiley*, 979 F.2d 365 (5th Cir. 1992). Many others who followed Elvick's advice also went to jail; see *United States v. Dykstra*, 991 F.2d 450, 453 (8th Cir. 1994)("He voluntarily made the decision to purchase and use

Roger Elvick's 'redemption program,' and he admitted that he did not pay any of the purported recipients any of the amounts reflected on the 1099 Forms. Because he knew he never paid the individuals, he could not have believed that the forms, which he signed under penalties of perjury, were in fact true and correct. The evidence also established that appellant acted corruptly in pursuing the retaliation scheme, in violation of 26 U.S.C. Sec. 7212(a)"). Roger was convicted for this activity; see *United States v. Lorenzo*, 995 F.2d 1448 (9th Cir. 1993).

While there, Roger developed this new argument. In essence, he contends that everyone's birth certificate constitutes ownership in "America, Inc." and we all have stock in this corporation, which stock is represented by these birth certificates (see *Lodi v. Lodi*, 173 Cal.App.3d 628, 219 Cal.Rptr. 116 (1985), where similar arguments were rejected; and *Dose v. United States*, 86 U.S.T.C. ¶ 9773 (N.D.Iowa 1986)("Petitioner... informs the Court of [his] 'notorious recission of [his] social security number' and recission of his birth certificate, which documents had previously made him a 'member of Corporate America (commune)' converting him into 'a slave of the commune subject to the regulation and control of the Federal Government'... the fact that Dose has attempted to rescind his social security number and birth certificate by sworn affidavit is irrelevant..."')). According to Roger, the big banks and other financial institutions regularly trade in these birth certificates, buying and selling them to others. Of course according to this new argument, you can do the same thing.

From here, the argument goes down hill and becomes even more bizarre. I know precisely what are the major features of this argument because I have read the course material and even viewed a video tape of one meeting where this issue was discussed; this contention is utterly crazy. However, many people are studying this new issue and even issuing "sight drafts" based on this argument. But the promoters of this argument like Elvick, Wally Peterson, Ron Knutt and Dave DeReimer are really selling federal indictments. You are free to "buy into" this scheme, but be ready to face criminal charges, the maximum term of imprisonment of which is 25 years.

Here is late breaking news, an e-mail, regarding the law enforcement activity against the redemption advocates:

> January 11, 2000 - @:25 PM, EDT
>
> I was just informed that a Federal swat team, approximately 30, raided a farm house near the town of Evart, Michigan this AM. The raid started at approximately 6:00 AM and lasted 4 hours until 10:00 AM.
>
> They captured the occupants, made them sit and watch the proceedings. They were told nothing except they were "Not under arrest".
>
> The raid was pursuant to a Grand Jury Subpoena and contained a Warrant for any and all items relating to "Accepted for Value", "sight drafts" and anything to do with "IRS" and United States "Securities".
>
> I was told that there were 22 people on a list that were raided this AM.
>
> At least one of the occupants there was served a Grand Jury subpoena to

appear and testify in February.

NO FURTHER INFORMATION AT THIS TIME!

Be Advised!

So what is going to happen? I bet that those who advocated using "acceptance for value" to refuse criminal process like an indictment or information will be charged with obstruction of justice, and they will be tied into a giant conspiracy of those who told others to send in drafts drawn on the U.S. Treasury. This stupidity will just be another instance where the freedom movement will be held up to the press and the rest of America as a bunch of crackpots, nuts and fruitcakes, and "dangerous" ones at that.

Have people already gotten into trouble already by using the "redemption process" sight drafts? Hyla Clapier is a sweet, little old lady from Idaho. She was convinced last year by the redemptionists to try to buy a car with one of those "redemption process" sight drafts drawn on the U.S. Treasury. Her effort brought her an indictment, trial and conviction. If you wish to study the details of her case, simply read her docket sheet posted on the U.S. District Court of Idaho's web site. In late April, 2000, I received a call from an Ohio newspaper reporter and was informed that a man in his local community had attempted to buy 8 Cadillacs with those sight drafts. I was also informed that the man was being prosecuted for several felonies. Is the "redemption process" sight draft effort anything but another crackpot idea? I think so.

There are certain very fundamental flaws within this argument which are as follows:

Flaw 1: The birth certificate is not the basis for the creation of credit in this country.

Economic texts and a wide variety of other materials plainly demonstrate the manner by which credit ("money") is created in this country: a bank (or central bank like the Fed) extends credit in exchange for the receipt of some note or other financial obligation made by either a private party or government. At the federal level, the Federal Reserve extends credit to the U.S. Treasury simply by book keeping entry made in favor of the United States when the Fed buys obligations of the United States. In contrast, a birth certificate is not a note or other debt instrument, contrary to what Roger Elvick, Ron Knutt, Wally Peterson or idiots like Dave DeReimer may contend. Simply stated, a birth certificate is not a note, bond or other financial obligation, and it is not sold to financial institutions, contrary to the blatant lies of the "liaryer" promoters of this argument. In short, the birth certificate is not the foundation for the credit used as money today.

Why don't you ask the advocates of this argument to produce some reliable documentation that birth certificates are the basis of credit in this country rather than the instruments mentioned above? It is simply foolish to rely on the word of Roger Elvick. It is even more foolish to believe anything that DeReimer declares.

Flaw 2: The birth certificate cannot be, as a matter of law, a guarantee of debt.

A debt is created by a debtor making a promise to pay a creditor a specified amount of money over a specified period of time. Merchandise purchased on credit involves the buyer delivering a promissory note to the seller wherein he promises to pay a specific periodic

amount with interest until the debt is paid. When a borrower obtains a loan, he delivers a promissory note to the lender. A promissory note by definition requires the payment of certain specific amounts of funds to the holder of that note. Is a birth certificate a promissory note? It simply cannot be because the party named therein has no obligation to make any payment of anything to some alleged holder thereof (and traffic tickets, indictments, IRS documents and letters, etc., also are not commercial instruments).

But ignoring for the moment this major fatal flaw, presume for purposes of argument that a birth certificate is indeed a promissory note. The redemption advocates claim that the "straw man" is liable to pay some unspecified amount to some unspecified creditor who holds the financial instrument known as a birth certificate (I have been unable to learn from the advocates the name of the ephemeral creditor). They further argue that the "counterpart" of the "straw man," you, must answer for this debt of the "straw man." This is legally impossible. I view such an argument as evidence of lunacy.

The "statute of frauds" originates from the common law and every state today has a general "statute of frauds." For example, here in Alabama, we have a "statute of frauds" found in Ala. Code §8-9-2, which states that "every special promise to answer for the debt, default or miscarriage of another" must be in writing and signed by the party to be charged. This same type of requirement appears in our version of the UCC, Ala. Code §7-2-201, which requires contracts for the sale of goods of more than 500 bux to be in writing and subscribed by the party liable. Precisely where is your agreement to answer for the debt of the straw man? If such an agreement exists, have you signed that agreement making you legally liable to pay that debt of the straw man? The truth of the matter is that such a signed agreement does not exist. But without your signature to a guarantee making you liable for this debt, you cannot legally be liable.

The advocates of this insanity further contend that the international banks which hold these birth certificates as security for some unknown financial obligation have a claim against you for your whole life, unless of course you "redeem your straw man" by perfecting your claim against him by filing a Form UCC-1 financing statement. Can you really be legally responsible for some debt for the rest of your life? Again, our statute of frauds found at Alabama Code §8-9-2 requires that "every agreement which, by its terms, is not to be performed within one year from the making thereof" must be in writing and signed by the party to be charged. The redemptionists assert that whenever a child is born and his birth certificate is filed in DC and later bought by some big bank, that creditor owns you for the rest of your life. We all know that the average life expectancy of a baby is longer than a single year. Just where is this agreement signed by you (apparently on the day you were born) which cannot by its very terms be performed within a single year? Have you ever signed such an agreement? The truth of the matter is that every aspect of this redemption theory flies in the face of the statute of frauds.

Flaw 3: Our bodies and our labor are not articles of commerce.

The "redemption process" advocates contend that via our birth certificates, we have pledged our bodies and the labor of our lifetimes to those creditors who hold these birth certificates; in essence, our labor is commerce according to this theory. The purchase of these birth certificates is allegedly performed in Washington, DC. However, at this place where federal law clearly applies, federal law declares via 15 USC, §17, that "The labor of

a human being is not a commodity or article of commerce." Does this "redemption" argument not plainly conflict with federal law?

Flaw 4: The 1935 Social Security Act did not create an account for everyone born in this country in the amount of approximately $630,000.

In review of the material I have been provided regarding this argument, it is plainly alleged that whenever anyone is born in this country, a sum of approximately $630,000 is deposited into some account at the US Treasury or the Social Security Administration and that this account was created by the 1935 Social Security Act. This contention is utterly false as may be seen simply by reading the act which is posted to the SSA web site.

Flaw 5: The above named account is not the "Treasury direct account."

Neither the original Social Security Act nor any amendment to it created an account known as the "Treasury direct account." However, there is such an account established by Treasury for those who routinely purchase US notes and bonds. A description of this account may be found at 31 C.F.R., part 357 and specifically 31 CFR § 357.20. Those who assert that everyone has such an account know nothing about such accounts. And there is no "public side" and "private side" for these accounts.

Flaw 6: You cannot write sight drafts on the Treasury of the United States via this non-existent account.

If you send any such sight draft to anyone, you will be prosecuted for violations of 18 USC §514 which provides as follows:

> Sec. 514. Fictitious obligations
>
> (a) Whoever, with the intent to defraud -
>
> (1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;
>
> (2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or
>
> (3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States, any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.
>
> (b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.

Violations of this statute provide for a maximum period of 25 years imprisonment.

A friend of mine from Kooskia, Idaho attended a meeting where Jack Smith of Wrong Way Law spoke regarding this new "redemption process." During a break at this meeting, my friend asked Smith to provide specific authority and documentation demonstrating that this was a bona fide argument. Smith admitted that this new argument was 100% theory.

The "redemption process" is one of the craziest arguments I have ever seen arise within this movement. Yet, people blindly accept this argument without question or investigation.

Latest News About the Redemption Process (Feb. 23, 2001):

This e-mail was received this date; it concerns one of the unfortunate followers of the process who was recently indicted:

Ballard man doubts U.S. existence

By: BILL ARCHER, Staff February 19, 2001

BALLARD - The small Monroe County farming community of Ballard seems an unlikely place for a story with national implications to emerge, but that's exactly what is taking place. One of the community's residents, Rodney Eugene Smith, is involved in litigation that calls into question the very existence of the U.S. government. Smith, 63, seems quiet, polite and soft-spoken in his court appearances. Like about anyone would, he expressed a preference to be seated in the audience gallery during hearings. But unlike everyone in the federal courtroom in Beckley on Thursday, he was in the custody of U.S. Marshals, and therefore, had to sit at the defense table.

U.S. District Judge David A. Faber of the Southern District of West Virginia had ordered him to take a mental competency exam at a hearing on Feb. 5 in Bluefield. At that time, Faber questioned the "nonsensical" motions Smith has been filing in the case involving the serious federal criminal charges he faces.

Smith's life isn't necessarily an open book. At least eight years before appearing in federal court in the Southern District of West Virginia, Smith was convicted in the State of New York for passing fraudulent documents - a felony. A similar set of circumstances led to his Dec. 6, 2000, arrest and initial appearance before U.S. Magistrate Judge Mary S. Feinberg.

The charges that brought Smith into the federal courts in Bluefield and Beckley involved passing four "bills of exchange," totaling under $50,000, to various people and entities. The Internal Revenue Service agent heading the investigation characterized the drafts as being associated to "fictitious obligations." Since his arrest, the government's initial complaint has expanded to include charges of possession of firearms by a convicted felon. A Beckley grand jury issued a "superseding indictment" against Smith

in January.

None of that seems to faze him. Based on his statements to the court as well as the voluminous number of documents Smith has filed in this and other cases he is associated with in federal court, the entire process seems to be an exercise in "acceptance for value."

The federal government and several states are aware of the entire "acceptance for value" concept. The U.S. Department of Justice is constantly monitoring any surfacing of what they term the "Redemption Scheme." As of June 2000, 16 states including Arizona, Colorado, Florida, Hawaii, Idaho, Illinois, Missouri, Montana, Ohio, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming have passed at least some laws - in several instances several laws - to protect public officials and private citizens from becoming victims of the scheme.

Much has been written about the evolution of the so-called "redeemers," but the thumb nail version goes like this. Redeemers (who don't refer to themselves by that term) are essentially a composite of several fringe (militia-like) organizations that tend to hold some very strong anti-government beliefs.

During Smith's hearing Thursday in Beckley, Faber made reference to two specific documents that he said helped the court understand some of the phrases Smith has been using in court and in his "pro se" (self-represented) court filings. Faber referenced a paper by Mark Pitcavage, Ph.D., titled "Old Wine, New Bottles: Paper Terrorism, Paper Scams and Paper 'Redemption,'" published Nov., 8, 1999, and "The Radical Common Law Movement and Paper Terrorism, The State Response," dated June 2000, by Denise Griffith and L. Cheryl Runyon.

At the risk of oversimplification, the independent researchers and the state and federal agencies mentioned in the reports, claim that "redeemers" trace their roots to a murky event in 1909, that somehow - in redemption practitioner belief - caused the United States to go bankrupt. Pitcavage states that in the redeemer's scenario, the World Bank gave the U.S., a 20-year moratorium to get its financial act together. However, when that failed to happen, the stock market crashed and America was thrown in the depths of the Great Depression.

Redeemer beliefs, according to Pitcavage and Griffith, are interwoven with significant developments in American history including passage of the U.S. Social Security Act of 1935, and the change from a "gold standard" monetary policy to a money system backed by the Federal Reserve, founded in 1913. The researchers claim a thread of continuity connects present day paper terrorists with high-profile groups such as the Texas Freemen, the Branch Davidians and others.

Griffith wrote that anti-government activity "escalated to unprecedented levels during the 1009s," and referred to the 1992 confrontation between Randy Weaver and federal agents at Ruby Ridge, Idaho, as well the 1993

federal action at the Branch Davidian compound at Waco, Texas, as being some of the more prominent events.

"It was the 1996 standoff at the Freemen compound in Montana, however, that helped shed national light on a quieter, less visible form of protest that is being played out in the nation's judicial system," Griffith wrote. "... the filing of frivolous liens against the property of public officials." She added that clearing the fraudulent liens, "clogs an already overburdened judicial system."

Smith has filed documents indicating that Rodney Eugene Smith will "accept for value" and documents filed on RODNEY EUGENE SMITH, spelled in all capital letters. Smith refers to HJR-192, a House Joint Resolution passed by Congress on June 5, 1933, among the massive federal New Deal package, that redeemers interpret as the nation's declaration of bankruptcy.

Redemption scheme practitioners cite the Uniform Commercial Code as defined in HJR-192 as their vehicle for recovering what they call their "straw men" or "stramineus homo," an entity they claim the government created to serve as a conduit to extract energy from flesh and blood citizens. They claim each person's "straw man" is referenced by the government in all capital letters.

Subscribers to this philosophy appear willing to invest whatever is required of them to liberate or "redeem" their straw man. The passing of fraudulent documents, such as the bogus "bill of exchanges" Smith was arrested for, as well as other bogus documents called "sight drafts" are considered means of liberation, according to Griffith and Pitcavage.

The Treasury Department's Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation issued alerts to banking officials, warning about the fraudulent sight drafts and instructing bank officials to notify the Federal Bureau of Investigation if they receive one.

"Your institution should also prepare a Suspicious Activity Report," according to an OCC advisory. "Under no circumstances should your institution honor one of these instruments or submit it for payment."

Pitcavage and Griffith also described a redemption scheme tactic meant to harass public officials. Both explained that, for example, if a police officer cited a redemption practitioner for a traffic violation, the practitioner would fix a "value" to the document - say $50,000 - accept it for value, then submit an IRS Form 1099 naming the issuing officer as the recipient of a gift. Under normal circumstances, the IRS would see the gift as unreported income when the unsuspecting officer filed his taxes.

Faber has proceded very cautiously in Smith's criminal case. The judge stated openly in court that people have a right to voice opposition to the government, however, he made it clear that Smith "is not entitled to harass and interfere with other people," and added that as a federal judge, he has a responsibility

"to protect the public."

Faber ordered Smith to have a mental competency hearing exam locally, and scheduled a hearing on the matter for March 5, in Bluefield.

XXIII. The "three judge courts" argument:

Long ago in the case of Marbury v. Madison, 5 U.S. 137 (1803), the Supreme Court considered the question of whether the federal judiciary could decide that a law was unconstitutional, and of course the Court concluded that it and the lower courts had such power. Ever since, both state and federal courts, either at the original trial court level or on appeal, have exercised this judicial power to find state and federal laws unconstitutional.

However, Congress possesses the power to establish not only the number of federal courts, but also their jurisdiction. Back at the turn of this century, Congress perceived a problem regarding federal courts which were being confronted with certain important issues; thus it concluded that it should establish a statutory mechanism whereby a 3 judge court could be convened to decide certain important questions like the constitutionality of a state law (see act at 36 Stat. 1150, 1162). The law which was enacted declared that for certain specific types of cases, a party could request a 3 judge panel of district judges to hear and decide the case. Once a decision was made by such a 3 judge court, any appeal went directly to the U.S. Supreme Court. However, this law did not disturb in any way the power of a single federal district judge to decide the constitutionality of any federal or state law.

This law was in effect until August, 1976 when it was drastically modified by P.L. 94-381; see Senate Report 94-204. The new law just simply further limited the type of cases where a 3 judge court could be requested; those cases are those which are specified in certain other federal laws. Thus while today 3 judge courts can be convened, it can be used less frequently. But this modification to the 3 judge court did not affect the power of a single judge to declare a law unconstitutional. For example, we all know that Sheriff Richard Mack of Arizona was one of the first parties to challenge the Brady law after its adoption. His case was assigned to U.S. District Judge Roll, and this single judge held in *Mack v. United States*, 856 F.Supp. 1372 (D.Ariz. 1994), that the challenged parts of the Brady law were unconstitutional:

> "Pending before the Court is plaintiff Graham County Sheriff Richard Mack's complaint for injunctive and declaratory relief against the enforcement of 18 U.S.C. § 922(s), commonly referred to as the Brady Act. For the reasons set forth below, the Court finds that subsection 922(s)(2) violates the Fifth and Tenth Amendments of the United States Constitution and will enter partial judgment in favor of the plaintiff on that basis."

Another recent example of a case where a single federal judge held a law unconstitutional is *Condon v. Reno,* 972 F.Supp. 977 (D.S.C. 1997), where District Judge Shedd of South Carolina declared the federal Driver's Privacy Protection Act unconstitutional:

> "In this case of first impression the State of South Carolina and its Attorney

> General ('the State') challenge the constitutionality of the 'Driver's Privacy Protection Act of 1994' ('the DPPA'), 18 U.S.C. §§ 2721-25, which regulates the dissemination and use of certain information contained in State motor vehicle records, on the grounds that it violates the Tenth and Eleventh Amendments to the United States Constitution. (FN1) The State seeks a permanent injunction prohibiting enforcement of the DPPA.
>
> The United States of America and its Attorney General ('the United States') have filed a motion to dismiss based on their contention that (1) the Court lacks jurisdiction over these claims because of the justiciability concepts of ripeness and standing and, alternatively, (2) these claims fail on their merits because the DPPA was lawfully enacted pursuant to Congress' powers under both the Commerce Clause and § 5 of the Fourteenth Amendment. In turn, the State has moved for summary judgment in its favor. (FN2) After carefully reviewing this matter, the Court concludes that the DPPA is unconstitutional. Accordingly, the Court will deny the United States' motion to dismiss, grant the State's motion for summary judgment, and permanently enjoin the enforcement of the DPPA in the State of South Carolina. (FN3)."

These two cases are not the only ones which prove that single federal district judges have authority to declare laws unconstitutional and they can enjoin enforcement of those laws. Further, there are other similar cases. Clearly, the 3 judge court position is groundless and without merit. In short, it is ridiculous.

XXIV. The "Missing 13th Amendment" and "titles of nobility":

There is much talk on the Net regarding the alleged "missing" 13th amendment and a related position concerning "titles of nobility." I have followed the development of this research since it first got some notoriety years ago and my views are expressed below.

When Bill Benson and I tried to rip the 16th amendment out of the constitution, I had to immerse myself into the law of ratification of amendments. First, an amendment's ratification is a decision committed to the political branch of the government, Congress. The President and the courts play no role in the ratification process. When an amendment is proposed in the typical manner, states ratify the amendment and send notice of ratification to the Secretary of State. Once a sufficient number of states ratify, the Secretary of State proclaims its adoption. The number of states required to ratify an amendment are not limited to those in the Union at the time of the amendment's proposal. Although there is no litigated decision on the point, the accepted scholars declare that states admitted after the proposal of an amendment must likewise join in the ratification process. It seems that the courts would agree with these scholars.

In reference to the "missing" 13th amendment, I have over the years had a number of people mail me material regarding the issue, which I have studied. In order to prevail on this argument, the proponents must refuse to count states that entered the Union after this amendment was proposed; they limit the number needed for ratification to those in the Union when this amendment was proposed in 1810. But even with this invalid limitation of the number of states needed to ratify, the proponents admit that they cannot prove that Virginia ratified. All they have are published copies of constitutions of the period that include this amendment. You cannot prove that an amendment was ratified without having the actual state ratifications of sufficient number to meet the constitutional threshold (If you wish to read my brief regarding the ratification of constitutional amendments, click here). The

proponents do not have this essential proof of ratification. While this issue is an interesting study, there is no substance to it.

But ignoring the problems regarding ratification of this "amendment" and presuming that it was ratified, what would it mean? The advocates of this argument claim that the term, "esquire," is a prohibited "title of nobility" within the scope of this non-ratified amendment. These people then argue as best I can tell that attorneys, having "titles of nobility," are thus agents of some monarch, apparently contending that attorneys really work for the Queen. This fits nicely into the argument made by the "we are Brits" crowd. However, I must note that I have never met an attorney who has met the Queen, let alone been paid by her; but clearly, I have never met the Queen and she certainly sends nothing to me.

To prove their position, the "esquire" proponents quote the definition of this term from Black's law dictionary, often via inaccurate quotes. Here is an accurate quote of the definition of this word from Black's law dictionary, 4th edition (the one I bought while I was in law school). According to this dictionary, this word means: "In English law. A title of dignity next above gentleman, and below knight. Also a title of office given to sheriffs, serjeants, and barristers at law, justices of the peace, and others. 1 Bl.Comm. 406;
3 Steph. Comm. 15, note; Tomlins. On the use of this term in American law, particularly as applied to justices of the peace and other inferior judicial offices, see Christian v. Ashley County, 24 Ark. 151; Com. V. Vance, 15 Serg. & R., Pa., 37." Thus, an "esquire" is lower than a knight; if a knight is not a noble, then clearly an "esquire" could not be a noble.

From Webster's 1828 American Dictionary, the word "esquire" is defined as follows: "Properly, a shield-bearer or armor-bearer, *scutifer*; an attendant on a knight. Hence in modern times, a title of dignity next in degree below a knight. In England, this title is given to the younger sons of noblemen, to officers of the king's court and of the household, to counselors at law, justices of the peace, while in commission, sheriffs and other gentlemen. In the United States, the title is given to public officers of all degrees, from governors down to justices and attorneys. Indeed the title, in addressing letters, is bestowed on any person at pleasure, and contains no definite description. It is merely an expression of respect." Thus from Websters, we know that in America this term denotes nothing but respect and not a "title of nobility."

The real question which should be asked of the "missing 13th amendment" crowd is this: what is a title of nobility? These advocates simply do not want you to know this meaning because their whole argument would be destroyed and the fraud they are playing exposed. In Black's law dictionary, 4th edition, the word "nobility" is defined as follows: "In English law, a division of the people, comprehending dukes, marquises, earls, viscounts and barons." This same definition then quotes Blackstone's Commentaries as authority for what is a "title of nobility":

> "These had anciently duties annexed to their respective honors. They are created either by writ, i.e., by royal summons to attend the house of peers, or by letters patent, i.e., by royal grant of any dignity and degree of peerage; and they enjoy many privileges, exclusive of their senatorial capacity.
> 1 Bl. Comm. 396."

From Webster's American Dictionary of 1828, "nobility" is defined in relevant part as follows: "The qualities which constitute distinction of rank in civil society, according to the customs or laws of the country; that eminence or dignity which a man derives from birth or title

conferred, and which places him in an order above common men. In Great Britain, nobility is extended to five ranks, those of duke, marquis, earl, viscount and baron." It can't be questioned that the source for both of the above definitions is Blackstone's Commentaries because he stated at §533 of his work that the nobles "are dukes, marquises, earls, viscounts and barons." Even today, those who are students of nobility agree that there are only five ranks in the peerage.

We clearly know that in England, the nobility consists of "dukes, marquises, earls, viscounts and barons." Precisely where is a knight or even an esquire defined as being a part of the nobility? The truth is that in English law, an esquire is not a part of the nobility. But in America, the term is meaningless. Again, this "esquire" aspect of the "missing 13th amendment" argument is another example of the very bad legal scholarship emanating from the crazy group in this movement known as the "liaryers." They have "titles of stupidity."

Has this argument done damage? I know of a case up in Cincinnati styled United States v. Ed Badley, Gar Bradley and another of Ed's sons. They were indicted in the fall of 1998 for federal tax crimes and they filed pleadings which were predicated upon this "missing" 13th amendment argument. They went to trial pro se in early 1999 and used this and the "non de guerre" issue (names in CAPS) for the 3 weeks that the trial lasted. The jury was back with guilty verdicts in 45 minutes.

Further in reference to this insane argument, I offer the following which is the gist of an e-mail to me regarding this issue:

> Very briefly put, the Title of Nobility Amendment (TONA) was proposed in 1810. There is absolutely nothing in the legislative history to indicate that it was written with lawyers (much less bankers) in mind; especially since most of the members of Congress who voted for it were themselves lawyers. In fact, there is very good history that indicates that it was proposed as a direct slap at a Maryland debutante, Betsy Patterson, who purportedly married Jerome Bonaparte, brother to the French emperor and later the king of Westphalia, in 1803 and became the center of mid-Atlantic high society as a result, either being called or actually encouraging people to call her the Duchess of Baltimore. By 1808 she was no longer married to Bonaparte and there might be a small doubt whether there had actually been a marriage, and she gradually slipped into obscurity.
>
> In 1815, Congress awarded a contract to print up the collected federal laws to a Philadelphia publisher, Bioren & Duane, who churned out a set of the Laws of the United States. In the introduction there was a caveat that the proposed 13th amendment (the TONA) was, at the time of printing, not yet adopted into the Constitution but it could accumulate the requisite number of ratifications any day now .... but this note was about 60 pages removed from the text of the proposal itself, which was simply captioned 13th Amendment and immediately followed the validly adopted 12th Amendment, these two separated from the main text of the Constitution and the Bill of Rights by many pages of intervening Acts of Congress. This could be viewed as sloppy editorial style.
>
> Apparently the possibility of misunderstanding the printed layout didn't actually occur to anyone until 1818 when Congress also contracted for a

> Philadelphia printer to churn out pocket editions of the US Constitution .... and this printer, obviously relying on the Bioren & Duane collection but not having noticed the introduction, included the "13th Amendment". When a member of Congress spotted it, he raised a ruckus and the House passed a resolution asking the President (Monroe) to report back if the TONA had actually be adopted. Monroe, who had been Sec. of State, kicked the project over to his Sec. of State, John Quincy Adams, who conducted considerable research and reported (twice) in 1819 that not quite enough states had ratified the proposal to accomplish its adoption. So Bioren & Duane had been wrong.
>
> Thereafter, no Congressionally sponsored printing of the Constitution contained the TONA as if adopted. But other printers, sometimes putting the finishing touches on collections of state laws, made the same mistake in the same way. But in 1845, Congress again contracted for an official collection of federal laws, this time with Little & Brown of Boston, the series called Statutes at Large, which is still printed by the US govt, and the 1845 edition very clearly showed that only 12 amendments had been adopted and the TONA had not been. Because the Little & Brown edition rapidly replaced the Bioren & Duane edition, the occurrence of the error in various editions of the Constitution rapidly diminished.
>
> Additionally, a number of RELIABLE and authoritative references made clear that only 12 amendments had been adopted (up to 1865), including the 1833 Commentaries by Justice Joseph Story, which very explicitly said that the TONA had not been adopted. This is how the error crept in, and was perpetuated. It's worth noting that when the Congress was proposing yet another amendment in 1860 - this one for state's rights - it called it the 13th and nobody then quibbled that the number was already taken, and when that proposal was not adopted, the real 13th amendment was proposed in 1865 and then again nobody said that there was already an amendment with that number.

If you wish to read a good article regarding the flaws of the "missing 13th amendment" argument, please visit Jol Silversmith's webpage.

Here is my final comment about this issue. I have been engaged in a Net battle with one of the chief proponents of this argument, who has stated as follows:

> "I remind you that you are defending your position by quoting English law, and in America, we are dealing with in principle with the spirit of the law. In England Esquire may not be considered a title of nobility, but in America under American principle, Esquire is a title of nobility as it is a privileged class different than the common man."

This man has relied upon an old Alabama case, Horst v. Moses, to assert that a mere privilege constitutes a title of nobility. This prompted me to address his completely erroneous contention in the following manner:

Hey .....,

Alabama has long had a constitutional provision which reads as follows:

"That no title of nobility or hereditary distinction, privilege, honor, or emolument shall ever be granted or conferred in this state..."

Even today, this provision appears in our current constitution as Art. 1, §29. You assert that lawyers have a title of nobility, and your whole argument now finally rests upon this provision of the Alabama Constitution and the Alabama case of Horst v. Moses.

For a long time now, people have been deliberately mislead by the "title of nobility" crowd to believe that lawyers have titles of nobility, which I and every other lawyer have denied. At first, these "nobility" advocates just broadly asserted this proposition without informing people that historically lawyers and "esquires" were not nobles, and that "In Great Britain, nobility is extended to five ranks, those of duke, marquis, earl, viscount and baron." This misleading was, as far as I am concerned, intentional, and it was only corrected when I pointed out to the people you mislead this historical fact that there were only five classes of nobles. I even posted this information to my web site.

In our recent exchange regarding this matter, you have finally admitted that nobility encompasses only the five classes of "duke, marquis, earl, viscount and baron." But as a last straw, you find comfort in the Alabama decision of *Horst v. Moses*, 48 Ala. 129 (1872). You rely upon what Justice Saffold wrote in this case for your conclusion that even a privilege amounts to a "title of nobility." You reject my argument that such "distinction, privilege, or honor" must be hereditary. I am afraid that you loose because you simply have not read *Horst* in a long time (and probably never have). Let me tell you about that case.

This case was about gambling, an activity now generally prohibited by our constitution. Here, the Alabama legislature enacted a law to allow Moses and his partnership to conduct lotteries and other gambling activities, provided such activities benefitted the schools. Moses and his buddies were required by law to pay $1000 every year for this gambling franchise. They paid the first year fee, but failed to pay later years. But with this franchise, Moses and his buddies toured the state engaged in all sorts of gambling activities which the opinion in the case mostly leaves to your imagination; in fact, the reporter so stated, therefore Moses and his partners were probably like the mobsters who started Reno and Vegas. In any event, the whole affair turned sour and the legislature rescinded the act which granted the franchise to Moses & Co. However, Moses & Co. continued and the cops in Mobile started arresting Moses and his partners (along with some patrons, Heaven forbid!!), and this lawsuit resulted. Moses & Co. obtained an injunction against the arrests from the trial court judge and the Mayor of Mobile, Horst, appealed to the Alabama Supremes.

There were 6 justices on the court in 1872 and Justice Peck was

the Chief Justice. All 6 justices agreed that the injunction had been wrongfully issued. The majority of 4 justices (Peck wrote this part of the decision) simply concluded that by Moses' failure to pay the $1000 franchise fee after the first year, the franchise was forfeited and thus Moses & Co. were operating illegally. It is in the separate opinions of Justice Saffold and Peters where the discussion about the above provision of the Alabama Constitution arose.

Justice Saffold agreed that the injunction should not have been issued, but he separately concluded that there should be limits to the authority of the legislature to grant franchises. In his argument, he mentioned the above provision, but only to buttress his argument that there had to be some innate limits to the legislature's power to grant franchises; but please remember, that this was just solely his opinion. Thus the part of Horst which you rely upon for your "titles of nobility" argument comes from a separate opinion. But it is Justice's Peters separate opinion which destroys your argument.

Justice Peters wrote separately to address what Saffold had brought up. Peters stated that a"hereditary distinction" had to be "hereditary":

"Had this been their purpose, the language used would have been without any qualifying and limiting adjective. The word 'hereditary' would have been left out of the sentence altogether. This word qualifies the whole series of particulars enumerated in the sentence, as if it had been repeated before each... The power to grant and confer privileges, honors or emoluments, intended to be prohibited, were such as were 'hereditary,' and not such as were limited to a reasonable length of time."

Justice Saffold did not conclude that Moses & Co. had a title of nobility or similar privilege, and the reason why the company did not was explained by Peters: such a title or privilege within the meaning of the Alabama Constitution is one which is hereditary. This is precisely the argument I made to you. The Horst case is the wrong one to rely upon for an argument that a "title of nobility" is a mere privilege. That court concluded that it must be "hereditary."

Please remember, that whenever you rely upon any given case, you should read it first before you put your mouth in gear. I strongly encourage you to forward this e-mail to those other parties who have been copied by you in this exchange. But in any event, I will post this message to my site.

Larry

XXV. The "Manufacturer's Certificate of Origin" Argument:

During December, 1999, I received some angry e-mail from a female in Colorado who made the argument that those "vile lawyers" had devised a way to steal the title of cars "away from the people" via the Manufacturer's Certificate of Origin ("MCO"). According to her, the MCO had been developed as the way to stealthily obtain ownership of all cars in America by the "state," and this scheme was clear proof of some communist plot. Here is a

part of her argument:

> "Next, the deceitful lawyers dba 'the State' coerce these 'dealers' into stealing the real bill of sale, called the Manufacturer's Certificate of Origin and unlawfully converting it into a 'Title', which does not convey lawful ownership of the private car. It's just another little fraud/crime they pull.
>
> "Now, lying lawyers, dba 'The State' claim 'ownership' of your car, which is why your 'tags' state, 'for official use only'. That way the lying lawyers, dba 'the State', can now regulate, fine (for their own personal gain) and take 'their car' whenever they want.
>
> "Don't just take my words for it, do your own homework. I did! When we made the final payment on our little Chevy, I called the 'GM loan company' and demanded my Manufacturer's Certificate of Origin. They said, 'Oh, we give you the 'title'. I said, I don't want any stupid 'title', I want the true and lawful 'Bill of Sale'. They referred me to the 'dealer'. I called the 'dealer' and demanded my true and lawful 'Bill of Sale'. I got the same response. I demanded by [sic] MCO and finally the manager of the company admitted to me that 'the State' makes them turn them over when the cars come in.
>
> "I said, 'Madam, don't you know that is grand theft and unlawful conversion?' Her reply was, 'What is scary is that now, the 'federal government' wants them. And you don't think you live in a Communist Gov't and the lying lawyer club is the primary perverters of this country into communism?"

According to this woman, when she bought her Chevy, she did not receive the "real" title to her car, which is the MCO. She contends that the MCO constitutes the title to her car and that her car is really owned by the state. This is a wild and groundless theory which many believe simply because they refuse to perform any research.

A manufacturer's certificate of origin is "a specified document certifying the country of origin of the merchandise required by certain foreign countries for tariff purposes, it sometimes requires the signature of the consul of the country to which it is destined." Our country ships lots of its products internationally and so does the rest of the world. This document was just simply created by international convention, primarily for tax purposes. As you can see, it is not the title of any object, not even for cars.

Federal regulations deal with this matter. For example, in 19 CFR §181.11, entitled "Certificate of Origin," the following is found:

> (a) General. A Certificate of Origin shall be employed to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA.
>
> (b) Preparation of Certificate in the United States. An exporter in the United States who completes and signs a Certificate of Origin for the purpose set forth in paragraph (a) of this section shall use Customs Form 434 or such other medium or format as approved by the Canadian or Mexican customs

administration for that purpose. Where the U.S. exporter is not the producer of the good, that exporter may complete and sign a Certificate on the basis of: (1) Its knowledge of whether the good qualifies as an originating good; (2) Its reasonable reliance on the producer's written representation that the good qualifies as an originating good; or (3) A completed and signed Certificate for the good voluntarily provided to the exporter by the producer.

(c) Submission of Certificate to Customs. An exporter in the United States, and a producer in the United States who has voluntarily provided a copy of a Certificate of Origin to that exporter pursuant to paragraph (b)(3) of this section, shall provide a copy of the Certificate to Customs upon request.

(d) Notification of errors in Certificate. An exporter or producer in the United States who has completed and signed a Certificate of Origin, and who has reason to believe that the Certificate contains information that is not correct, shall within 30 calendar days after the date of discovery of the error notify in writing all persons to whom the Certificate was given by the exporter or producer of any change that could affect the accuracy or validity of the Certificate.

Cars are big exports for this country and the manufacturers deal with certificates of origin every day. In fact, NAFTA has provisions regarding such certificates at Art. 501, which may be viewed here.

Because car manufacturers provide such certificates for international trade, the states also demand them. In Colorado, the following statute makes a clear distinction between car titles and MCOs:

CRS §42-6-113 - New vehicles - bill of sale - certificate of title.

Upon the sale or transfer by a dealer of a new motor vehicle, such dealer shall, upon the delivery thereof, make, execute, and deliver unto the purchaser or transferee a good and sufficient bill of sale therefor, together with the manufacturer's certificate of origin. Said bill of sale shall be affirmed by a statement signed by such dealer, shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S., shall be in such form as the director may prescribe, and shall contain, in addition to other information which the director may by rule or regulation from time to time require, the make and model of the motor vehicle so sold or transferred, the identification number placed upon the vehicle by the manufacturer for identification purposes, the manufacturer's suggested retail price, and the date of the sale or transfer thereof, together with a description of any mortgage thereon given to secure the purchase price or any part thereof. Upon presentation of such a bill of sale to the director or one of the director's authorized agents, a new certificate of title for the vehicle therein described shall be issued and disposition thereof made as in other cases. The transfer of a motor vehicle which has been used by a dealer for the purpose of demonstration to prospective customers, if such motor vehicle is a new vehicle as defined in section 42-6-102 (8), shall be made in accordance with the

provisions of this section.

Thus under Colorado law, it is plain that a manufacturer's certificate of origin is different from the title to a car as well as a bill of sale for the same.

The MCO argument is another crazy idea promoted by people who refuse to perform any research. When a car manufacturer builds a car, that company owns it and has title to it. "Title" to personal property like a car is not some document; it is that invisible "bundle of rights" which one has when he owns something. That "bundle of rights" excludes all other parties from possession of the property in question. When a car is purchased, the buyer delivers money to the seller and acquires title to the car, and that title means that he can exclude all other persons from possession of that car. A "bill of sale" is nothing but a document which evidences the fact that title has passed from one party to another. This "bundle of rights" can be divided, and this happens when a car is purchased via financing provided by a bank or other financial institution. When this happens, the bank has an interest in the car and that interest is protected via contractual provisions as well as a financing statement (UCC Form 1) which is filed at a designated state office to show to the rest of the world that the bank has an interest as a secured party in that vehicle. If the loan is paid, the bank's interest is extinguished; if not, it can claim possession of the car.

Certificates of title are nothing but the state's "answer" to the problem of car theft. "Certificate" means according to Black's law dictionary "a written assurance, or official representation, that some act has or has not been done, or some event occurred, or some legal formality complied with." States have enacted laws to provide for "certificates of title" for cars which are issued and given to car owners; they are nothing more than further evidence of ownership of a car and this helps reduce the incidence of car theft; but such a certificate is not "title" to a car. And neither is the MCO.

Lots of flaky arguments float around this country, and the MCO argument is just simply another one promoted by people who do not know what they are talking about.

Additional Note: The above Colorado woman, J.L.: Me..., continues to promote "off-the-wall" legal arguments. She recently stated as follows:

> People need to start asking questions about how AGs can bring suits in the first place!!! First of all, when did we the people ask for 'attorney generals'? ... How can an 'AG' bring a suit when they are not the damaged party and they do not have a written contract to 'represent' any of the people in the state? See how these unAmerican attorn-eys trick you?
>
> a. When was that 'AG' sworn in as a 'general'?
> b. In what 'branch of service'?
> c. And what country do they serve?
>
> They certainly are not upholding our liberties or the law which is the Constitutions. Nowhere in the constitutions do I see that 'the state' should have an AG!!! It is just another bureaucracy...

Quite obviously, this woman knows nothing about Attorneys General. The reason that she is mad at a couple of AGs is because she was working for a company promoting a pyramid scheme which the Kansas AG shut down. In any event, in response to her blather that "Nowhere in the constitutions do I see that 'the state' should have an AG," I simply went over to the Kansas and Colorado constitutions posted at several web sites and forwarded to her

the constitutional provisions which created the offices of Attorney General in these states. This woman likes to argue law, but whenever she does, she inevitably errs.

XXVI. Due process principles and tax collection:

Via the due process clauses of the 5th and 14th Amendments, both the state and federal governments must provide certain fundamental procedures before life, liberty or property are taken. For those interested in this subject, reading the cases of *Sniadach v. Family Finance Corp.*, 395 U.S. 337, 89 S.Ct. 1820 (1969), *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983 (1972), and *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601, 95 S.Ct. 719 (1975), are important in understanding the views of the Supreme Court regarding the due process procedures to which the states are bound. However, one cannot ignore the fact that there are two different due process standards; one standards is applicable to us and the states, and quite another exists for Uncle Sam.

There is a popular position of late that *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011 (1970), is the "key" due process case regarding the collection of taxes. This is a very erroneous. If you wish to understand principles of due process in reference to tax matters, the cases of *Phillips v. CIR*, 283 U.S. 589, 51 S.Ct. 608 (1931), and *CIR v. Shapiro*, 424 U.S. 614, 96 S.Ct. 1062 (1976), are the ones to be read.

XXVII. Executive Order No. 11110:

There is currently floating around the Net one theory of the Kennedy assassination based upon certain legal documents. According to this idea, Kennedy was assassinated because he was about ready to start issuing silver certificates; to prevent him from doing so, the "powers that be" had him killed. Please understand that what I offer below explaining the flaw of this argument does not mean that I am an apologist for the Fed or banking industry; it should be obvious from my site that I am not. I only offer these comments because this argument demonstrates just one of the completely erroneous arguments which are allegedly based upon the "law" but are not.

When Congress enacts a law, it often delegates authority to enforce and administer the law to some executive official, typically the President. Naturally, the President does not personally attend to such duties and must himself delegate to others within the Executive branch. The Agricultural Adjustment Act of May 12, 1933, was one of these acts and it permitted the President in §43 to issue silver certificates.

Public Law 673 enacted by Congress in 1950 was similar to many previous ones and it allowed the President to delegate his statutory functions to others within the Executive branch. It provided:

> The President of the United States is hereby authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform, without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform only with or subject to the approval ratification, or other action of the President: ...

Pursuant to this statutory authority, on September 19, 1951, President Truman issued Executive Order No. 10289, which delegated to the Secretary of the Treasury lots of the statutory duties of the President. This executive order provided in part as follows:

> By virtue of the authority vested in me by section 1 of the act of August 8, 1950, 64 Stat. 419 (Public Law 673, 81st Congress), and as President of the United States, it is ordered as follows:
>
> 1. The Secretary of the Treasury is hereby designated and empowered to perform the following described functions of the President without the approval, ratification, or other action of the President:
> (a) The authority vested in the President by section 1 of the act of August 1, 1914, c. 223, 38 Stat. 609, as amended (19 U.S.C. 2), (1) to rearrange, by consolidation or otherwise, the several customs-collection districts, (2) to discontinue ports of entry by abolishing the same and establishing others in their stead, and (3) to change from time to time the location of the headquarters in any customs-collection district as the needs of the service may require.
> (b) The authority vested in the President....

Thereafter, this executive order listed another 8 statutory powers of the President which he was delegating to the Treasury Secretary, the substance of which is not important for this discussion. Please remember that this delegation to the Treasury Secretary was to be exercised "without the approval, ratification, or other action of the President." It should also be noted that this particular executive order did not delegate to the Treasury Secretary the authority to issue silver certificates granted to the President in the 1933 law noted above.

From 1933 until 1963, the President alone possessed the statutory authority to issue silver certificates. But then on June 4, 1963, President Kennedy amended Truman's 1951 Executive Order No. 10289 by Executive Order No. 11110. This particular order read as follows:

> AMENDMENT OF EXECUTIVE ORDER NO. 10289
> AS AMENDED, RELATING TO THE PERFORMANCE OF
> CERTAIN FUNCTIONS AFFECTING THE
> DEPARTMENT OF THE TREASURY
>
> By virtue of the authority vested in me by section 301 of title 3 of the United States Code, it is ordered as follows:
>
> SECTION 1. Executive Order No. 10289 of September 19, 1951, as amended, is hereby further amended -
>
> (a) By adding at the end of paragraph 1 thereof the following subparagraph (j):
>
> (j) The authority vested in the President by paragraph (b) of section 43 of the Act of May 12, 1933, as amended (31 U.S.C. 821 (b)), to issue silver certificates against any silver bullion, silver, or standard silver dollars in the Treasury not then held for redemption of any outstanding silver certificates, to prescribe the denominations of such

silver certificates, and to coin standard silver dollars and subsidiary silver currency for their redemption," and

(b) By revoking subparagraphs (b) and (c) of paragraph 2 thereof.

SECTION 2. The amendment made by this Order shall not affect any act done, or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the date of this Order but all such liabilities shall continue and may be enforced as if said amendments had not been made.

JOHN F. KENNEDY
THE WHITE HOUSE,
June 4, 1963

By this executive order, the statutory authority of the President to issue silver certificates was delegated to the Treasury Secretary. In Kennedy's administration, the Treasury Secretary was Douglas Dillon, a man from a banking family and a known established "power" in the banking community. Kennedy delegated the authority to issue silver certificates to Dillon and his successors and this power could be exercised "without the approval, ratification, or other action of the President."

The only reasonable conclusion which may be reached based upon the facts are the exact opposite of the argument made on the Net. For some 30 years, the President himself held the power to issue silver certificates. But some 5 months before his assassination, Kennedy delegated this power to Dillon, and via this order, Dillon could do as he pleased with this power. To assert that Kennedy was by Executive Order No. 11110 getting ready to issue silver certificates is contrary to the plain facts. Instead, Kennedy was surrendering this power and delegating it to the Treasury Secretary, who then (and as always) has been someone from the banking industry. There is no substance to this theory on the Net. I cannot understand how this particular order proves that Kennedy was about to issue silver certificates. Where is the proof that Kennedy was anything other than a pawn of the banking community?

Additional Note re EO 11110:

From Jim Ewart at zns@interserv.com

Hi Larry:

Thanks for the input re the John F. Kennedy "silver-certificate" item. As chance would have it, about two months ago I helped Ed Griffin ("Creature From Jekyll Island") write a letter to a guy who raised this issue with Ed. Ed and I came to the same conclusion as you did, that the story being circulated by some "patriots" was seriously flawed.

As you may recall, some 20 years ago a different story was making the rounds of the "patriot" community. This story said that JFK made a speech at Columbia University a couple of weeks before his death. In that speech JFK supposedly said, "I have discovered that the high office of the presidency has

been used to foment a plot against the American people," and allegedly, this presentation continued with him saying that he was going to take decisive steps to stop that plot in its tracks.

JFK supposedly then ordered the US Treasury to immediately print zillions of US Notes (_not_ silver certificates) to replace all the Federal Reserve Notes then in circulation. The implication was that by replacing the Federal Reserve Notes with US Notes, the federal government would no long have to pay interest to the Fed on the face value of all the paper currency -- precisely because US Notes are "spent into circulation interest free" (echoing the late Pastor Sheldon Emery and others of his persuasion, that is, the advocates of "populism" and/or "social credit.")

A few days before JFK's death, supposedly about $300 million of these US Notes were placed in circulation, and it was exactly this action by JFK that caused the bad guys, the "banksters," to arrange for JFK to be killed. However, while this story is interesting, it apparently has almost no factual basis.

One of Congressman Ron Paul's researchers was a libertarian gal with heavy economic and finance credentials, a Masters Degree in finance if I recall correctly, and many years of investment analysis for a major brokerage firm. This gal, Rita something or another, spent several months early in 1983 investigating the story for Ron Paul. She called me later that year to see if I could supply her with any supporting information.

I told her I had heard the rumor but did not have any facts to support it. She said she'd been in close touch with top-level people in the Kennedy family, and in contact with several of JFK's closest political cronies, and also in contact with top people at Columbia University. The University had no memory or other record of JFK being on that campus or in the area for any meeting of any kind within several years of the alleged appearance, and none of JFK's associates, political or personal, offered anything but negative comment on the whole tale.

This researcher (Rita D. Simone, from Arlington, Virginia, whose name, address, and phone number is still in the ZNS database) concluded that the alleged event simply did not happen.

However, some US Notes were issued in 1962 but solely to replace worn-out Federal Reserve Notes from the series of 1950 and earlier. The US Notes were used because the Treasury had already issued all of its authorized inventory of uncirculated Federal Reserve Notes, and because the Treasury could print US Notes without special prior approval from the Federal Reserve banking system.

But the US Notes were strictly an interim solution to the problem of replacing worn Federal Reserve Notes. Please recall that the next year, in 1963, the Treasury printed and began issuing Federal Reserve tokens, FRTs, the "new Federal Reserve Note" bills, the ones missing the phrases "will pay to the bearer on demand" and "and is redeemable in lawful money at

> the United States Treasury or at any Federal Reserve Bank."
>
> FRTs would eventually replace _all_ then-circulating paper currency: US Notes, Federal Reserve Notes from the series of 1950 and earlier, and silver certificates. Within 10 years or so, the only paper currency circulating in the U.S. was the FRT.
>
> The man who contacted Ed Griffin, questioning something Ed had said in "Creature from Jekyll Island," said he had heard the US Note story from an organization called "Christian" something or another. I had not heard of that entity, I had no record of it in my big database of patriotic groups, publications, and broadcasts, etc., and I had no record of any similar-sounding entity in the general area of the writer's home address.
>
> I concluded that the "Christian" something or another "group" was really just a dba of a lone individual patriot, someone who simply and innocently echoed a highly inaccurate version of the largely fictional JFK-Columbia University tale.
>
> [snip re personal matters]
>
> Here's wishing you and your fine family a very happy Thanksgiving.
>
> Also, thanks again for the analysis of the JFK "silver certificate" story.
>
> Best wishes,
> Jim Ewart

People should read Jim's book, Money.

XXVIII. United States District Court -vs- district court of the United States.

There is an argument currently making the rounds in the movement regarding a supposed distinction between the terms "United States District Court" and "district court of the United States." It appears that this contention is based in large part upon 28 U.S.C. §132, entitled "Creation and composition of district courts," which provides in part as follows:

> "(a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district."

This argument regarding the alleged difference in these two phrases has its origins in the annotations or "revision notes" to this section of the Judicial Code. In both the official US Code and the private publishers' editions of the Code (USCA and USCS), there are annotations below the section which show the origins or source of the particular section. For §132's notes, the following is shown:

SOURCE

(June 25, 1948, ch. 646, 62 Stat. 895; Pub. L. 88-176, Sec. 2, Nov. 13, 1963, 77 Stat. 331.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 1, and section 641 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, Sec. 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, Sec. 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, Sec. 1, 36 Stat. 1087; July 30, 1914, ch. 216, 38 Stat. 580; July 19, 1921, ch. 42, Sec. 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, Sec. 1, 44 Stat. 19).

Section consolidates section 1 of title 28, U.S.C., 1940 ed., and section 641 of title 48, U.S.C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Subsection (c) is derived from section 641 of title 48, U.S.C., 1940 ed., which applied only to the Territory of Hawaii. The revised section, by extending it to all districts, merely recognizes established practice.

Other portions of section 1 of title 28, U.S.C., 1940 ed., are incorporated in sections 133 and 134 of this title. The remainder of section 641 of title 48, U.S.C., 1940 ed., is incorporated in sections 91 and 133 of this title.

Advocates of this argument limit their examination of the origins of this section to "section 641 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions," and erroneously conclude that a "United States District Court" is a territorial court like those established for Hawaii when it was a territory. This is a mistake as explained below; these advocates appear to ignore another source for §132 mentioned in these notes: "title 28, U.S.C., 1940 ed., Sec. 1."

Long ago after the Constitution went into effect, federal courts in the original 13 states were created. As States were thereafter admitted into the Union, later acts established courts for those States. By 1868, there were thus a variety of acts scattered through the Statutes at Large which related not only to the creation of these courts, but also other matters relating to the federal courts. These acts were all consolidated into a judicial title when the Revised Statutes were adopted in 1873. That judiciary title of the Revised Statutes cannot be displayed here, so if you are curious and wish to study it, go to a law library which has the Statutes at Large.

But other States were admitted into the Union after 1873, and there were also acts of Congress which created federal courts for those States. By 1909, there were no longer any territories in the continental United States and it became particularly appropriate for all of these judiciary acts to again be consolidated. On March 3, 1911, this was done via the act published at 36 Stat. 1087. Section 1 of this act provided in pertinent part as follows:

> "Sec. 1. In each of the districts described in chapter five, there shall be a court called a district court, for which there shall be appointed one judge, to be called a district judge...."

The districts described in chapter 5 of this act covered all of the States, some having several judicial districts. Again if interested, please read this long act.

Have these various acts been consistent in the use of the terms "United States District Court" and "district court of the United States"? To determine that consistency, one need only examine the various acts establishing these courts for the last 200 years, and there must be several hundred such acts. Currently, the judicial districts are described in 28 U.S.C. §§81 - 131. At the end of each section, there are "revision notes" which provide the citations to the prior acts regarding the federal courts in that particular State. Review of these prior acts shows that the terms "United States District Court" and "district court of the United States" have been used interchangeably.

Here is an example. Title 28 U.S.C. §116 deals with the federal judicial districts in Oklahoma. The following are the notes to this section:

SOURCE

(June 25, 1948, ch. 646, 62 Stat. 887; Pub. L. 89-526, Sec. 1, Aug. 4, 1966, 80 Stat. 335.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 182, 182a (Mar. 3, 1911, ch. 231, Sec. 101, 36 Stat. 1122; Feb. 20, 1917, ch. 102, 39 Stat. 927; June 13, 1918, ch. 98, 40 Stat. 604; Feb. 26, 1919, ch. 54, 40 Stat. 1184; June 5, 1924, ch. 259, 43 Stat. 387; Jan. 10, 1925, chs. 68, 69, 43 Stat. 730, 731; Feb. 16, 1925, ch. 233, Sec. 1, 43 Stat. 945; May 7, 1926, ch. 255, 44 Stat. 408; Apr. 21, 1928, ch. 395, 45 Stat. 440; Mar. 2, 1929, ch. 539, 45 Stat. 1518; June 28, 1930, ch. 714, 46 Stat. 829; May 13, 1936, ch. 386, 49 Stat. 1271; Aug. 12, 1937, ch. 595, 50 Stat. 625).

Two of the statutes noted above were the predecessors of §116; see the acts of "Jan. 10, 1925, chs. 68, 69, 43 Stat. 730, 731." The first act read as follows:

"Chap. 68 – An Act To amend the Act establishing the eastern judicial district of Oklahoma, to establish a term of the United States District Court for the Eastern Judicial District of Oklahoma at Pauls Valley, Oklahoma.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a term of the United States District Court for the Eastern Judicial District of the State of Oklahoma shall be held annually at Pauls Valley, Oklahoma, for the trial of civil and criminal cases, at such times as may be fixed by the judges of the eastern judicial district of Oklahoma: Provided, That suitable rooms and accommodations for holding court at Pauls Valley are furnished free of expense to the United States."

The following act also related to the very same courts:

"Chap. 69: An Act Providing for the holding of the United States district and circuit courts at Poteau, Oklahoma.

"*Be it enacted by the Senate and House of Representatives of the United States*

> *of America in Congress assembled,* That a term of the district court of the United States for the eastern district of Oklahoma shall be held in each and every year in the town of Poteau, Oklahoma, beginning on the first Monday in October and continuing till the business is disposed of: Provided, That suitable rooms and accommodations for holding court at Poteau are furnished free of expense to the United States."

It is easy to surmise why these statutes were adopted. The eastern district of Oklahoma is very large. Pauls Valley is south of Oklahoma City and Poteau is almost on the Arkansas state line. Obviously, people in these two communities wanted federal courts to at least visit those cities and conduct court, rather than those folks having to travel to some place like Muskogee. Congress responded and adopted these laws. Most likely, a Congressman from Poteau drafted the law at Chap. 69 while one from Pauls Valley drafted Chap. 68. The local folks obviously had to reserve local state courtrooms for use by the federal courts. In any event, these two laws regarding courts in the very same district used these terms interchangeably. This happens even today; see 7 USC §7468 (contains both phrases, "district court of the United States" and "United States district court"). If you wish to read more, simply perform a word search at FindLaw for "United States District Court" and "district court of the United States."

What happened with the names of the federal district courts is very easy to recount. Many single acts creating these courts back in the 19th century simply created federal "district courts" for specified States. The 1873 Revised Statutes' judiciary title also simply named these courts "district courts," and this was continued in the 1911 act. Based solely on the 1911 act, what Congress had created was just simply "district courts" located in a variety of places identified by law, i.e. "district courts" located in the various States. However, other acts of Congress identified these courts as "United States District Courts" although sometimes they were also identified generically as "district courts of the United States." The designation made by the law, just simply "district court," was not as formal as "United States District Court."

But finally in 1948 when Congress was about ready to formally adopt Title 28, the revisors obviously noted that the term "district court" was not very formal. Why refer to federal courts in the law as simply "district courts" when they quite obviously needed a formal name? When Title 28 was adopted in June, 1948, a nomenclature change was made. Whereas before federal courts had been simply called "district courts" in the various acts consolidating the judicial acts, now in this new Code they were given a formal name: "United States District Courts." If you wish to understand what the titles of the Code are and how they were created, including Title 28, read "Titles of the Code."

Some may be interested in this issue, but it clearly appears to lack any substance. As more crazy ideas arise in the Freedom Movement, I will address them.