Ecclesiastical Court of Justice and Law Offices

Lies have speed, but Truth has endurance

> *"For God may speak in one way, or in another, yet man does not preceive it."*
> - Job 33:14 NKJV

The principal aim of the **Word In Action Ministry (WIAM)** in association with the Ecclesiastical Court of Justice and Law Offices and the Native American Law & Justice Center is to empower God's people towards the acquisition of knowledge, which would enable them to hone and develop the powers of understanding and acquiring wisdom.

The abundant allegorical teachings of the Holy Bible shed more light into the mysteries of human life and experiences than any other authority on theology or theosophy. Thus, the Holy Bible is our source of inspiration from which we draw our life's longing to lead fuller, more obedient and abundant lives. To learn from the experiences of every character in the Holy Bible, from Adam and Eve to John in Patmos, and to follow the true revealed Word of God, is our only goal and our truest hope.

IF YOU NEED FEDERAL INDIAN LAW ASSISTANCE

Lots of people come into my professional life seeking legal advice regarding tribal membership, tribal benefits, issues relating to taxation, banking and finance from an American Indian perspective. Usually, I show these people the law(s) as promulgated by the Congress, decisions of various state and federal courts including the U.S. Supreme Court, and other executive and administrative policy decisions affecting American Indian Tribes whose inherent tribal sovereignty has been a constant nightmare and an inconvenient truth to our politicians from the day the Vikings, Sebastian Cabot, Amerigo Vespucci, and other explorers set foot on our tribal lands.

I expect these people to read, examine and analyze these articles, findings, congressional debates, essays, reports, and decisions. I notice a sickening habit instead – they wait to hear negative reports about Indian tribes. They love to read this negativity. They wallow in this sordid smear campaigns. Their lives are happier when they read such stupid reports over the Internet where pseudnyms and nom de guerre are used by scared writers wishing undeserved anonymity. There ought to be a law to disembowel these psychos while they are being hanged!

Recently, I had a New York attorney call me regarding tax exemptions for

Worth Special Mention

Those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor saftey. - Benjamin Franklin, Poor Richard's Almanac

NOTICE

September 7, 2014

INDIAN TRIBES NOT TAXED ON SECTION 17 CORPORATION INCOME - EVEN WHEN EARNED OUTSIDE INDIAN COUNTRY

NOTICE

August 16, 2014

FIGHTING FORECLOSURES

NOTICE

July 22, 2014

AFFIDAVIT OF JUDGE NAVIN-CHANDRA NAIDU REGARDING DR. EDMUND K. SILVA, JR SCHOLARSHIP and NATIVE AMERICAN STANDING

NOTICE

July 12, 2013

A CONSTITUTIONAL AND PRACTICAL APPROACH TO A

tribal corporations. I had earlier showed him the appropriate and applicable law regarding this issue. This deranged and psychotic fool immediately "googled" all the scams being perpetrated by unscrupulous people using tribal status as an excuse, purpose and reason for scamming others into applying for tax exempt status. And he had the gall to tell me he was a tax attorney who never heard of section 17 of the Indian Reorganization Act of 1934 !!! Such morons repeatedly walk into my professional life

This is a friendly reminder to all those potentials who wish to seek my help. WHEN IN DOUBT STAY THE HELL OUT AND QUIT BOTHERING ME. I promise you I will be outright rude when you call without checking out who we are and what we stand for, who I am, and what I stand for in the matrix of federal Indian law which is still evolving as a matter of first impression after 400 odd years of oppression, depression and suppression by those who chose to emigrate here from Europe in the early 1600s and sink lasting roots here without visas, travel documents or passports.

Judge Navin-Chandra Naidu (Silver Cloud Musafir)

THE CHURCH IS A SEPARATE COEQUAL SOVEREIGN,

> *"...The letter killeth, but the spirit giveth life"* - II Corinthians 3:6 KJV

John Adams, Second President of the United States, could not have put it more succinctly when he said that...

> *"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe".*

President Adams recognized the sanctity, supremacy and sovereignty of God, and God's dominion over all things - this is Natural Law.

One of the recurring messages in the Holy Bible is the dynamic that the people of God be nonconformists to the secular world - Deuteronomy 13:12-18; 18: 9-13; Romans 12:2; James 4:4; 1 John 2:15-17. There is ample rationale and reason behind this justification and mandate of God. Small wonder that secular indoctrination works wonders upon us when it competes with the Word of God.

We have become a nation of laws and a government of men. We have some great laws, and some terribly unjust laws that are more than just flaws in man's thinking. Disobeying an unjust law finds safe and solid sanctuary in the Word of God as evidenced in Exodus 1:15-21 when Puah and Sipporah disobeyed Pharaoh in order not to incur their Jehovah's wrath when Pharaoh orders the death of newborn male Hebrew children. How many Puahs and Sipporahs are out there waiting to disobey an unjust law? One of the laws of our land claims that...

> *"no one is bound to obey an unconstitutional law and no courts are bound to enforce it"*. 16 Am Jur 2d. §177, late 2d. §256.

Unjust secular laws are mentioned in Isaiah 10:1-2, Isaiah 31:1-3 further justifying Levites as law judges - Ezekiel 44:24; and the setting up of ecclesiastical courts - Deuteronomy 17:8-13; Ezra 7:24-26; Isaiah 9: 6-7; 1 Corinthians 6:1-8. Did you know that when an individual becomes a member of a church, he/she submits to its ecclesiastical jurisdiction and he/she has no legal right to invoke the supervisory power of a civil court? Read up 76 §85 (Ecclesiastical Jurisdiction of Church Tribunals in General), Corpus Juris Secundum.(CJS)

> *"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed"*

... declared the United States Supreme Court in Norton v. Shelby County, 118 U.S. 425 p. 442 (1886). We thank God for the United States Supreme Court in that it did, quite rarely, as in this case, separate the wheat from the chaff and get down to the truth of the matter in rendering a true verdict for real and measurable justice.

And, in America today, did you know that once an ecclesiastical tribunal (church court, that is) has made a decision, no civil court can disturb such decision?

> *"There is nothing more terrifying than ignorance in action"* - Goethe

> *"My people are destroyed for lack of knowledge"* - Hosea 4:6.

We cannot afford to be ignorant of our basic rights. It is our duty to learn them, remember them, and to use them everyday of our lives. Our lives could depend on these basic rights especially when we know them and insist on enforcing them. One of the laws of the state of Washington, **RCW 28A.230.170** states that the study of the Constitution of the United States and the Constitution of the state of Washington is compulsory in that it *"shall be a condition prerequisite to graduation from public and private high schools of this state"*. Yet, how many our students, or adults for that matter, really know the federal and state Constitutions?

Did you know, for example, that once you have requested a church to solemnize your marriage, no civil court has the right to interfere even in matters relating to divorce, child custody, and property distribution because you have become a member of that church that got you married in the first instance. 76 §85 CJS, remember? But remember also the speed at which some *"church folk"* run into secular courts to obtain a divorce in a no-fault divorce state court!

The Free Exercise Clause of the **First Amendment** of the Bill of Rights has clearly underscored the fact that the secular government cannot make any law undermining the free exercise of religion. This must be viewed as an open confession and admission by the supreme law of the land - the federal Constitution - that the Church is not to be interfered with, or intruded upon, by the three organs of secular government - the executive, the legislature, or the judiciary. In other words, the supreme law of the land is saying to the Church - you are a coequal but separate sovereign. And I have made a law - a supreme law - identifying the fact that I cannot interrupt, intercede, or interfere with your affairs.

As if the supreme law of the land was insufficient, the Congress of the United States passed **Public Law 97-280** in October 1982, which declared the Holy Bible as the Word of God. Soon thereafter, several pieces of legislation were promulgated, and some powerful United States Supreme Court decisions were handed down, to maintain the separate and coequal sovereign status of the Church.

Many churches in America today have unknowingly and unwittingly opted for the dreaded **501**(c)(3) tax-exempt status of the Internal Revenue Code. This exemption, which churches apply for, has effectively removed the separate sovereign status of the Church, and instead has placed its neck, willingly, in a noose whose controls are usually in the hands of the secular government. When a church is seen to be endorsing a political candidate, or preaching and teaching against same-sex marriage, or condemning abortion, or gay and lesbian rights, the noose tightens often with the threat of losing the 501(c)(3) tax-exempt status. Many churches have unnecessarily suffered at the hands of the government because they opted to knowingly make the dreadful mistake of applying for a tax-exempt status. The strange anomaly of it all is the fact that churches in America think there is no way out of this quagmire! And there are Christian attorneys and accountants and authors who nonchalantly endorse the 501(c)(3) tax-exempt status.

BUT IS THERE ANOTHER WAY to get around the 501(c)(3) tax-exempt status? Yes, there is. That is achieved by invoking the **508**(c)(1)(A) status of the Internal Revenue Code whereby a church, their integrated auxiliaries, and conventions or associations of churches are mandatorily excepted from paying any taxes.

In other words, you invoke an exception instead of applying for an exemption. Surely, you can spot the difference between an exception and an exemption.

And the time has come for the Church in America to distance itself from the secular and be the coequal separate sovereign that it truly is by conducting its own internal affairs by and through its very own ecclesiastical government. After all, the Vatican is a prime example of the sovereignty of the Catholic Church in world affairs. The Pope is the Head of that ecclesiastical government. The Church of England enjoys the same powers of sovereignty in England with the Archbishop of Canterbury as the titular head of the

CAMPAIGNS (11/13/13)

THE INFLUENCE OF EUROPEAN POLITICAL WRITINGS IN THE DEVELOPMENT AND EMERGENCE OF FEDERAL INDIAN LAW (11/21/13)

In The News

NOTICE

June 26, 2014

JUDGE NAVIN-CHANDRA NAIDU, ESQ. APPOINTED, DESIGNATED AND ENTRUSTED AS CHIEF LEGAL ADVISER AND SOLE REPRESENTATIVE TO THE UN AND INTERNATIONAL COURT OF JUSTICE BY PARAMOUNT SULTAN OF SULU (June 26, 2014)

Copy of Royal Appointment

NOTICE

June 18, 2014

PETITION FOR JUDICIAL REVIEW AS AN ARTICLE III COURT OF ORIGINAL JURISDICTION TO DETERMINE THE VALIDITY OF THE NATION-STATE STATUS OF THE KINGDOM OF HAWAII SUBMITTED TO THE SUPREME COURT OF THE UNITED STATES OF AMERICA (June 18, 2014).

Copy of Petition for Judicial Review

ecclesiastical government of the Church of England.

So, why is this not happening in America today? Where does the church stand in America today? Is it subservient to the secular? Is it dependent upon the secular? Is the church holding its hat in hand when it comes to the secular *"seeking permission"* to do this or that in the name of God?

There is **NO LAW** in America that can stop the Church from exerting and exercising its true sovereignty by establishing its very own police force, banking industry, executive, legislative, and judicial branches because the supreme law of the land - the federal Constitution - says that Congress shall make no law prohibiting the free exercise of religion.

WILL THE CHURCH WAKE UP TO THIS CALL AND DO THAT WHICH IS RIGHT IN GOD'S ECONOMY? We cannot wait for the next generation to take cudgels on our behalf. We must do it now. We must take the Church forward through a quantum leap of faith, understanding, and courage. And we can do it, NOW. The only thing stopping us is our negative perceptions, our unfounded fears, and our hopelessness in depending upon the secular governments of the day in municipal, county, state, and federal realms.

"Thou shall not steal" is one of the Lord's Commandments, and it includes the stealing of ecclesiastical jurisdiction by a non-ecclesiastical station in life. Remember Moloch in the Old Testament (1 Kings 6:5,33; Jeremiah 32:35)... Moloch worship is state worship - the government which arrogates to itself all power and bow before no other. The state is an agency of law. GOD is the only true source of law. You must get yourself a copy of *"The World Under God's Law"* by T. Robert Ingram for real enlightenment on this subject.

Please read and take note of these various **Presidential Proclamations** and the frequent references to "**Almighty God**" published in the United States Statutes at Large (the links will open a new window). Some of these are several pages long, so please remember to use "next image" links to flip through the pages of the Stats when reading through some of these proclamations.

Presidential Proclamations

11 Stat. 754: No. 5 -	A day of Public Thanksgiving appointed. Jan. 1, 1795 - Geo. Washington
11 Stat. 756: No. 7 -	A day of Public Humiliation appointed. March 23, 1798 - John Adams
11 Stat. 763: No. 14 -	A day of Public humiliation appointed. Nov. 16, 1814 - James Madison
12 Stat. 1261: No. 8 -	Appointment of a day of Public Humiliation, Prayer, and Fasting. Aug. 12, 1861 - A. Lincoln

NOTICE

June 17, 2014

APPOINTMENT of NAVIN-CHANDRA NAIDU (Silver Cloud Musafir) as HM Attorney General of the Kindom of Hawai'i (Nov 11, 2009).

HM Appointment of Mr. Navin-Chandra Naidu 11/11/09

NOTICE

November 7, 2013

APPOINTMENT of NAVIN-CHANDRA NAIDU, Chief Justice and Ambassador TO THE UNITED NATIONS on behalf of Mund Bareefan Clan Yamassee Native American Association of Nations.

UN Appointment of Judge Navin-Chandra Naidu 11/13

NOTICE

September 15, 2013

Royal Order regarding ROOSEVELT HARRISON from the Royal Borneo Nations.

Royal Order from Royal Borneo Nations 9/15/13

NOTICE

June 15, 2013

STEVEN CHARLES HANCE, of 105 Charleston St Monore, NC, is not authorized to conduct business for either the Ecclesiastical Court of Justice, the Ecclesiastical Law Offices or the Royal Borneo

12 Stat. 1263: No. 11 -	Public Thanksgiving for Victories, recommended. April 10, 1862 - A. Lincoln
12 Stat. 1270: No. 19 -	A day set apart as a day for National humiliation, prayer and fasting. March 30, 1863 - A. Lincoln
13 Stat. 733: No. 6 -	A day of National thanksgiving, praise and prayer appointed. July 15, 1863 - A. Lincoln
13 Stat. 735: No. 9 -	A day of thanksgiving and praise set apart. Oct. 3, 1863 - A. Lincoln
13 Stat. 743: No. 17 -	A day of National humiliation and prayer appointed. July 7, 1864 - A. Lincoln
13 Stat. 749: No. 21 -	A day of thanksgiving and praise set appointed. Oct. 20, 1864 - A. Lincoln
13 Stat. 755: No. 32 -	A day of humiliation and mourning. April 25, 1865 - Andrew Johnson
13 Stat. 773: No. 50 -	A day of National thanksgiving. Oct. 28, 1865 - Andrew Johnson
14 Stat. 817: No. 5 -	Thursday Nov. 29 1866 appointed a day of Thanksgiving and Praise. Oct. 8, 1866 - Andrew Johnson
15 Stat. 701: No. 5 -	A day of National Thanksgiving and Praise appointed for Nov. 28, 1867. Oct 26, 1867 - Andrew Johnson
15 Stat. 711: No. 14 -	Thursday Nov. 26 1868 appointed a day of Thanksgiving and Praise. Oct. 12, 1868 - Andrew Johnson
16 Stat. 1129: No. 7 -	Thursday Nov. 18 1869 appointed a day of Thanksgiving, Praise and Prayer. Oct. 5, 1869 - U.S. Grant
16 Stat. 1137: No. 15 -	Thursday Nov. 24 1870 Recommended as a day of Public Thanksgiving. Oct. 21, 1870 - U.S. Grant

Francis Bacon once said that...

> *"knowledge is like waters; some descend from the heavens, some spring from the earth. For all knowledge proceeds from a twofold source - either from divine inspiration or external sense".*

The application of such acquired knowledge plays an equally powerful role in our lives.

Nations

ARTICLE

November 28, 2012

ECCLESIASTICAL COURTS NOW AVAILABLE to resolve your legal issues as recognized and validated by the U.S. Constitution, and federal laws which declared the Holy Bible as the Word of God
To view full article click here

Copy of Supreme Court Sylabus on *Hosanna-Tabor Lutheran Church v. EEOC, et al*

ARTICLE

October 3, 2012

1,500 MINISTERS TO PREACH ON POLITICS - Movement challenges IRS ban on naming names from pulpit.
To view click here

ARTICLE

September 15, 2012

Christian Law Manifesto
To view click here

ORDER

September 5, 2012

Judgement and Order of the Ecclesiastical Court of Justice

Click here to view this Important Order.

NOTICE

EMIT & TOTAJ UPDATE

Click here to view this

WIAM has put together a Law School Program for those aspiring a legal profession built on the foundation of an understanding of Biblical law and a proficient working knowledge of our civil laws and legal system. This Law School Program is quite unlike almost every law school in the country. Please take some time to look over the **Syllabus** to understand how we are refreshingly different.

> And please remember *"that a complacent satisfaction with present knowledge is the chief bar to the pursuit of knowledge"*. - B H Liddell Hart

The Holy Bible, in the book of Proverbs, has much to say about wisdom, understanding, and knowledge. Yours is the world, yours is the victory if you care to acquire the mercurial tenet called knowledge.

> John Locke, in his treatise, *Some Thoughts Concerning Education, 94, 1693*, put it beautifully when he said *"The only Fence against the World is a thorough Knowledge of it"*.

> *"But seek first the kingdom of God and His righteousness,*
> *and all these things shall be added to you."* - Jesus, Matthew 6:33 NKJV

Return to the top

Important Notice. here

SEMINAR
THE DEATH OF DEBT
Salt Lake City, Utah
To Learn More click here

Supreme Court takes up Law School Case on Christian Student Group. here

Why is Supreme Court holding onto Christian Legal Society Case? here

9th Circuit Rules Law School Cannot Be Required to Recognize Religious Student Group That Discriminates. here

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Judge Naidu writes Amicus Curiae Brief to the U.S. Supreme Court. 13 August 2009. Read the Brief here

Judge Naidu speaks at International Law Symposium, Kuala Lumpur, Malaysia. 7 August 2008. Read the letter here

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

An Opinion by Judge Naidu Regarding the Sultantate of Sulu's Claim Over British North Borneo Now Called "SABAH". Read the opion here

A Deeper Insight into the Property Righrts of the Sultanate of Sulu Using British Jurisprudence as a

Guide and Guardian to Established Principles of Law and Justice.
Read the opinion here

The Believer's Petition article

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- Memorial & Remonstrance
- FindLaw.Com
- Law Dictionaries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report
- The Deposit & Credit Multiplier Effect
- HEEP - Home Equity Enhancement Program flyer (pdf file)

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News
- Washitaw Empire

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Thank You Visitors

Indian Tribes Not Taxed on Section 17 Corporation Income—Even When Earned Outside Indian Country

Chairman Horton is striving to bring clarity to the income tax consequences to Indian tribes operating businesses outside Indian Country.

Many of California's over 100 federally recognized Indian tribes are choosing to operate commercial activities, outside of Indian Country. These activities range from real estate enterprises to technology start-ups. Consequently, this created some uncertainty for the tribes when it comes to income tax consequences.

Recently, we succeeded in working with a California tribe and the Franchise Tax Board to clarify that tribes operating businesses organized as section 17 corporations outside Indian Country are not taxed on the income of the corporation. The following information should be helpful if your tribe operates a section 17 corporation and faces similar confusion about the income tax consequences of the business.

What is a section 17 corporation?

Section 17 of the Indian Reorganization Act of 1934 (IRA) gives tribes the power to organize a federally chartered tribal corporation to engage in business transactions. To form a section 17 corporation, a tribe must draft a charter, submit it for approval to the Bureau of Indian Affairs, and receive an Approval Article or Certificate signed by the Secretary of the Interior. The corporation must be structured as a legal entity wholly owned by the tribe, but separate and distinct from the tribal government.

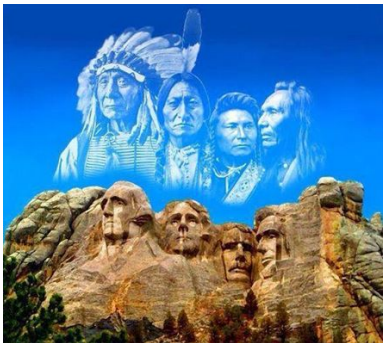
A section 17 corporation shares the same privileges and immunities as the tribal government, but holds assets or property separately from the tribal governing body. The property or assets of the corporation are at risk in the amount necessary to satisfy creditors and developers; however, property owned by the separate and distinct tribal governmental body is still protected by sovereign immunity and is safe from the execution of a judgment against the corporation.

Is a section 17 corporation's income taxable?

Tribal corporations formed under section 17 of the IRA are not recognized as separate entities for federal tax purposes. The section 17 corporation has the same tax status as the tribe. The Supreme

Court case of Mescalero Apache Tribe v. Jones determined states may retain the right to tax tribal corporations; however, California law under Regulation 23038(b)-1(a)(3) treats tribal corporations formed under section 17 as an arm of the tribe (411 U.S. 145 (1973)). Since the tribe is not subject to federal or California income tax, the section 17 corporation is also not subject to federal or California income taxes for income derived from its activities. Therefore, neither the Internal Revenue Service nor the Franchise Tax Board can impose tax on a section 17 corporation's income, regardless of whether the corporation's operations occur inside or outside of Indian Country.

Do you still have questions?
If you have any questions about the California taxation of a section 17 corporation or other tribal tax issues, please feel free to contact Chairman Horton's Franchise and Income Tax Counsel, Ms. Jaclyn Appleby, at 916-445-4154, or email Ms. Appleby at jaclyn.appleby@boe.ca.gov.
As always, we are at your service.



LAW OFFICES OF SILVA, NAIDU, TANGAVELU CHAOUI RANDAZZO PAWLOWSKI & ENGEN ©
(*A Tribal Law Corporation under Section 17, Indian Reorganization Act of 1934***)**
Mailing Address: 54-250 Honoma Street, Hau'ula, Hawaii 96717
Email: truthnjustice1950@yahoo.com.ph
Website: www.scripturalaw.org

USEFUL HINTS TO RECOVER YOUR MONEY IF YOU HAVE LOST HOMES TO FORECLOSURE/EVICTIONS; THOSE FACING FORECLOSURE WITHOUT NOTICE OF EVICTION POSTED AS YET; AND FOR THOSE WHO ARE CURRENT IN THEIR MORTGAGE PAYMENTS

(By Judge Navin-Chandra Naidu, Aug.16, 2014)

1. It is an undeniable fact in the United States that almost all homebuyers are totally ignorant or unaware of their homeowner rights, or lack thereof, in the **Sale & Purchase Agreement** (SPA) which is the very first contract entered into between the Seller and the Homebuyer. The controlling law under which the SPA is concluded is the **Real Estate Settlement Procedures Act** (RESPA) which really only stipulates the fees and costs associated with the sale of the real estate property. It contains no disclosures, caveats, warnings, or rights and immunities for the Homebuyer who has expended his/her valuable consent by a signature.

The SPA has three crucial elements. *First*, it is a confession of judgment (cognovit note) that triggers a trustee sale at the moment of default. This is a violation of due process as guaranteed in the **Fourteenth Amendment**. This defect also aids and abets the non-judicial foreclosure proceedings in a state court which requires only the signature of the Clerk of the Court, not a sitting judge. (Further injury and insult is assured by, for example, **Section 2924 of the California Civil Code** which does not require a foreclosing agent to evidence actual physical ownership of the mortgage note! Other States have unconstitutional laws, too, that favor foreclosing/evicting brigades.

Second, the SPA is a deed of trust with no rights to title. *Third*, it is a Security Instrument which allows the seller, speculators, investors and holders in due course (the parties that purchase your mortgage note with whom you have no contract) to bundle mortgage-backed securities and earn hundreds of millions of dollars with no profit, benefit or advantage to the homebuyer(s). When you check the **Pooling & Servicing Agreement** and **Master Loan Schedule**, both public documents, through a mortgage securitization analysis and report, you will discover how much you lost out in the profits that you are eligible for conveniently omitted in the SPA. ***For example, a $700,000.00 (seven hundred thousand dollar) home fetched $800 million. NO profit-sharing with the homebuyer(s) who signed away their rights during the SPA phase!***

2. The 20 states that are considered deed of trust states are: Alaska, Arizona, California, Colorado, Idaho, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Oregon, Tennessee, Texas, Utah, Virginia, Washington and West Virginia along with the District of Columbia. All other states use mortgages to secure debts except Georgia, which uses a security deed and Connecticut which uses a mortgage deed.

FIGHTING FORECLOSURE FEARLESSLY, FIRMLY AND FAIRLY AS AN ENROLLED TRIBAL MEMBER – GET YOURSELF OUT OF THE EXISITNG SYSTEM AND JURISDICTION

The United States Supreme Court has constantly agreed, decided and declared that a Tribe's right to define its own membership is sacrosanct because the US government has recognized the fact American Indian tribes and the Kingdom of Hawai'i Nationals are inherently sovereign. Blood quantum is not required. You can become a card-carrying Enrolled Tribal Member (ETM), and enjoy the benefits (court appearances only in tribal courts, taxation, educational, travel, employment, etc) of an ETM in a new jurisdiction.

3. If in the Hawaiian Islands, as a native Hawaiian tribal member, you are entitled to initiate a lawsuit in the Kingdom of Hawa'i ***tribal court*** under, Article XII, Section 7, of the Hawaii Constitution that recognizes native title. **The lender banks CAN NEVER PROVE superior title (*ahupua'a*). Fee simple is inferior and is a component of rubbish law.** If they (the lender bank or holder in due course) do not respond, the tribal court issues you a money judgment which can be factored, securitized or sold overseas under the **Uniform Foreign Money-Judgments Recognition Act.** Judgment awards are for a minimum of $10 million. After factoring, the Homebuyer should and can expect at least **3-4 million dollars.** This has been an ongoing practice for many years now.

3. If in continental America, as a tribal member, we can sue on your behalf at the **Cherokee Nation tribal court**. Every inch of land and soil in continental America is in Indian country, 18 United States Code, § 1151. *UNLESS Congress extinguished customary native title, these lenders and banksters, foreclosing and*

evicting monkeys will NOT be able to evidence valid good and superior title. A typical lawsuit is found on our Drake Bailey blogsite.

4. Tribal courts deserve full faith and credit since they are the court of an independent sovereign (Wis. Stat. § 806.245) ; in order to end confusion cases filed in state or tribal courts require mutual consultation. *Teague v. Bad River Band,* 236 Wis.2d384 (2000). According to the Restatement (Second) of Conflicts § 86, when courts of separate sovereigns both have jurisdiction over the same matter, the court ***first rendering judgment*** is commonly entitled to have its judgment receive full faith and credit by the other jurisdiction.

5. The U.S. Supreme Court held that the historical failure of the tribe to execute its powers ***did not*** bar a modern tribal assumption of jurisdiction in constituting a tribal court. It upheld exclusive jurisdiction of tribal courts and stating that such exclusive jurisdiction is justified because it is intended to benefit the Indians by furthering the congressional policy of Indian self-government. *Fisher v. District Court*, 424 U.S. 382 (1976) (Applicable to Native Hawaiians and Alaska Natives as well).

6. The United States Supreme Court, in a case decided in 1985 recognized the **jurisdiction** of tribal courts over lawsuits that involved non**- tribal members.** In *National Farmers Ins. Cos. v. Crow Tribe*, 471 U.S. 845 (1985), the Supreme Court ruled that any challenge to the jurisdiction of a tribal court had to first be presented to the tribal court; and, in 1997, in *Basil Cook Enterprises Inc. v. St. Regis Mohawk Tribe,* 117 F. 3rd 61 (2d Cir. 1997), the US Court of Appeals for the Second Circuit applied this doctrine to uphold a challenge against the St. Regis Mohawk Tribal Court.

Large numbers of litigants can make a huge difference.

7. Wall Street owns Congress that make laws that favor the super-rich, powerful and influential who give away billions in campaign contributions. That's America. The jobber is just another slave whose signature is a consent. Be careful what and when you sign!! America is all about promise to pay built largely and solely on ***credit.*** Even our paper money is ***unconstitutional*** (check out Article 1, section 8, clause 5 & Article 1, section 10, clause 1, U.S. Constitution). That's why we went off the gold standard - to make the US dollar (paper money) almighty.

If we have large numbers of litigants, THE KINGDOM OF HAWAII LAW OFFICES AND THE CHEROKKE NATION LAW OFFICES are willing to offer an affordable package for tribal membership and litigation fees.

8. PLEASE NOTE: Tribal court money-judgments can be issued within 30 days. If the banksters refuse to acknowledge a federal tribal court's money-judgment, just as well. We will sell these money judgments in Hong Kong for say 40 cents on the dollar, which means you can end up with about 4 million dollars. Each judgment is for a minimum of ten million dollars. Our Hong Kong Partners are conducting ongoing collections activity.

The Hong Kong collections banks uses the Uniform Foreign Money-Judgments Recognition Act to collect from the Federal Depository Insurance Corporation (FDIC), Lloyds of London, or any other private insurance firm that is the underwriter for these lenders. Money-judgments' collections can take as long as 365 days.

The FDIC will pay at least ten million dollars per property per money-judgment quantum, and then obtain a tax credit for twenty million dollars !! Business as usual, Wall Street fashion.

9. For those still paying the mortgage, or staving off foreclosure while being pressured to do a loan-modification, or short-sale, your ETM status will be useful in fighting the lenders/mortgage servicers in state or federal courts where we raise federal Indian law issues which federal courts look upon very favorably because Indian tribes are "domestic dependent wards."

Send us an email at truthnjustice1950@yahoo.com.ph for a detailed discussion on a case-by-case basis.

Ecclesiastical Court of Justice and Law Offices

Lies have speed, but Truth has endurance

> *"For God may speak in one way, or in another, yet man does not preceive it."*
> - Job 33:14 NKJV

The principal aim of the **Word In Action Ministry (WIAM)** in association with the Ecclesiastical Court of Justice and Law Offices and the Native American Law & Justice Center is to empower God's people towards the acquisition of knowledge, which would enable them to hone and develop the powers of understanding and acquiring wisdom.

The abundant allegorical teachings of the Holy Bible shed more light into the mysteries of human life and experiences than any other authority on theology or theosophy. Thus, the Holy Bible is our source of inspiration from which we draw our life's longing to lead fuller, more obedient and abundant lives. To learn from the experiences of every character in the Holy Bible, from Adam and Eve to John in Patmos, and to follow the true revealed Word of God, is our only goal and our truest hope.

IF YOU NEED FEDERAL INDIAN LAW ASSISTANCE

Lots of people come into my professional life seeking legal advice regarding tribal membership, tribal benefits, issues relating to taxation, banking and finance from an American Indian perspective. Usually, I show these people the law(s) as promulgated by the Congress, decisions of various state and federal courts including the U.S. Supreme Court, and other executive and administrative policy decisions affecting American Indian Tribes whose inherent tribal sovereignty has been a constant nightmare and an inconvenient truth to our politicians from the day the Vikings, Sebastian Cabot, Amerigo Vespucci, and other explorers set foot on our tribal lands.

I expect these people to read, examine and analyze these articles, findings, congressional debates, essays, reports, and decisions. I notice a sickening habit instead – they wait to hear negative reports about Indian tribes. They love to read this negativity. They wallow in this sordid smear campaigns. Their lives are happier when they read such stupid reports over the Internet where pseudnyms and nom de guerre are used by scared writers wishing undeserved anonymity. There ought to be a law to disembowel these psychos while they are being hanged!

Recently, I had a New York attorney call me regarding tax exemptions for

Worth Special Mention

Where the Spirit of the Lord is, there is Liberty. - 2nd Corinthians 3:17, Bible, NKJV

NOTICE

September 7, 2014

INDIAN TRIBES NOT TAXED ON SECTION 17 CORPORATION INCOME - EVEN WHEN EARNED OUTSIDE INDIAN COUNTRY

NOTICE

August 16, 2014

FIGHTING FORECLOSURES

NOTICE

July 22, 2014

AFFIDAVIT OF JUDGE NAVIN-CHANDRA NAIDU REGARDING DR. EDMUND K. SILVA, JR SCHOLARSHIP and NATIVE AMERICAN STANDING

NOTICE

July 12, 2013

A CONSTITUTIONAL AND PRACTICAL APPROACH TO A PEOPLES COURT OF AMERICA©

tribal corporations. I had earlier showed him the appropriate and applicable law regarding this issue. This deranged and psychotic fool immediately "googled" all the scams being perpetrated by unscrupulous people using tribal status as an excuse, purpose and reason for scamming others into applying for tax exempt status. And he had the gall to tell me he was a tax attorney who never heard of section 17 of the Indian Reorganization Act of 1934 !!! Such morons repeatedly walk into my professional life

This is a friendly reminder to all those potentials who wish to seek my help. WHEN IN DOUBT STAY THE HELL OUT AND QUIT BOTHERING ME. I promise you I will be outright rude when you call without checking out who we are and what we stand for, who I am, and what I stand for in the matrix of federal Indian law which is still evolving as a matter of first impression after 400 odd years of oppression, depression and suppression by those who chose to emigrate here from Europe in the early 1600s and sink lasting roots here without visas, travel documents or passports.

Judge Navin-Chandra Naidu (Silver Cloud Musafir)

THE CHURCH IS A SEPARATE COEQUAL SOVEREIGN,

> *"...The letter killeth, but the spirit giveth life"* - II Corinthians 3:6 KJV

John Adams, Second President of the United States, could not have put it more succinctly when he said that...

> *"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe".*

President Adams recognized the sanctity, supremacy and sovereignty of God, and God's dominion over all things - this is Natural Law.

One of the recurring messages in the Holy Bible is the dynamic that the people of God be nonconformists to the secular world - Deuteronomy 13:12-18; 18: 9-13; Romans 12:2; James 4:4; 1 John 2:15-17. There is ample rationale and reason behind this justification and mandate of God. Small wonder that secular indoctrination works wonders upon us when it competes with the Word of God.

We have become a nation of laws and a government of men. We have some great laws, and some terribly unjust laws that are more than just flaws in man's thinking. Disobeying an unjust law finds safe and solid sanctuary in the Word of God as evidenced in Exodus 1:15-21 when Puah and Sipporah disobeyed Pharaoh in order not to incur their Jehovah's wrath when Pharaoh orders the death of newborn male Hebrew children. How many Puahs and Sipporahs are out there waiting to disobey an unjust law? One of the laws of our land claims that...

By Judge Navin-Chandra Naidu

NOTICE

August 8, 2009

FIJI FRACAS

By DP Dwyer

INDIAN AFFAIRS

AUGUST 17, 2014

JUDGE NAIDU NOW SERVING AS SENIOR JUDGE MENTOR, CHEROKEE NATION OF INDIANS

AUGUST 5, 2014

WASHITAW NATION DEMANDS APOLOGY FROM SOUTHERN POVERTY LAW CENTER

JULY 22, 2014

JUDGE NAIDU WRITES TO THE DEPARTMENT OF JUSTICE / FBI

JUNE 11, 2014

FORESTALL FORECLOSURE BY ACQUIRING SUPERIOR LAND TITLE (USUCAPION): One Sovereign Broaching And Approaching An Encroaching Sovereign© By: Judge Navin-Chandra Naidu

JUNE 7, 2014

CURRENT IMMIGRATION LAWS AS VIEWED IN THE NATIVE AMERICAN CONTEXT (An Opinion by Judge Silver Cloud

> *"no one is bound to obey an unconstitutional law and no courts are bound to enforce it"*. 16 Am Jur 2d. §177, late 2d. §256.

Unjust secular laws are mentioned in Isaiah 10:1-2, Isaiah 31:1-3 further justifying Levites as law judges - Ezekiel 44:24; and the setting up of ecclesiastical courts - Deuteronomy 17:8-13; Ezra 7:24-26; Isaiah 9: 6-7; 1 Corinthians 6:1-8. Did you know that when an individual becomes a member of a church, he/she submits to its ecclesiastical jurisdiction and he/she has no legal right to invoke the supervisory power of a civil court? Read up 76 §85 (Ecclesiastical Jurisdiction of Church Tribunals in General), Corpus Juris Secundum.(CJS)

> *"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed"*

... declared the United States Supreme Court in Norton v. Shelby County, 118 U.S. 425 p. 442 (1886). We thank God for the United States Supreme Court in that it did, quite rarely, as in this case, separate the wheat from the chaff and get down to the truth of the matter in rendering a true verdict for real and measurable justice.

And, in America today, did you know that once an ecclesiastical tribunal (church court, that is) has made a decision, no civil court can disturb such decision?

> *"There is nothing more terrifying than ignorance in action"* - Goethe

> *"My people are destroyed for lack of knowledge"* - Hosea 4:6.

We cannot afford to be ignorant of our basic rights. It is our duty to learn them, remember them, and to use them everyday of our lives. Our lives could depend on these basic rights especially when we know them and insist on enforcing them. One of the laws of the state of Washington, **RCW 28A.230.170** states that the study of the Constitution of the United States and the Constitution of the state of Washington is compulsory in that it *"shall be a condition prerequisite to graduation from public and private high schools of this state"*. Yet, how many our students, or adults for that matter, really know the federal and state Constitutions?

Did you know, for example, that once you have requested a church to solemnize your marriage, no civil court has the right to interfere even in matters relating to divorce, child custody, and property distribution because you have become a member of that church that got you married in the first instance. 76 §85 CJS, remember? But remember also the speed at which some *"church folk"* run into secular courts to obtain a divorce in a no-fault divorce state court!

The Free Exercise Clause of the **First Amendment** of the Bill of Rights has clearly underscored the fact that the secular government cannot make any law undermining the free exercise of religion. This must be viewed as an open confession and admission by the supreme law of the land - the federal Constitution - that the Church is not to be interfered with, or intruded upon, by the three organs of secular government - the executive, the legislature, or the judiciary. In other words, the supreme law of the land is saying to the Church - you are a coequal but separate sovereign. And I have made a law - a supreme law - identifying the fact that I cannot interrupt, intercede, or interfere with your affairs.

As if the supreme law of the land was insufficient, the Congress of the United States passed **Public Law 97-280** in October 1982, which declared the Holy Bible as the Word of God. Soon thereafter, several pieces of legislation were promulgated, and some powerful United States Supreme Court decisions were handed down, to maintain the separate and coequal sovereign status of the Church.

Many churches in America today have unknowingly and unwittingly opted for the dreaded **501**(c)(3) tax-exempt status of the Internal Revenue Code. This exemption, which churches apply for, has effectively removed the separate sovereign status of the Church, and instead has placed its neck, willingly, in a noose whose controls are usually in the hands of the secular government. When a church is seen to be endorsing a political candidate, or preaching and teaching against same-sex marriage, or condemning abortion, or gay and lesbian rights, the noose tightens often with the threat of losing the 501(c)(3) tax-exempt status. Many churches have unnecessarily suffered at the hands of the government because they opted to knowingly make the dreadful mistake of applying for a tax-exempt status. The strange anomaly of it all is the fact that churches in America think there is no way out of this quagmire! And there are Christian attorneys and accountants and authors who nonchalantly endorse the 501(c)(3) tax-exempt status.

BUT IS THERE ANOTHER WAY to get around the 501(c)(3) tax-exempt status? Yes, there is. That is achieved by invoking the **508**(c)(1)(A) status of the Internal Revenue Code whereby a church, their integrated auxiliaries, and conventions or associations of churches are mandatorily excepted from paying any taxes.

In other words, you invoke an exception instead of applying for an exemption. Surely, you can spot the difference between an exception and an exemption.

And the time has come for the Church in America to distance itself from the secular and be the coequal separate sovereign that it truly is by conducting its own internal affairs by and through its very own ecclesiastical government. After all, the Vatican is a prime example of the sovereignty of the Catholic Church in world affairs. The Pope is the Head of that ecclesiastical government. The Church of England enjoys the same powers of sovereignty in England with the Archbishop of Canterbury as the titular head of the

EUROPEAN POLITICAL WRITINGS IN THE DEVELOPMENT AND EMERGENCE OF FEDERAL INDIAN LAW (11/21/13)

In The News

NOTICE

June 26, 2014

JUDGE NAVIN-CHANDRA NAIDU, ESQ. APPOINTED, DESIGNATED AND ENTRUSTED AS CHIEF LEGAL ADVISER AND SOLE REPRESENTATIVE TO THE UN AND INTERNATIONAL COURT OF JUSTICE BY PARAMOUNT SULTAN OF SULU (June 26, 2014)

Copy of Royal Appointment

NOTICE

June 18, 2014

PETITION FOR JUDICIAL REVIEW AS AN ARTICLE III COURT OF ORIGINAL JURISDICTION TO DETERMINE THE VALIDITY OF THE NATION-STATE STATUS OF THE KINGDOM OF HAWAII SUBMITTED TO THE SUPREME COURT OF THE UNITED STATES OF AMERICA (June 18, 2014).

Copy of Petition for Judicial Review

NOTICE

June 17, 2014

ecclesiastical government of the Church of England.

So, why is this not happening in America today? Where does the church stand in America today? Is it subservient to the secular? Is it dependent upon the secular? Is the church holding its hat in hand when it comes to the secular *"seeking permission"* to do this or that in the name of God?

There is **NO LAW** in America that can stop the Church from exerting and exercising its true sovereignty by establishing its very own police force, banking industry, executive, legislative, and judicial branches because the supreme law of the land - the federal Constitution - says that Congress shall make no law prohibiting the free exercise of religion.

WILL THE CHURCH WAKE UP TO THIS CALL AND DO THAT WHICH IS RIGHT IN GOD'S ECONOMY? We cannot wait for the next generation to take cudgels on our behalf. We must do it now. We must take the Church forward through a quantum leap of faith, understanding, and courage. And we can do it, NOW. The only thing stopping us is our negative perceptions, our unfounded fears, and our hopelessness in depending upon the secular governments of the day in municipal, county, state, and federal realms.

"Thou shall not steal" is one of the Lord's Commandments, and it includes the stealing of ecclesiastical jurisdiction by a non-ecclesiastical station in life. Remember Moloch in the Old Testament (1 Kings 6:5,33; Jeremiah 32:35)... Moloch worship is state worship - the government which arrogates to itself all power and bow before no other. The state is an agency of law. GOD is the only true source of law. You must get yourself a copy of *"The World Under God's Law"* by T. Robert Ingram for real enlightenment on this subject.

Please read and take note of these various **Presidential Proclamations** and the frequent references to "**Almighty God**" published in the United States Statutes at Large (the links will open a new window). Some of these are several pages long, so please remember to use "next image" links to flip through the pages of the Stats when reading through some of these proclamations.

Presidential Proclamations

11 Stat. 754: No. 5 -	A day of Public Thanksgiving appointed. Jan. 1, 1795 - Geo. Washington
11 Stat. 756: No. 7 -	A day of Public Humiliation appointed. March 23, 1798 - John Adams
11 Stat. 763: No. 14 -	A day of Public humiliation appointed. Nov. 16, 1814 - James Madison
12 Stat. 1261: No. 8 -	Appointment of a day of Public Humiliation, Prayer, and Fasting. Aug. 12, 1861 - A. Lincoln

APPOINTMENT of NAVIN-CHANDRA NAIDU (Silver Cloud Musafir) as HM Attorney General of the Kindom of Hawai'i (Nov 11, 2009).

HM Appointment of Mr. Navin-Chandra Naidu 11/11/09

NOTICE

November 7, 2013

APPOINTMENT of NAVIN-CHANDRA NAIDU, Chief Justice and Ambassador TO THE UNITED NATIONS on behalf of Mund Bareefan Clan Yamassee Native American Association of Nations.

UN Appointment of Judge Navin-Chandra Naidu 11/13

NOTICE

September 15, 2013

Royal Order regarding ROOSEVELT HARRISON from the Royal Borneo Nations.

Royal Order from Royal Borneo Nations 9/15/13

NOTICE

June 15, 2013

STEVEN CHARLES HANCE, of 105 Charleston St Monore, NC, is not authorized to conduct business for either the Ecclesiastical Court of Justice, the Ecclesiastical Law Offices or the Royal Borneo Nations

ARTICLE

12 Stat. 1263: No. 11 -	Public Thanksgiving for Victories, recommended. April 10, 1862 - A. Lincoln
12 Stat. 1270: No. 19 -	A day set apart as a day for National humiliation, prayer and fasting. March 30, 1863 - A. Lincoln
13 Stat. 733: No. 6 -	A day of National thanksgiving, praise and prayer appointed. July 15, 1863 - A. Lincoln
13 Stat. 735: No. 9 -	A day of thanksgiving and praise set apart. Oct. 3, 1863 - A. Lincoln
13 Stat. 743: No. 17 -	A day of National humiliation and prayer appointed. July 7, 1864 - A. Lincoln
13 Stat. 749: No. 21 -	A day of thanksgiving and praise set appointed. Oct. 20, 1864 - A. Lincoln
13 Stat. 755: No. 32 -	A day of humiliation and mourning. April 25, 1865 - Andrew Johnson
13 Stat. 773: No. 50 -	A day of National thanksgiving. Oct. 28, 1865 - Andrew Johnson
14 Stat. 817: No. 5 -	Thursday Nov. 29 1866 appointed a day of Thanksgiving and Praise. Oct. 8, 1866 - Andrew Johnson
15 Stat. 701: No. 5 -	A day of National Thanksgiving and Praise appointed for Nov. 28, 1867. Oct 26, 1867 - Andrew Johnson
15 Stat. 711: No. 14 -	Thursday Nov. 26 1868 appointed a day of Thanksgiving and Praise. Oct. 12, 1868 - Andrew Johnson
16 Stat. 1129: No. 7 -	Thursday Nov. 18 1869 appointed a day of Thanksgiving, Praise and Prayer. Oct. 5, 1869 - U.S. Grant
16 Stat. 1137: No. 15 -	Thursday Nov. 24 1870 Recommended as a day of Public Thanksgiving. Oct. 21, 1870 - U.S. Grant

Francis Bacon once said that...

> *"knowledge is like waters; some descend from the heavens, some spring from the earth. For all knowledge proceeds from a twofold source - either from divine inspiration or external sense".*

The application of such acquired knowledge plays an equally powerful role in our lives.

November 28, 2012

ECCLESIASTICAL COURTS NOW AVAILABLE to resolve your legal issues as recognized and validated by the U.S. Constitution, and federal laws which declared the Holy Bible as the Word of God
To view full article click here

Copy of Supreme Court Sylabus on *Hosanna-Tabor Lutheran Church v. EEOC, et al*

ARTICLE

October 3, 2012

1,500 MINISTERS TO PREACH ON POLITICS - Movement challenges IRS ban on naming names from pulpit.
To view click here

ARTICLE

September 15, 2012

Christian Law Manifesto
To view click here

ORDER

September 5, 2012

Judgement and Order of the Ecclesiastical Court of Justice

Click here to view this Important Order.

NOTICE

EMIT & TOTAJ UPDATE

Click here to view this Important Notice. here

SEMINAR

THE DEATH OF DEBT

WIAM has put together a Law School Program for those aspiring a legal profession built on the foundation of an understanding of Biblical law and a proficient working knowledge of our civil laws and legal system. This Law School Program is quite unlike almost every law school in the country. Please take some time to look over the **Syllabus** to understand how we are refreshingly different.

> And please remember *"that a complacent satisfaction with present knowledge is the chief bar to the pursuit of knowledge"*. - B H Liddell Hart

The Holy Bible, in the book of Proverbs, has much to say about wisdom, understanding, and knowledge. Yours is the world, yours is the victory if you care to acquire the mercurial tenet called knowledge.

> John Locke, in his treatise, *Some Thoughts Concerning Education, 94, 1693*, put it beautifully when he said *"The only Fence against the World is a thorough Knowledge of it"*.

> *"But seek first the kingdom of God and His righteousness,*
> *and all these things shall be added to you."* - Jesus, Matthew 6:33 NKJV

Return to the top

Salt Lake City, Utah
To Learn More click here

Supreme Court takes up Law School Case on Christian Student Group. here

Why is Supreme Court holding onto Christian Legal Society Case? here

9th Circuit Rules Law School Cannot Be Required to Recognize Religious Student Group That Discriminates. here

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Judge Naidu writes Amicus Curiae Brief to the U.S. Supreme Court. 13 August 2009.
Read the Brief here

Judge Naidu speaks at International Law Symposium, Kuala Lumpur, Malaysia. 7 August 2008.
Read the letter here

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers.
Read the letter here

An Opinion by Judge Naidu Regarding the Sultantate of Sulu's Claim Over British North Borneo Now Called "SABAH". Read the opion here

A Deeper Insight into the Property Righrts of the Sultanate of Sulu Using British Jurisprudence as a Guide and Guardian to Established Principles of Law and Justice.

Read the opinion here

The Believer's Petition article

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- Memorial & Remonstrance
- FindLaw.Com
- Law Dictionaries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report
- The Deposit & Credit Multiplier Effect
- HEEP - Home Equity Enhancement Program flyer (pdf file)

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News
- Washitaw Empire

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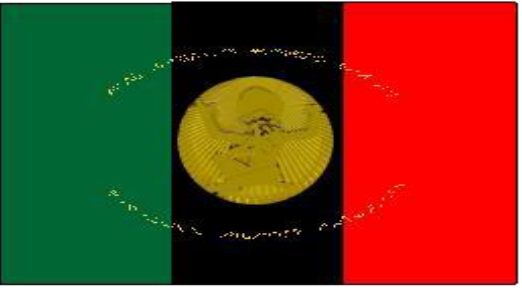
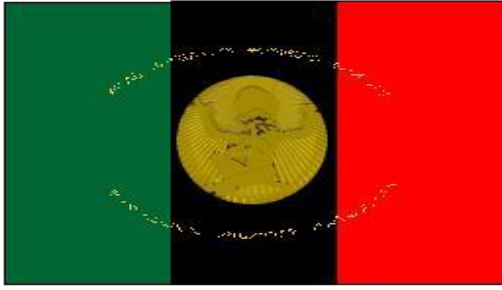
Thank You Visitors





MUND BAREEFAN-YAMASSEE NATIVE AMERICAN ASSOCIATION OF NATIONS A MUSCOGEE NATION

Original Cherokee, Creek, Seminole, Shushuni, Washitaw, Mechica, Osage, Commanche, et al;
Treaty of Camp Holmes, 1835 (7 Stat. 474) MBCYNA-NAAN

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Tuesday, Jul 22, 2014

AFFIDAVIT OF JUDGE NAVIN-CHANDRA NAIDU

TO WHOM IT MAY CONCERN

UNDER PENALTY OF PERJURY, I attest as follows:

Dr. Edmund K. Silva, Jr., the Sovereign Monarch of the Kingdom of Hawai'i, was a registered student of the **Word in Action Ministry College of Law,** to which he exceeded all expectations with distinction averaging 79% percentile in his class. That on June 7, 1996 he earned his degree in Juris Doctor (J.D.) with excellence. He continued his higher education by attending **His Majesty's University of The Royal Borneo Nations, Hong Kong** where he earned his **Ph.D. Doctorate in Political Science**. His Dissertation on The Rule of Ancient Hawaiian, European and American Laws and the Role of Justice – Bludgeons, Blunders and Bloodletting© was skillfully written, earning him the highest respect and admiration from his professors, administrators, colleagues and peers. **"The people to whom your fathers told of the living God, and taught to call 'Father,' and whom the sons now seek to despoil and destroy, are crying aloud to him in their time of trouble; and he will keep His promise, and will listen to the voices of His Hawaiian Children lamenting for their homes" – Queen Liliuokalani**

Today he is still an exemplary student never shirking from learning, knowledge and wisdom is his way of life. He believes that there are no experts anywhere because the learning process never stops. He is highly intelligent and sensitive to his neighbors (people who come into contact with him) and because of his heightened sensibilities he would be a valued Professor and Teacher. That on March 2, 2005 he graduated top two in his class 89% percentile (Summa Cum Laude) with Distinction and Honor.

To give you an invaluable insight into our thinking that identifies us as a "**Distinct Political Community**" in mainstream America, we Native Americans have flatly refused to honor any of the laws made by American politicians because they have breached just about every Treaty they concluded with our People since 1784.

Therefore, we do not trust these laws because they are created and written into law by these untrustworthy politicians. We do not wish to entrust our fates to these politicians. We believe in *istihsan* (deciding in favor of the public interest as a Native American community) and *ijtihad* (individual reasoning) to encourage unanimous consensus (*ijma*) among our People.

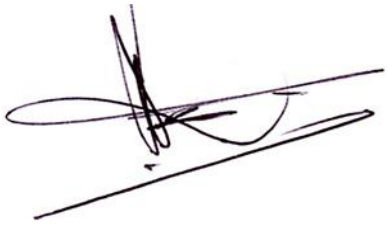
As Native Americans, enjoying inherent tribal sovereignty that predates the U.S. Constitution, we do not need their endorsement of our unique identity, traditions and customs *('urf*), and culture because their colleges and universities train students to be prepared to continue the immoral tradition through big government, big business and big banking. The world that enjoys slavery may willingly subscribe to these weapons of mass distractions but we Native Americans are very conscious of what we desire from Almighty God.

This is the principal reason we seek no endorsement, acceptance, recognition, affiliation or validation from such eminent institutions of learning like Harvard, Yale, Princeton, Cambridge, Oxford, Oxbridge, or any other institution of learning because of their incessant belief in jettisoning Almighty God from their traditions based on the suspect freedom of religion enshrined in the First Amendment, Bill of Rights, U.S. Constitution.

Our *usul al-fiqh* (sources of law) that we teach in our Colleges and Universities are derived from the Holy Scriptures including the Holy Qu'ran (including the Hadith, the Sunnah and the Sharia), the Holy Bible, the Bhagavad-Gita, the Upanishads, the Zendavesta and the teachings of Gautama Buddha. We are eclectic to a fault.

Our website lists all our activities including vital information, court decisions, court dockets and the Law College. Please visit our website for clarification and validation of what we do and who we are in the American tradition of "freedom and liberty."

I can be reached at Telephone number +**1 626-428-7669 (GMT +7)** should you need further clarification and information.



Judge Navin-Chandra Naidu
Judge Member # 01798766, American Bar Association
Member #1040751, International Bar Association
Member, National American Indian Court Judges Association

Fiji and Media Distortion

by D.P. Dwyer
August 8, 2009

The media distortion behind Fiji's George Speight & Navin Naidu, Esq.

Mahendra Chaudhury, an ethnic Indo-Fijian, won the Fijian popular vote in the year 2000, becoming Prime Minister, and helming a Parliament comprising a large number of ethnic Indian legislators. He soon set about amending the Native Title Act which would have given Indo-Fijians - descendants of indentured plantation workers hired from India to work for the burgeoning sugar-cane industry- clear title to customary native lands. This was the spark that ignited a series of events that, till today, has spawned political and economic unease in the idyllic Fiji Islands.

The thought that Fijian Natives would be dispossessed of their lands - like the Native Americans by the euro-settlers - infuriated the indigenous Fijians. George Speight, a Fijian Native, was assigned the task of neutralizing the Chaudhury government by hidden hands. Speight seized Parliament together with all the legislators and their aides who were in attendance, and held them hostage for 56 days or so, according to media reports.

Speight was unceremoniously arrested for treason with the death penalty staring him in the face as a result of a curious turn of events, a series of volte-face incidents involving the top brass of the military and the Council of Chiefs, a good measure of legerdemain, spiked with confusion, and laced with a complex web of complicated deals that went sour, allegedly, with some special interest groups who were bent on getting the coup underway in the beginning.

Speight hired Navin Naidu because of the latter's expertise in customary native title issues as he was assisting Native Americans understand the doctrine of *usucapion* – a Latin term defining the right of ownership by lengthened possession, and that they had a genuine claim for their lands under treaty terms. Naidu was selected to defend Speight because the former is himself an ethnic Indian, whose presence in Fiji would somehow placate the Indo-Fijian supporters of ex-Prime Minister Mahendra Chaudhury.

Naidu arrived in Fiji early June 2001 when Speight was still incarcerated. The English common law practiced in Fiji stipulated that treason was punishable by

death. Naidu proved to the court that under the Fijian Constitution a Fijian indigenous person can only be tried under tribal (tikina) law, and thus, cannot be tried under English common law rules. Speight is an indigenous person, and therefore, came under tribal jurisdiction. Besides, treason was alien to tribal law. Treachery was not.

This was a lasting sign of reprieve for Speight, who is still alive and well at the present time in 2009. In the meantime, during the course of the trial in Fiji, Naidu understood much later, Fijian Freemasons, who had a score to settle with Speight, contacted the University of London, a Fabian establishment known for its hidden agendas (see Jim Marrs' *Rule By Secrecy,* page 99-100), to disavow Naidu's law degree. The university did so via a facsimile communication. No flesh and bone representative from the university was present in court to confront and accuse Naidu. The university is also the Vatican of the Freemasons. In essence, the Plan was to prove that Naidu never had a law degree, and that he did not have a license to practice law, and therefore to discredit him wholesale. But the Office of Fiji's Director of Public Prosecutions acknowledged that Naidu was licensed to practice in Fijian courts!! See the newspaper article in this site. (11"x17" PDF file 293k)

Fortunately for Naidu, the conspirators were not checking, rechecking, and crosschecking their facts.

Naidu proved his credentials in the Fijian courts, and was asked to leave the country shortly thereafter. He gladly did. His only "crime" – getting involved in Fijian politics. (See Item No. 7 in the "Bail Conditions" Order of the Suva Magistrate Court in this site).

The media has been terribly unfair and unjust to Naidu. The media has had egg on its face too. Justice William O. Douglas was once observed that, *"the press is often the handmaiden of special interest groups."* The pimp and his call girl will always be in our midst muddying the waters.

Hunter S Thompson wrote, "*Absolute truth is a very rare and dangerous commodity in the context of professional journalism."* Naidu's effort in Fiji to secure Speight's release was never reported with accuracy, fairness, truth, or decency. He was tried by the merciless media owned by Indo-Fijians, who hated his guts as a fellow ethnic Indian for helping an indigenous Fijian "terrorist" – George Speight. Their diatribes against Naidu were incessant in the Fijian media between June and July of 2001.

The media can be vicious when it is out to "get someone" because that happens to be the best story to be concocted at that time. But often, it backfires, viciously. We all know about *The New Republic's* star young writer Stephen Glass and the fabrications and tall tales he cast as the truth with credibility and accuracy to boot. It finally blew up in his face when his outrageous fabrications were uncovered in May 1998. The magazine's editors and owners finally determined that 27 of the 41 stories written by Glass contained fabricated material! A movie titled "*Shattered Glass*" epitomized the whole sorry story. Mind you, *The New Republic* was a favorite read in Air Force One!

Seattle Times associate editor, Stephen H. Dunphy, reportedly resigned after acknowledging that he has plagiarized the work of other journalists, according to a news item on August 22, 2004. More horror stories about the fourth estate's credibility.

In an influential book early in the 20th century, Walter Lippmann observed that the press is *"like a beam of a searchlight that moves restlessly about, bringing one episode and then another out of darkness into vision*." Naidu was burnt by the fiery beams of the media's searchlight, which were not trained on him to search out the truth but to crucify him with falsehood, lies and fabrications. After all, lies have speed but truth has endurance.

We also know about an inaccurate attack on the Vietnam service of John Kerry, Democrat presidential candidate in 2004; and a forged document charging President Bush (43) with disobeying an order for an Air National Guard physical. The professional practices and code of responsibility in journalism suffered a body blow when the editors of *The New York Times* and *USA Today* were forced to resign for allowing these spurious articles to appear in their newspapers. Anything to get a story going.

Then there was James Forlong, a British television journalist, found dead sometime in October 2003, following a forced resignation from Sky News channel for faking a report during the Iraq war.

Walter Duranty, who reported from the Soviet Union for the *New York Times* between 1922 and 1941, is probably the most tainted scribe in that newspaper's long history. Duranty covered up Stalin's deliberate killing by starvation of as many as <u>seven million</u> Ukrainians in 1932-33. In 2003, the 70th anniversary of that infamous crime, Ukrainian groups worldwide lobbied to have Duranty's 1932

Pulitzer Prize posthumously stripped from him. They failed. Special interest groups prevailed.

Duranty is best remembered for having coined the expression, *"you can't make an omelet without breaking eggs."*

In April 2007, Washington Governor Gregoire signed a 'reporter shield law' that absolutely protects reporters in Washington state from the threat of jail for refusing to identify confidential sources. It also provides clearer safeguards from legal actions seeking the news media's notes and unpublished work products. If only Stephen Glass lived in Washington state!

With the passage of such a 'reporter shield law', it is easy to understand how the public can be misguided and misled by the misuse of truth with all the trappings of ugly distortions. Mark Trahant of the *Seattle-Post Intelligencer* posed a philosophical question sometime in November 2005: *Which is a higher journalism value - fairness or truth?"*

Naidu has moved on, and gained accolades and recognition as Chief Judge for several Native American judiciaries in the United States. He is also active in aboriginal causes in Malaysia and other Asian countries.

Aniyvwiya Grand Fire Council

For the

Cherokee nation of Indians

Treaties of 1730, 1785, 1791 and 1798

Cherrokee in America

General Executor's Official

Resolution for the Aniyvwiya Tribe

Resolution: CNOI-919

So shall it be known to all men, women and persons on Mother Earth {The Great Turtle Island} by these presence of the living council members as the Aniyvwiya Grand Fire Council, being the General Executor for the Cherokee nation of Indians and all the living beneficiaries of the organic surface estates thereof.

***Whereas**, we, the Seven Clans of the Aniyvwiya Tribe, known in the public by statute as the Cherokee nation of Indians, Cherokee Country, holding, preserving and protecting, the sacred heritage trust and surface estates of the organic indigenous Aniyvwiya Tribal estates. Done this day for the protection, preservation and claim for past and present sovereignty for traditions, law form and the beneficiary 's interest. Done on this the:*

As translated into the Gregorian Calendar as the third day of March in the year two thousand and ten [03-03-2010], for Judicial purposes; and providing the letter of Confirmation as follows:

Let this correspondence serve as verification to the facts listed in reference to our nation member(s) and specific appointment of the Senior Judge Mentor. As of the third day of March in the year two thousand and ten [03-03-2010] the Judge Silver Cloud Musafir (Navin-Chandra Naidu) shall act as the Senior Judge Mentor for Cherokee nation of Indians the unincorporated tribal society.

Let it be known that in regards to the above noted appointment, the Aniyvwiya Grand Fire Council herein unanimously and in harmony as ONE agree with the appointment, dated under the tribal callander 13 Caban Chicchan G6 also commonly known under the Roman Calendar as [March 03, 2014].

***Whereas**, we, the Seven Clans of the Aniyvwiya Tribe, known in the public by statute as the Cherokee nation of Indians, Cherokee Country, being possessed and accompanied by the spirits of our Elder Grandmothers, Forefathers and the Great Spirit Creator, standing unanimously and in harmony as ONE, agreed by and under the authority of the Aniyvwiya Grand Fire Council, as the General Executor, do hereby decree the by the arm of the council represented by the autographs, this Resolution to the formal announcement of the "Cherokee Advocates of Law Council" being appointed as the agents in person as having "Power of Attorney" to enter into diplomatic communications and relations with all other nations, states and countries, recognized by and through the official*

Ani-Tsiskwa: TseimesTsaweliTsiAni-Tsiskwa

Ani-Wodi: Gawi Li Ani-Wodi

Ani-Tlagatsi: WalitaWeiniAni-Wodi

Ani-Waya: GiwegowiAleniAni-Waya

Ani-GilohiGvtagewiGanahidv: MaikaliGeisAni-Waya

Ani-Sahoni: Somas WadiwodiAni-Sahoni

Ani-Ahwi: MageliGiAni-Ahwi

From: Judge Navin-Chandra Naidu/Silver Cloud Musafir
3610 Crooked Creek Drive
Diamond Bar, California 91765

To: Mr. Michael L. Bass
Supervisory Special Agent
U.S. Department of Justice
Federal Bureau of Investigation
11000 Wilshire Boulevard,
Los Angeles, California 90024

Dear Mr. Michael L. Bass,

Thanks very much for your communication of July 11, 2014, in the matter of the U.S.D.C. of the Northern District of Georgia v. Derrick H. Sanders.

I am not quite sure of the reason you sent me this information, but I would imagine it had something to do with a visit by one of the FBI Agents to my private residence in Diamond Bar.

It would have been delightful if someone had called to make an appointment prior to the visit because such unsolicited visits are rather awkward, if not distasteful. I mean, can I personally visit your home unannounced to discuss a point of law? How would you react to that as a civilized, educated and cultured individual ? I am sure the FBI has the wherewithal to locate my residential telephone number, make a call, and thereafter visit, have a cup of tea, nibble on some cookies, and talk.

Nevertheless, it would appear that you are associating the issue of tax shelters to my standing in the community as a husband, a father, a grandfather, a law teacher, a lawyer and a tribal judge who is learned in the law.

You have sent me a decision subjectively made by some federal judge who obviously thinks he is the final infallible authority as an oracle of the law of penalties and caveats concerning taxation issues. I am not even sure if Mr. Derrick H. Sanders appealed this haphazard ruling which, in my humble opinion, fails to gain traction under the rule of law.

Strictly for the purposes of argument and understanding the law, 26 U.S. Code § 7408 relates to actions to enjoin specified conduct related to tax shelters and reportable transactions – the Act fails to specify what is specific conduct. For example, does teaching tax laws relating to tax shelters constitute a breach or violation of section 7408 that will automatically trigger penalties contemplated under 26 U.S. Code § 6700 – *Any person* promoting abusive tax shelters, etc. Would that include a teacher of law, accountant, a tax attorney who answers questions about tax exemptions enjoyed by Native Americans ?

There is a plethora of detail about tax exemptions (501 c 3), exceptions (508 c 1 a), and exclusions in Title 26, United States Code. Does invoking or applying for one of these benefits constitute a violation of Sections 7408 and 6700 ? If so, these exemptions, exceptions and exclusions will not be mentioned.

Tax exemptions enjoyed by Native Americans is not a great secret, or an unspeakable benefit, and neither does it constitute promoting a tax shelter. For example, Section 17 of the Indian Reorganization Act (IRA) of 1934 specifically stipulates that Indian tribes and Indian tribal corporations enjoy tax exemptions. So, if someone, say a student of mine, asks me about Section 17 of the IRA of 1934, and if I answer that *the law* allows tax exemptions, will I be charged for promoting a tax shelter? If I will be so charged, then this is not a free country anymore, but a police state.

The Internal Revenue Service is currently experiencing unresolved embarrassment with the resignation of Ms. Lois Lerner, Director of Exemptions, over the "lost emails" saga after having been charged with improperly using her Office to target Republican Tea Party organizations and groups who are tax-exempt. Surely the Service does not want another congressional flare-up over the issue of targeting Native Americans who constitutionally, lawfully, legally and legitimately desire to use Section 17 of the IRA of 1934, if indeed Native Americans are clamoring for tax exemptions actuated by trenchant denials and refusals by the Service.

The Northern District of Georgia also points to the fact that the Yamassee are not Native Americans. This is sadly incorrect because I can tell you that the federal judge who decided the *Sanders* case did not do his homework. The Yamassee are part and parcel of the Muscogee Nation associated with

the Creeks who concluded the Treaty of Camp Holmes on 24 August 1835, codified as 7 Stat. 474. The name of the Muscogee Nation appears in the Federally Recognized Indian Tribes List Act of 1995.

The issue of the Yamassee being non-resident aliens is arguable depending on the interpretation(s) of Article 1, section 8, clause 4 of the U.S. Constitution, and whether the consent of Native Americans is absolutely required and essential before they can be assimilated as U.S. citizens under the 1925 Indian Naturalization Act.

I would venture to say that the *Sanders* case federal judge fell under the spell of a "false and undesirable notion that a nice concept has a certain persistence once introduced into the law. Preserved in the record of precedent, it never ceases to tempt resurrection to help some court out of a hard case." (Russel Lawrence Barsh & James Youngblood Henderson, *The Road: Indian tribes and Political Liberty*, at page 183).

Be that as it may, I thank you for your concern over this matter, and I can assure you that I shall leave no stone unturned in teaching the law of taxation according to the rule of law, doctrines and maxims of law, and decided cases that offer tax exemptions, exceptions and exclusions to Native Americans who seek my advice and guidance. Please do not take this as an expression of bravado and defiance, but teaching the law is closely associated with my right to a livelihood as contemplated under the Ninth Amendment, Bill of Rights, U.S. Constitution.

Respectfully,


©®

~ Judge Navin-Chandra Naidu/Silver Cloud Musafir
~ HM Attorney-General, Kingdom of Hawai'i
~ Member # 01798766, American Bar Association
~ Member # 1040751, International Bar Association
~ Member, National American Indian Court Judges Association

FORESTALL FORECLOSURE BY ACQUIRING SUPERIOR LAND TITLE (*USUCAPION*): One Sovereign Broaching And Approaching An Encroaching Sovereign©

By: *Judge Navin-Chandra Naidu,*
Word In Action Ministry Law Offices & Law College©
Native American Law & Justice Center©, Blackfeet Nation, Montana®
Native American Association of Nations (Treaty of Camp Holmes, 1835, 7 Stat. 474)
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A Texan fact-finding mission (the Teran Commission) in 1828, highly concerned about the influx of frontiersmen and settlers in overwhelming numbers from the United States into Texas (then a territory of Mexico), published and sent this Report to the Mexican Congress about the sinister aim of the American government employing a subtle form of encroachment fraught with ulterior motives:

They commence by introducing themselves into the territory which they covet, upon pretense of commercial negotiations, or of the establishment of colonies, with or without the assent of the Government to which it belongs. These colonies grow, multiply, become the predominant party in the population; and as soon as a support is found in this manner, they begin to set up rights which it is impossible to sustain in a serious discussion . . . These pioneers excite, by degrees, movements which disturb the political state of the country . . . and then follow discontents and dissatisfaction, calculated to fatigue the patience of the legitimate owner, and to diminish the usefulness of the administration and of the exercise of authority. When things have come to this pass, which is precisely the present state of things in Texas, the diplomatic management commences: the inquietude they have excited in the territory . . . the interests of the colonists therein established, the insurrections of the adventurers, and savages instigated by them, and the pertinacity with which the opinion is set up as to their right of possession, become the subjects of notes, full of expressions of justice and moderation, until, with the aid of other incidents, the desired end is attained of concluding an arrangement as onerous for one party as it is advantageous to the other. Sometimes more direct means are resorted to; and taking advantage of the enfeebled state, or domestic difficulties, of the possessor of the soil, they proceed, upon the most extraordinary pretexts, to make themselves masters of the country, as was the case in the Floridas; leaving

the question to be decided afterwards as to the legality of the possession, which force alone could take from them. (*House Exec. Docs*., 25 Cong., 2 Sess. (Serial 332), No. 351, pp. 313-14). (emphasis added)

This Report is a classic study of the mechanics and machinations of acquiring territory belonging to another through diplomacy and demography all made nice and legal through legislation. Texas, New Mexico, Arizona and California fell prey to the same modus operandi.

James Madison pontificated thus: *The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government."*(*The Federalist #10*)
Madison advanced the proposition that one of the most important functions of government is to protect individuals' (unequal) ability to acquire (private) property. In the American context, there is clear and convincing evidence that land acquisition was accomplished by conquest, cession, purchase, annexation, or simply settling or squatting on someone's land. Madison conveniently avoided mentioning the irreparable harm unleashed upon Aboriginal Americans (Native Americans/American Indians, etc.), the original inhabitants of the Americas for over thousands of years who owned, possessed, and occupied their ancestral lands without the need of an alien European's idea of a land title whether on parchment, papyrus, paper or perpetual parliamentary procedures, processes, protocols and promises. We were never consulted, neither were our opinions and ideas sought or discussed when the colonists made their own laws according to their selfish needs. Till today, we have never been paid any rents for our land and soil.

John Winthrop wrote in 1787, Letter No. 12, "Letters to Agrippa," reprinted in Ford, *Essays on the Constitution*: "*It is universally agreed that the object of every just government is to render the people happy, by securing their persons and possessions <u>from wrong</u>. To this end it is necessary that there should be local laws and institutions; for a people inhabiting various climates will unavoidably have <u>local habits</u> and different modes of life, and <u>these must be consulted in making the laws</u>. It is much easier to adapt the laws to the manners of the people, than to make manners conform to laws*." (emphasis added). Was Winthrop thinking about Aboriginal Americans when he wrote this, or was he contemplating an Englishman's rights? Either way, his thoughts apply to both.

If legislation as a government function is the only available avenue to justifying stealing, then its time to invoke the Jeffersonian plaintive call to "*alter or abolish it, and to institute a new Government . . .* Today, we are witnessing a clear and present danger perpetrated by a government of men controlled by the wealthy elite while their minions (lobbyists) scurry about congressional halls, doorways and corridors currying favors in exchange for big money (campaign contributions).

FIRMLY AND FEARLESSLY FIGHTING THE "TAKINGS CLAUSE"

*"Perhaps the most basic principle of all Indian law, supported by a host of decisions . . . is the principle tha*t *those powers which are lawfully vested in an Indian tribe are **not**, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.* (Felix S Cohen, 1942 edition, **Handbook of Federal Indian Law**, at 122-23 (emphasis in original). No interpretation required.

1. A homeowner or landowning Plaintiff may initiate a lawsuit in the Ecclesiastical/Tribal Court (hereinafter ETC) of the Native American Association of Nations© to invoke and evoke two jurisdictions (religious and tribal). *The land shall not be sold for ever; for the land is mine; for ye are strangers and sojourners with me:* **Leviticus 25:23** (HOLY BIBLE, King James Version). The Truth needs no interpretation. It would be an affront attempting to analyze and examine this mandate from God. And, if you one of those "enlightened" types who entertains the belief that "Church and State are separate," I strongly recommend you leave this website.

2. The Holy Bible was quoted in *Reasor-Hill Corporation v. Harrison*, Supreme Court of Arkansas, 1952, 220 Ark. 521, 249 S.W. 2d 994, wherein dissents by Justice McFaddin and Justice Ward cited **Proverbs 22:28**; with cross-references in the Holy Bible to **Proverbs 23:10-11; Deuteronomy 19:14; 27:17; Job 24:2; Hosea 5:10;** - "in matters affecting real property, we should leave undisturbed the ancient landmarks." The Law of God forbade the moving of boundaries. This is directly and proportionately applicable to the appropriating of Indian tribal lands by legislative imperatives as if a law could cure a mischief. Laws are made to remedy mischief, fraud

and deception, but not to create, condone, comfort, or cure them temporarily. What the federal government did to Aboriginal tribal lands is inconceivable, unconscionable, unjust, fraudulent, deceptive, illegal and unconstitutional. Pure theft.

The Plaintiff who believes in God and His Word, files an Originating Motion (OM) in the ETC, and sends a copy to the mortgagor/lender/holder in due course and their attorneys.

The OM will stipulate and specify how the mortgagor/lender/holder in due course has defiled God's Word, Ancient Tribal Law, violated a federal law (96 Stat.1211, Public Law 97-280 of 1982) that declared the Bible as the Word of God, and several other federal Indian laws, including the fifteen or so landmark cases adjudicated by the United States Supreme Court, that acknowledged and endorsed the fact and truism of inherent sovereignty of Aboriginals that predates the U.S. Constitution.
In fact, the U.S. Bill of Rights makes no mention of Aboriginals in the original intent of the **1789 r**atified Constitution. Within a span of less than 200 years, in **1968,** Congress enacted and promulgated the Indian Civil Rights Act which gives us a springboard if nothing else. We don't need legislation to find a niche for our rights. Federal Indian law is an exercise in "blaming the victim" as if we Aboriginals were so savage and uncivilized that laws, rules and regulations were necessary to keep us in check.

3. The findings of the ETC will meet local, regional, national and international muster because we will be applying God's Law, Ancient Tribal Law, federal Indian law, and international law regarding *usucapion* - true, perfect and only superior title compared to allodium, land patents, statutory warranty deeds, grants, life estates, and titles in fee simple; and Leviticus 25:23 (read: PL 97-280) of the Holy Bible. With this powerful combination, even the novice in law will see the trees for the forest provided there are no scales (no pun intended) in his/her eyes cast therein by state bar associations.

4. A large pool of landowners and homeowners armed with *usucapion* are needed, maybe in the thousands, to make this real and measurable to get the attention of state and federal governments.

5. The money judgment issued by an ETC can be sold overseas for 35 – 45 cents on the dollar as a negotiable instrument. That means money in your pockets and wallets. The statute that makes this possible is the

REFJA (Reciprocal Enforcement of Foreign Judgments Act). The overseas purchaser of money judgments calls on the Federal Deposit Insurance Corporation, or Lloyds of London, England, to collect on valid money judgments issued by an ETC. This happens everyday in the secretive world of finance and banking.

We are living under a juggernaut government running amok with the unconstitutional power of eminent domain, easements, rights of way, and adverse possession when it comes to real property purchased by millions of Americans. If the rule of law is still the currency of a civilized nation, we may prevail with an ETC money judgment.

6. Modus Operandi:

But first, let's get to the core of the problem regarding land titles and how you could take advantage of the laws of the land to your benefit and advantage.

A. The primary *issue* that has been identified is whether the municipal, county, state or federal government has any power, residual or otherwise, to grant, convey, issue, alienate, extinguish, or transfer *original* land titles to a potential buyer. To accomplish this, the State uses the power of "eminent domain" never mentioned in any state constitution, or the U.S. Constitution. Yet, it is invoked when the government has determined that a taking is necessary. Necessary because more taxes could be collected. "Your home is your castle" was a sound and practical doctrine, a meaningful mantra where it suited the government, not the Englishman's rights, since the *Magna Carta* signaled and symbolized the beginning of the concept of government being thrust into peoples' lives.

The Fifth Amendment provision of "*just compensation*" seems to soothe, justify, interpret, and comfort its Takings Clause counterpart when it says, inter alia, " . . . nor shall private property be taken for public use, without *just compensation*." So, who decides what is "*just*"? There is a real problem here that needs to be addressed, discussed, debated, and remedied exhaustively and conclusively. Law is to be used as a lever for liberation, not a sledgehammer to crush your rights and privileges.

B. But just when you thought the Fifth was a great refuge and haven for constitutional protection, please be wary of **Article IV, Section 3, Clause 2,**

U.S. Constitution which subtly, cleverly and cunningly states that "The Congress shall have the Power to dispose of and make all needful *Rules* and *Regulations* respecting the Territory or other Property *belonging* to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State" (emphasis mine).

This Article is devious. It circumscribes and circumvents Article V which prescribes the manner and mode of effectuating constitutional amendments. But, that takes time, effort, compromises galore, lobbyists, lots of money and manuovering. Now, when the government articulates Article IV for their benefit, gain, profit and advantage, they are emboldened and empowered by *rules and regulations*, *not legislation*, to take and sell Aboriginal lands at will, and lo and behold all "Territory or other Property" ends up belonging to the usurping United States!!

Justice Thomas R. Berger wrote in 1982: "[t]he issue of aboriginal rights is the oldest question of human rights in North America. At the same time it is also the most recent, for it is only in the last decade that it has entered our consciousness and our political bloodstream." (T. Berger, *Fragile Freedoms: Human Rights and Dissent in Canada* 219 (Rev. ed. 1982).

C. Definition of title: **1**. The union of all elements (as ownership, possession, and custody) constituting the *legal* right to control and dispose of property; the *legal* link between a person who owns property and the property itself. **2**. *Legal* evidence of a person's ownership rights in property; an instrument (such as a deed) that constitutes such evidence. (Note: the word "occupancy" is not used, instead the word "custody" is used. Looking at this definition, Aboriginal Americans, had *original* title to their lands prior to the arrival of the Europeans, also called the pre-contact period.).

Definition of land patent: An instrument by which the *government* conveys a grant of public land to a private person. (Note: The government takes it upon itself to take whatever land it wants. Subsequently, the government gives it away for a fee or a price. The *government* made its own version of "just laws" to own the land in this country by displacing/removing Indians to "reservations" farther west. Bootstrapping doctrine all the way)

Definition of lapse patent: A land patent substituting for an ***earlier*** patent to the same land that lapsed because the previous patentee did not claim it.

(Note: what do you think is the ***earlier*** patent if it is not *usucapion* – claimed, convoked, invoked and evoked by Aboriginal Americans. (Communal property, not private property, is the Aboriginal way. There is no question of a "claim.")

Definition of Indian title: A ***right*** of occupancy that the federal government ***grants*** to an American Indian tribe based on the tribe's ***immemorial possession*** of the area. (Note: no mention of "ownership." So, if I was here from time immemorial I still have no rights, as an Indian enjoying *usucapion* which is defined by the Dictionary of Maxims. See below. The outrage is obvious – the alien who occupied our lands ***grants*** us a "right of occupancy." What would have happened if we had superior weapons, and landed a thousand ships into Normandy and invaded/discovered/conquered Europe as an "Aboriginal Manifest Destiny", and thereafter inflicted Europeans with our laws? Would we be labeled uncivilized barbarians?)

Definition of Indian land: Land ***owned*** by the United States but held in ***trust*** for and used by American Indians. (Note: The Indians never gave permission or asked the federal government to hold their lands "in trust." "Holding in trust" was a nice way of saying, " we took your land without your permission, but let us take care of it so that others will not come and steal it from us who stole it first. You should not steal from a thief, you know." Another unresolved outrage.)

Above definitions were extracted from *Black's Law Dictionary,* 7th edition. The (Note) section contains my observations.

Definition of "Indian country" under 18 United States Code § 1511:

i) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of *any patent*, and including the rights of way through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the *limits of a state*, and (c) all Indian allotments, the titles to which *have not been extinguished,* including rights of way running through the same. (emphasis added).

NOTE: Rights of way create an easement only, not to what's beneath the surface (oil, gas, and minerals) *See* MARVIN M.

BRANDT REVOCABLE TRUST v. UNITED STATES, United States Supreme Court, No. 12–1173. Argued January 14, 2014—Decided March 10, **2014.**

The U.S. Supreme Court pointedly declared in Mitchel v. United States, 34 U.S. (9 Pet.) 711,746 (**1835**): *The merits of this case do not make it necessary to inquire whether the Indians within the United States had any other rights of soil or jurisdiction; it is enough to consider it as a* ***settled principle, that their right of occupancy is considered as sacred as the fee simple of the whites****. (5 Peters 48.) The principles which had been established in the colonies were adopted by the King in the (Royal) Proclamation of October 1763, and applied to the provinces acquired by the treaty of peace . . .*' (emphasis added). This was the same year that the Treaty of Camp Holmes was concluded. This decision survived overruling.

Charles Miller, a historian, has written in his book. *The Supreme Court and the Uses of History* 24 (Cambridge: Mass. 1969)*:*

History may be defined as that which, in the opinion of the Supreme Court, is believed to be true about the past – about past facts and past thoughts . . . For purposes of analysis it may again be divided into two categories: history internal to the law and history external to the law. This distinction like many distinctions, is blurred at the boundaries but clear at the center. History internal to the law consists of precedents . . . and legal history. Legal history pertains to the history of legal terms and doctrines . . . ***Somewhere on the borderline between legal history, which is internal to the law, and general political history, which is external to the law, lies the history used in . . . litigation involving Indian tribes.*** *In no other fields of public law does history play so decisive a role, a role and a decisiveness accepted by all parties to the litigation as well as the court.*

7. WHAT YOU HAVE TO DO IF YOU ARE, OR WERE A HOMEOWNER:

"*Property should have the power of referendum over hostile legislation*." (John C. Calhoun, 1782-1850, US Senator from South Carolina, 10th US Secretary of War). In other words, the voice of the People must be heard and deferred to instead of allowing the legislature to enact laws for

indiscriminately passing laws under the guise of safeguarding private and corporate interests.

The passage of the Johnson-O'Malley Act of 1934, 48 Stat. 596 (1934) (codified as amended at 25 U.S.C. §§ 452-454) after the Meriam Report of 1928 (*the goal of Indian policy is the development of all that is good in Indian culture "**rather than to crush out all that is Indian**.") authorized the Secretary of the Interior to contract with a state or territory "for the education, medical attention, agricultural assistance, and social welfare, **including relief of distress of Indians** in such State or Territory, through the qualified agencies of such State or Territory (Act of June 4, 1936, 49 Stat. 1458). (emphasis added)

A. Almost all the fifty states in this country have written laws concerning surrender and withdrawal of a certificate of title. They must be inserted there for a specific reason. *Can you guess why?* **Indian country** !! Make sure you find them, read them, download them and keep them readily available for reference. Keep in mind that States have NO power or authority over Aboriginals ("**American Indians, Native Americans")**. Also remember that under the doctrine of judicial review, innovated and invented by the constitutional sorcerer Chief Justice John Marshall (*Marbury v. Madison*), any law can be subjected to examination, analysis, and declared unconstitutional - if repugnant to the U.S. Constitution - if indeed these laws do not sit squarely with the supreme law of the land, Article VI, section 2, U.S. Constitution.

B. A federal, state, or municipal law cannot be deemed to be written in stone because it can be invalidated, and declared unconstitutional under the *Marbury v. Madison* ruling using the power of judicial review. From 1789 to 2010 some 1,215 laws have been declared unconstitutional (158 federal laws, 935 state laws, 122 ordinances). 224 state and local laws have been preempted by federal laws. 220 decisions of the U.S. Supreme Court have been overruled by subsequent decisions of the same Court. Imagine the staggering array of victims, especially Aboriginals!

8. JURISDICTION OF A TRIBAL COURT:

The United States Supreme Court recognized the jurisdiction of tribal courts over lawsuits that involved non- tribal members. In *National Farmers Ins. Cos. v. Crow Tribe,* 471 U.S. 845 (1985), the Supreme Court ruled that any challenge to the jurisdiction of a tribal court had to first be presented to the

tribal court; and, in 1997, in *Basil Cook Enterprises Inc. v. St. Regis Mohawk Tribe*, 117 F. 3rd 61 (2d Cir. 1997), the US Court of Appeals for the Second Circuit applied this doctrine to uphold a challenge against the St. Regis Mohawk Tribal Court.

Tribal courts deserve full faith and credit since they are the court of an independent sovereign (Wis. Stat. § 806.245) ; in order to end confusion, cases filed in state or tribal courts require mutual consultation. *Teague v. Bad River Band,* 236 Wis.2d384 (2000). According to the Restatement (Second) of Conflicts § 86, when courts of separate sovereigns both have jurisdiction over the same matter, the court *first* rendering judgment is commonly entitled to have its judgment receive full faith and credit by the other jurisdiction.

THIS IS NOT ABOUT FORUM-SHOPPING.

D. When you are ready to surrender and withdraw the certificate of title, employ the doctrine of *usucapion* (you will not find it in Black's Law Dictionary) and approach an Indian Tribe, Nation, Clan or Band, here in the USA within your locality, and tell them that you wish to bequeath back to them "your" land upon which your house, farm, ranch, factory, school, shop, golf course, hospital, freeway, highway, byway, or orchard sits, as they are the **original** land/soil owners, occupiers and possessors who actually own the right, title, and interest to **ALL** land in North America.

The American Indians ought to, necessarily, if they are unafraid or unfazed by any backlash from the federal government, issue you an ENACT (**E**nduring **N**ative **A**boriginal **C**ustomary **T**itle based on *usucapion* (see below for a detailed description of *usucapion*). They should not even consider Congress's power to extinguish customary native title. Congress does not have that power as enumerated in the Constitution. If Congress takes it upon itself to extinguish customary native title, it is nothing but theft. And it takes great effort to pass a law aimed at extinguishing customary land title. A groundswell support for this Cause has been missing for over three hundred years.

The only right that municipal, county, state and federal governments possess is the right to enjoy the use and advantages of another's property short of the destruction or waste of its substance (**usufruct**). "Another's property" here distinctly and specifically refers to Aboriginal lands taken for

a song through purchase, treaty, cession, and annexation (read: Texas, New Mexico. Arizona, California)

Next, you pay a nominal fee. This is consideration, one of the five elements of a contract. Multiply this effort nationwide. Make it become a habit. **ALL** land in the North American continent once belonged, and still belongs, to American Indians. We are all sojourners of the land. We can never be land owners. The land owns us.

E. You would have now fulfilled one of the first principles of law expressed in Latin as *mutatis mutandis* – things being changed which are to be changed.

(*Note*: First principles of law are the benchmarks, wellsprings and roots of both the common law and the written law (statutory law). Great wisdom emanated from these efforts, experiments, experiences and endeavors).

F. You would have also fulfilled a second prong of one of the first principles of law expressed in the Latin maxim ***ne domina rerum sint incerta neve lites sint perpetuae* – lest the ownership of things should remain uncertain, or lawsuits never come to an end.** These two Latin maxims – as first principles of law used in our jurisprudence - strongly support ENACT.

G. State and federal courts solely and exclusively rely on statutes and past decisions (precedents, the doctrines of *stare decisis* and *res judicata*) without giving due regard to other tools of judicial inquiry such as first principles of law based on doctrines and maxims from antiquity, rule of law based on sound jurisprudence springing from custom, tradition and mores. Untold grief and injustice will be unleashed if a previous decision was wrong, and wrongly handed down. The African Americans had their *Dred Scott* nightmare, and we Aboriginals have *Lone Wolf v. Hitchcock*. Erroneous judgments and decisions can be grievous enough when someone has lost his life, freedom or property. It would take a great amount of time, effort and resources to rectify bad decisions either through legislative imperatives or judicial wisdom without judicial activism as the impeller.

Judicial activism is the imprimatur of judge-made law. Judges should not make law. That is the job of the legislature. Judges ought to only be concerned with ironing out the creases in the cloth of the law. They are not

to make new cloth. Yet they have done so. One of the many disasters of judicial activism is the 1857 *Dred Scott* case which triggered the Civil War; the other was *Plessy v. Ferguson* (1869) which declared that segregation was constitutional (separate but equal) which was ultimately overruled in the 1954 case known as *Brown v. Board of Education*.

H. The next order of business is for you to write to the Congress of the United States and tell ***them*** that you have ***perfected title*** by stipulating the legal description of the land in question. Article 1, section 8, clause 3 of the U.S. Constitution stipulates that Congress shall have the "power to regulate commerce with foreign nations, among the several states, and *with Indian nations."* You have also perfected this constitutional mandate. Legal scholars say that usage of the preposition "with" in Article 1, section 8, clause 3 suggests that Indian nations are to be treated as foreign nations.

I. Next, you send a certified copy of the ENACT to the President of the United State because of the President's power to enter into treaties pursuant to Article 2, section 2, clause 2 of the U.S. Constitution. His predecessors and he are responsible for theft of Indian lands (a crime) that has no statute of limitations. The President can and should issue his findings through his constitutional mandate at Article 2, section 3, where he "shall recommend to Congress such measures as he shall judge necessary and expedient. . ."Or, the President could, and should, issue an Executive Order.

J. Send a copy of this letter to the County Land Office or to the Recorder's Office, and to the piranhas, barracudas, and sharks who sold you the mortgage (death-grip). When these denizens of deception sold you your home they made you sign a confession of judgment, a security instrument, and a mortgage note together with a deed of trust literally conveying and granting your real property to a trustee even before you defaulted. This is unconscionable, unjust, unfair, uncivilized, unconstitutional and illegal.

K. Now, these lenders/mortgagors/holders in due course and recorders of "land titles" have to prove they ***own*** title to the land, the underlying document that evidences the ownership of the land. Usually, they cannot when asked to provide the Pooling and Servicing Agreement (PSA) and the Multiple Loan Schedule (MLS). These two documents will evidence the sale of the mortgage and seldom evidences the **transfer of title** from one to another subsequent mortgage note buyer. The PSA will also evidence the fact that your real property, for which you have been faithfully making the

monthly mortgage payments, has been securitized to at least **six hundred million dollars** with no benefit, advantage or relief for the homeowner. NONE of these issues are ever *disclosed* when the homeowner first signs the Purchase & Sale Agreement as required and mandated under the Truth in Lending Act, Title 15 United States Code.

L. The mortgagor/lender/holder in due course who sues you to foreclose on your real property usually has no desire or wish to evidence these two documents because you **can** prove they do **NOT** own the TITLE to your land, and therefore cannot qualify to foreclose !

M. Your ENACT can assume the persona of a land patent capable of protection under Article 1, section, clause 8 (safeguarding your inventions and discoveries); and Article 1, section 10, clause 1 of the U.S. Constitution (no State shall impair the obligation of a contract – the one between you, the homeowner, and the American Indian Tribe, Nation, Band or Clan). The Constitution is the supreme law of the land that trumps all state and federal laws. **The land patent from an Indian Tribal Court has Full Faith & Credit implications – Article IV, section 1 – this must be recognized and acknowledged by state and federal courts if the supreme law of the land means anything.**

N. The 565 Aboriginal Tribes, Clans, Nations and Bands of North America seem hapless and helpless to alter and amend the status quo. What is impeding us from uniting and unifying our voice and effort to yield meaningful, lawful, legal, legitimate and constitutional effect nationally and internationally? If at all there was such an effort in the past, why did it fizzle away like a neglected bowl of ice-cream on a patio in hot August? What will it take to take and make this effort real and beneficial again?

O. For those who insist on the misguided and misconstrued belief that "Church and State are separate," the Law of God is recognized by **Public Law 97-280 of 1982, Legislative History at S.J. Res. 165, Congressional Record, Vol.128 (1982), 96 Stat. 1211,** which declared the Holy Bible as the Word of God. The government has not repealed this federal law although it insists on breaking it anytime it is convenient for its insidious and often invidious purposes.

9. HISTORY

A. The methodology mentioned above is better to implement and enforce in a sovereign Ecclesiastical/Tribal Court than the intention of the treaty-seeker of antiquity whose sole aim was to buy millions of acres for a few pennies, or just grab lands and pass a congressionally approved law to justify land grabbing such as the Homestead Act of 1862. ***Eleven States had left the Union*** when this Bill was passed by Congress during Lincoln's watch. You would think it passed muster. Do you think it was ratified with eleven States missing in representation?

B. By 1934, 1.6 million homestead applications were processed and more than 2.7 million acres exchanged hands from the government to individuals. The Homestead Act was **repealed** in 1976 after the passage of the Federal Land Policy and Management Act, but the irreparable harm and injury upon Native Americans was already inflicted.

C. If we claim to be a Christian nation, we have to live by Christian mores, obligations, and scriptural or biblical laws. We have to listen to God's Covenant with His people – The Holy Bible – and set standards with which we could and should live by if we are to restore His Kingdom on earth now invaded by the satanic forces of guile, evil, deception, deceit, and wanton destruction.

God's Word says it clearly in **Leviticus 25:23**. We, The People, are just passing by in this earthly journey occupying some space, and some time, here and there until it is time to check out, as it were, and land belonging to God cannot and should not be sold forever.

The burning question is whether **Leviticus 25:23** still binding in 21st century America? If so, how shall it be applied, and if not, does any significance remain in the law?

International law stipulates that the modern Vatican State, owned by the Vatican entirely, is not for sale, ever. This Holy Land was God's Throne area, and hence NOT FOR SALE. What is the difference in America, and elsewhere, where all land relates to God's creation, occupancy, ownership and possession with the attendant divine right to allocate stewardship according to His Holy Will as codified in **Leviticus 25:23**, now a federal law.

The Vatican is a recognized ecclesiastical government with its Ambassador (Apostolic Nuncio) stationed permanently in Washington D.C. So is Israel, recognized as a sovereign state because of prophecies in the Holy Bible. If such recognition is convenient for political gain, what harm can a legal claim begat while relying on God's Law?

D. Property and land taxes is absent in God's Law which very definitely protects enduring ownership (read: *usucapion*). Modern tax laws destroy ownership. Taxation of property is a means of destroying property and, thus, is a form of robbery. Taxation implies a speculative use of land, and destroys the stability of communities. The government uses the concept of "eminent domain" to exercise a compulsory taking. Eminent domain is never mentioned in the U.S. Constitution, and is against the teachings of the Holy Bible. If anything, eminent domain is a divine right. This earth, as we know it, did not suddenly explode and materialize into a tangible entity by government edict, rules, regulations, laws, or command by an earthly sovereign.

The other ugly usurper is the doctrine of "adverse possession," which allows a squatter to claim good title to land that was not claimed within a certain period of time. The Aboriginal moved his tepee and wigwam, and moved on in search of buffalo, and retuned to the original spot a year or two later only to find the "eurosettler squatter" had built a house on that land and claimed it as his. The Army helped him keep his homestead from the "savage." More gunshots and arrows were unleashed, another treaty was signed, more whiskey poured down the throat of the "savage," and now the Indian needs God and education to be civilized. That was the credo of the U.S. government acting upon the advice of their Indian Commissioners.

E. Eminent domain gained utterance, then a foothold, later a stronghold, and subsequently a stranglehold, in the American colonies because the principles of *natural law* pervaded Christian thinking from the early days. Natural law locates the ultimate law within Nature, and therefore locates the sovereign power within Nature. William M. Kinney and Burdett A Rich, in *Ruling Case Law* (1915), give an excellent summary of the concept of eminent domain as it developed in the 19th century United States:

10. "Eminent Domain as Exercise of Sovereignty – It was the theory of Hugo Grotius (1583-1645, Dutch jurist and philosopher) that the power of eminent domain was based on the principle that the *State had an original*

and absolute ownership of the whole property possessed by the individual members of it, antecedent to their possession, and that their possession and enjoyment of it being subsequently derived from a grant by the sovereign, it was held subject to a tacit agreement or implied reservation that it might be resumed and all individual rights to it extinguished by a rightful exertion of this ultimate ownership by the State. A latecomer assumes so many rights because of superior weaponry. That's all there is to it. In the clash of arms, the law falls silent!

This explanation of the basis of the power of eminent domain was adopted by several of the state courts in their earlier decisions. Grotius' theory however, was not adopted by all of the other political philosophers, Heineccius (1674-1722, German theologian) quoting Seneca (4 B.C. – AD 65, Roman philosopher), to the effect that to kings belong the *control* of things, to individuals the *ownership* of them. It was objected to by some of the judges of this country, imbued with the spirit of individual liberty, that such a doctrine is bringing the principles of the social system back to the slavish theory of Thomas Hobbes (1588-1678, British philosopher), which, however plausible it may be in regard to land once held in absolute ownership by the sovereign, and directly granted by it to individuals, is inconsistent with the fact that the securing of pre-existing rights to their own property is the great motive and object of individuals for associating into governments. Besides, it will not apply at all to personal property, which in many cases is entirely the creation of individual owners; and yet the principle of appropriating private property to public use is fully as extensive in regard to personal as to real property. Accordingly it is now generally considered that the power of eminent domain is ***not*** a property right or an exercise by the State of an ultimate ownership in the soil, but that it is based on the sovereignty of the State. As that sovereignty includes the right to enact and enforce as law anything not physically impossible and not forbidden by some clause of the constitution, and the taking of property within the jurisdiction of the State for public use on payment of compensation is neither impossible nor prohibited by the constitution, a statute authorizing the exercise of eminent domain needs no further justification. The question is largely academic, but is of some practical importance in deciding whether the United States may exercise the right of eminent domain within the District of Columbia, notwithstanding a provision in the act of cession that the property rights of the inhabitants should remain unaffected. It was held that as eminent domain was a right of sovereignty and not of property, the provision had no application."

F. An analysis of these interesting concepts by the authors of *Ruling Case Law* reveal that the natural right of the State to eminent domain, takings and adverse possession have been assumed in favor of a sovereign with a simultaneous overruling of the Tenth Amendment to the U.S. Constitution. If the right of eminent domain on the part of the State, or the federal government, is derived from the right of sovereignty, you can settle this issue with finality because both the terms "eminent domain" and "adverse possession" are never used in the U.S. Constitution. In fact these words were artfully and willfully avoided by the founders and framers. The outrage is obvious when Aboriginal Americans were left out of the equation. The founders, framers and ratifiers deliberately, mischieviously,and invidiously avoided mentioning aboriginal rights to land and soil.

G. In 1641 the Massachusetts Body of Liberties deplored the taking of a person's property without due process and by the law of *equity*. They borrowed the British version of the 1628 Petition of Right. The Virginia Declaration of 1776 expressly mandated that "*That no part of a man's property can be taken from him, or applied to public uses, without his own consent, or that of his legal representatives*." The Fifth Amendment presupposes the power of private property because the takings clause is careful about payment (just compensation) for a public purpose taking. The fact that it mentions private property for which a compensation is necessary casts serious doubts on the State's right to an inherent sovereignty. The State is simply an entity that has governing powers bestowed upon it, and granted to it by the consent of the governed - the people. Aboriginals are not "people'?

H. The thoughts, ideologies and persuasive writings of Grotius, Burlamaqui, Locke, Hobbes, Rousseau, Bentham and Mill - that place the State on a pedestal - is anathema to Peoples Rights without suggesting a recourse to herd or mob mentality. For Mikhail Bakunin (1814-1876, Russian philosopher), the State was a sham god (Moloch) to be destroyed. Bakunin trusted natural law. "Man can never be altogether free in relation to natural and social laws. Political and juridical laws, imposed by men upon men, whether by force, deceit, or universal suffrage, are to be disobeyed if they *infringe* on man's sovereign rights." Undoubtedly, Bakunin believed in unalienable rights. He is seldom mentioned in law books currently used in Harvard, Yale, Columbia, Princeton, etc. Even the word "*usucapion*" is totally absent in law textbooks unless you find a copy of Henry Maine's *Ancient Law*.

I. Taxation of God's property is a means of destroying property and is a form of robbery. The State has a constitutional duty to protect man and his property, not to tax or to confiscate it. The destruction of the Boston West End Italian community by urban redevelopment and "slum clearance" has been ably described by Herbert J. Gans in his *The Urban Villagers* (New York: The Free Press of Glencoe, 1962)

J. The Holy Bible, now a federal law, mandates a tax law in relationship to the ownership of land. The basic tax was the poll or head tax (**Exodus 30: 11-16**), which had to be the same for all men to be paid by men only, all men of age twenty and over. This tax was collected by the civil authority for the maintenance of civil order, to provide all men with a covering or atonement of civil justice. There was thus no land tax or property tax. Since the "Earth is the Lord's and the fullness thereof ," (**Exodus 9:29**, etc.), a land tax usurps God's rights, and is thus unlawful. A property tax of any kind by the civil government is a denial of this God-ordained security. The civil government has ordained Public Law 97-280, 96 Stat. 1211 which says the Bible is the Word of God. So, we choose not to disobey or violate a federal law. Or, what is the punishment for disobeying an unjust law?

J.W. Ehrlich's *The Holy Bible and the Law*, at page 92, states that "Biblical law is the Word of God (read: Public Law 97-280); it therefore represents an ultimate order which is written into the texture of all creation and into the heart of man. Hence, a jury system is valid in terms of Biblical law, since the decision is in terms of a fundamental law which all men know, whether they acknowledge it or not. Civil statutes represent only the will of the State, not an objective and absolute moral order. Statutory law creates lawlessness, because society is then no longer governed by an absolute standard of justice but rather by the fiat will of the State. Like fiat money, fiat law lacks substance, and it quickly destroys itself, and all who rely on it. It is a form of fraud, and a major form." Very thought-provoking words of wisdom.

K. Technological advances that justify eminent domain to build more industrial complexes, manufactories, etc., does not mean theological surrender. Neither does it mean surrender of man's sovereignty of his unalienable rights. When the State finds a balance between the need to execute a compulsory taking for technological benefits and advantages that will benefit mankind, then it is up to the People to decide by suffrage. The

State must thus be always limited in its powers of execution for the sake of the People.

PERSUASIVE WRITINGS

L. *Ego primam tollo, nominor quia leo.*
Secundam quia sum fortis tribuetis mihi.
Tum quia plus valeo, me sequetur teria.
Malo adficietur, si quis quartam tetigerit.

(Phaedrus)

"I am the contractor, I take the first share.
I am the laborer, I take the second.
I am the capitalist, I take the third.
I am the proprietor, I take the whole."

Phaedrus (370 B.C., one of Socrates's protagonists), has summed up all the fig leaves, forms and masks of property where, like the lion in the fable, the same tyrant gets paid in each of his capacities. The government in our midst is the lion in the fable that wants to be paid in each of its multifaceted capacities. Right of conquest and cession, manifest destiny, taxation, eminent domain, regulatory takings, issuing inferior land titles, statutory warranty deeds, taking with or without compensation for the sake of a public policy, national interest, national security, etc., are all the manifestations, manipulations and machinations of land grabbing with unparalleled ease, force and coercion impelled by the ubiquitous motive of profit. The Yazoo Land Fraud cases of the early 1800's is a case in point.

When man was at home in and with Nature, there was no government or private property contemplated, required or necessary. There was no need for protection by a government. Everyone in a community depended on each other and themselves to self-govern and self-contain the needs of their community. Land belonged to everyone. They planted, sowed, harvested, hunted, farmed and fished. They were happy and content. Those halcyon days were soon to explode into orderly chaos when Locke, Rousseau, Marx, Hobbes, Descartes, Hume, Bentham, Mills and others started thinking of innovating "government."

M. The *concept* of property is innovative at best. Neither labor, nor occupation, nor law can ***create*** property; that it is an ***effect*** without a *cause*. **Psalm 24:3** – "The earth is the Lord's, and the fullness thereof; the world, and they that dwelleth therein."

Reason submits only to fact and to evidence. The living earth is fact that is full of truth, proof and evidence that God intended to allow dominion to those who qualified as stewards of His bounty. "Distrust all innovations," said Titus Livius – *nihil motum ex antiquo probabile est*. Innovations challenge the original intent of God. He manifested Himself through his handiwork. Man taints, tarnishes, twists and turns God's Word to satisfy his bewildered ego and insatiable greed.

N. **P. .J Proudhon** in his seminal work "*What is Property: An Inquiry into the Principle of Right and of Government,* introduction by George Woodcock, translated from the French by Benjamin R Tucker (Dover Publications, Inc. New York)" encapsulates the concept of property brilliantly. He talks about *jus in re* – the right ***in*** a thing – and *jus ad rem* – the right ***to*** a thing. In Nature, the *jus in re* operates bereft of human intercession. The thing exists as of right. It has a right unto itself to exist. Enter human intercession. The *jus in re* now escalates into a *jus ad rem.* A whole new concept of ownership and possession erupts into utterance, expression and existence. A wholly new set of rules begin artificial rule and reign in a realm where right to occupation, possession and ownership was never in question. I agree with P J Proudhon who said that "if slavery is murder, property is theft."

O. **John Locke**, who was one of the chief architects, although tacitly, of the Glorious Revolution of 1688, introduced the concept of government with all its trappings, tricks, tests, tribulations, ramifications, accoutrements, and potential for making mischief because power is of an encroaching nature. America never looked back since. Government never looked back since. It has all the innovations in place to reinforce its reason to exist. "Limited government" is an arrogant and evil joke. It does not say what it means, and does not mean what it says. That was the intent of the founders and framers. To institute and constitute limited government so that the several States, or the People, will not lose their sovereignty. Hence the Tenth Amendment and the Ninth Amendment, respectively. But, in reality, how much power do the People have vis-à-vis a greedy and power-hungry government?

P. Almost every textbook on property law starts off with the usual history of feudal England with an ample sampling of how William the Conqueror imposed regal sovereign status and rights upon himself, the people and their lands. The reader will become accustomed to words like "*imperium*" (which means "ownership of the territory itself as a result of proclaiming sovereignty"; "*dominium*" (which means the **radical or ultimate** title to all lands, which translates to might is right). But *imperium* and *dominium* are newer concepts. They are not part of the *ancien regime* where the law, as we know it, was being conceptualized, developed, analyzed, refined, purified and codified. In America, they discovered "manifest destiny."

Q. As the centuries passed and England's naval prowess increased, the Crown, England's new call-sign, vested itself with the right of discovery, conquest and cession. A sort of a self-appointed right enforceable *ipso facto*. This belief in a self-proclaimed sovereign is supposed to displace a local ruler completely while the Crown assumes complete and total control of the people and their lands. To add insult to injury, the Crown then assumes unlimited powers of legislation and government (See Sir Henry Jenkyns, *British Rule and Jurisdiction Beyond the Seas* [Oxford, 1902], p. 166n; W.E. Hall, *A Treatise on International Law* [Oxford, 1924, p.50]).

L. This is outright theft of lands belonging to another with the intent of permanently depriving the owner of it – pure and simple. The British used legal niceties and terms like "Orders in Council," "Letters Patent," "Act of State" and "Protectorate status" to justify imposing its sovereignty and jurisdiction on foreign soil. Native land rights were held sacrosanct by the natives and their chiefs wherever the British set foot. But the cunning British devised a clever way to **lease** these lands with legal fictions called land titles. Only the Maoris of New Zealand exacted a four-cornered ironclad treaty with the British explorers and navigators which stipulated and mandated absolute land rights. The Maoris' brothers in Australia were not that lucky until the *Mabo* decision 1982 which recognized superior land titles under *usucapio* and customary native title.

M. Again, first principles of law governs the principal issue.

Aliud est celare, aliud tacere - it is one thing to conceal, another thing to be silent. After all, when the Foreign Jurisdiction Act was passed in England, Parliament, not the courts, could make or un-make any laws thus discouraging and preventing judicial review on such hot colonial land

grabbing issues which occasioned a lawsuit here and there. And the supreme British Parliament did finance pirates and buccaneers and other entrepreneurs in the name of conquest, cession and seizure – legally, lawfully and legitimately. *Falsum in uno falsum in omnibus* – false in one thing, false in all.

Ex terus non habet terras – a foreigner or alien holds no lands. Wonder if William the Conqueror heeded this when he brought his Norman laws into good ol' England.

Extra territorium jus dicenti impune non paretur – the law of a certain territory may be safely disregarded outside that (Norman) territory. There was no Justininan, Fleta, Bracton, Puffendorf, Barbeyrac, Blackstone, Bacon or Glanvill to advise William the Conqueror.

These legal Latin maxims were imported into the early American colonies and found sustenance in American jurisprudence together with William Blackstone's *Commentaries of the Laws of England*. But, no judge or jury or lawyer anywhere in the Commonwealth ever heeded them ! They are nice and cute to quote, but acute in its breach. Our judges are no better. They continue the deception of government using black robes and white lies.

10. POLITICAL FOOTBALL

A. First principles of law, a holistic view of law and justice which gives scholars, students, judges and lawyers a rare glimpse of the past when legal maxims and doctrines became established principles of law for perpetuity, make mention of the Latin word "*usucapion*" which means the acquisition of property by lengthened *possession* from an aboriginal customary native title point of view.

B. Then, there is the Greek word "*emphyteusis*" which means a lease in perpetuity under which the tenant (emphyteuta) had all the rights of property except *ownership*. He rented or leased from the actual owner and possessor and occupier of the land. Think "eurosettler" who "columbussed" his way into the New World.

C. Another arrow in the peoples' quiver is the word "*usufructuary*" which means the right to enjoy the use and advantages of another's property short of the destruction or waste of its substance. An *usufruct* is a tenant. This fits

the legal duties, not rights, enjoyed by the Pilgrims upon landing at Plymouth Rock. There is no evidence that the American Indians were consulted about land usage by the new settlers.

D. **One of the leading legal Latin maxims concerning superior title to land is *usucapio constituta est ut aliquis litium finist esset*, a legal maxim means *usucapio* was instituted that there might be an end to lawsuits; the right of property conferred by lengthened possession was introduced, or made law, in order that after a certain term no question should be possible concerning the *ownership* of property. This squares with *boni judicis est lites dirimere* – the duty of a good judge is to prevent litigation (4 Coke 15).**

So *usucapio* sets the stage for unnecessary and frivolous lawsuits concerning land disputes. If there is an undisputed owner of land who was there from the very beginning, an alien may be permitted to buy, lease or enter into some deal with the owner. The American Indian had no recourse to any law or justice forum. The government defeated him at every twist and turn with no remorse or conscience as a civilized Christian developing a Christian nation.

E. Sir William Blackstone, whose legendary *Commentaries of the Laws of England* were the original source of law in the American colonies, added : ". . . so great is the regard of the law for private property, that it will not authorize the least violation of it; no, *not even* for the general good of the whole community." This could have impelled the decision in *Holden v. James*, 11 Mass. 396 (1814), where the Massachusetts Judicial Court held that an act passed by the Georgia legislature to be unconstitutional, on the ground that it violated the US Constitution. That statute was overturned because it affected *one* person. Also cited in *Derby v. Blake*, 226 Mass. 618 (1917). So Blackstone holds good for the proposition that although the entire community might benefit, one person's rights cannot be extinguished.

F. William the Conqueror, however, found refuge in *ex vi aut metu* – on the ground of force or fear – to impose his will and ill-will with the Magna Carta, subsequently, to stamp the approval of might is right. Today, government does it gleefully because it has the Necessary and Proper Clause power to do so (Article 1, section 8, clause 18, U.S. Constitution) – which means "I am the legislature. I can do whatever I like to pass any law. If the Supreme Court overrules me, I can always pass another law to overrule the

Supreme Court.

G. Another Latin legal maxim is *Qui prior est tempore potior est jure* – he has better title who was **first in point of time**. Yet another first principle that advances the solid argument that UNLESS and UNTIL customary native title is properly, adequately, efficiently, legally, lawfully and legitimately conveyed, any other form of possession or ownership is total theft by total terrorism and tyranny. "Theft is theft even when the government approves of the thievery," declared Judge Janice Rogers Brown during her tenure at the California Supreme Court.

H. The General Allotment Act of 1887, at section 5, declares that lands on Indian reservations allotted to individual Indians and *held in trust* for them by the government shall ultimately be conveyed to them in fee simple discharged of the trust and "free from all charge or incumbrance whatsoever," which could mean that such lands are exempted from taxation. In short, the thief is embarrassed he was caught in the act, so he passes a law and arrogates to himself the right to steal and hand it over to the rightful owner, and as an added favor, find grounds to exempt such theft from taxation. This is civilized behavior? It became so with the passing of the Indian Reorganization Act in **1934**. There was widespread opposition to this Act which sought to return aboriginal lands to the Aboriginals.

It is interesting to note that 1933 marked the birth of Christian conscience in the American psyche because many thought that the curses of God after the Great Crash of 1929 sparked the Great Depression. The 1934 Indian Reorganization Act may have been an act of repentance. It is federal law now based on God's Law.

I. Adversus extraneous vitiosa possessio prodesse solet – prior possession is a good title of ownership against all who cannot show a better one. Another first principle galvanizing the evidence and proof of customary native title.

J. "*In alode*" is another maxim referring to allodial subjects; which were lands held independent of any superior and burdened with no feudal homage or service. Aboriginal Americans have always owned these lands. They were sovereigns and not subjects to anyone.

K. Usucapion has played a leading role in the drama that unfolded in America after we disbanded our political association with England. English

common law and American law came to grudgingly endorse *usucapion* with subtle, angry, arrogant, stupid, meaningless and insane decisions by the legislature, the judiciary and the executive branches of government. They were all in it together to steal, and steal everything west of the Appalachians. John Jacob Astor financed the Oregon taking (theft). The city of Astoria bears his name.

L. The Royal Proclamation of **1763** promised equity and fairness to the *taking* of aboriginal lands in America. Consent of the Indians was mandated as a necessity prior to purchasing or acquiring their customary lands for public purposes.

M. The **1787** Northwest Territory Ordinance, a law prior to the adoption and ratification of the United States Constitution, mandated that the land and property of the Indians "shall *never* be taken from them without their consent . . . and that their property, rights, and liberty, . . . *never* shall be invaded or disturbed, unless in just and lawful wars authorized by Congress . . ." 1 Stat. 50, 52. The hands that rocks the cradle pinches the baby as well to justify the rocking, and pinching, exercise.

When the British lost the war with the American colonists, nobody did anything about the Aboriginal land title issue. The Jay Treaty failed to address the issue. The Ghnet Treaty, too, and the Treaty of Versailles. Ignorance of the law is no excuse.

N. There is a popular Native American saying: "When the Europeans first came to Plymouth Rock, they fell on their knees and *prayed*. Thereafter, they fell on the Indians and *preyed*."

Our nation began as a *timocracy* – an aristocracy of property; government by propertied, relatively rich people. Check out the backgrounds of our framers and founders, a.k.a Founding Fathers. They were property (read: slave) owners bar none.

Justice Patterson spoke about the "preservation of property as a primary object of the social compact from an otherwise despotic power that exists in every government," in the 1795 case of *Van Horne's Lessee.* What this means, in plain language, is that people who originally owned lands (appropriated from the Aboriginals/Native American Indians, by cession, by purchase of a few cents per acre by courtesy of treaties) agreed to give the

government the power to protect their lands if they paid a tithe or some other form of compensation as an agreement between the people and the government. But then, judges started interpreting and applying the "received wisdom of legal thought," and started messing with the concept of eminent domain. The chief culprit was the "easement" or "right of way" element which when expanded could mean any thing, especially to those in power and authority – the plenary power of Congress.

O. The fourth chief justice of the U.S. Supreme Court, John Marshall, who had *six weeks* of training and studying as a lawyer under the legendary George Wyeth, denied the power of the power of an Indian tribe to pass their right of occupancy to another in *Johnson c. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823). The reason and justification: "Discovery of the continent gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or conquest. The discovery of the American continent by Columbus or Amergio Vespucci has been aptly described as the discovery of the family refrigerator in the family kitchen by the family's five-year old.

In *United States v. Percheman*, 32 U.S. (7 Pet.) 51, (1833), Chief Justice Marshall sustained the grant of the sovereign king of Spain in Florida.

The only difference between *Johnson* and *Percheman* is that the grant of a sovereign Indian tribe found no (racial) favor to that of a Spanish sovereign grant. The supremacy clause of the U.S. Constitution says: "The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all ***Treaties*** made, or which shall be made, under the Authority of the United States, shall be the supreme law of the land . . . Article VI, § 2.

P. The Fifth Amendment to the United States Constitution says: "No person shall be . . . deprived of life, liberty, or property without due process of law." Neither provision is cited in *Percheman,* nor is the occupation theory of property mentioned; yet all three lie behind the opinion. The Court's conclusion is not compelled by the language of the treaty or the statutes. The Court believed the Constitution is what they say it is and means. Nine unelected people decide the fate of millions of Indians because the President who nominated them and the Senate which approved their nominations and appointed them expected them to bend their judicial beliefs, preferences, decisions and philosophy to their warped sense of loyalty to the man and men who confirmed their nominations.

Q. In 1941, the unanimous U.S. Supreme Court, concerning Indian title, wrote that "Extinguishment of Indian title based on aboriginal possession is of course a different matter. The power of Congress in that regard is supreme. The manner, method and time of such extinguishment raise *political*, not justiciable, issues. *United States v. Santa Fe Pacific Railroad Company*, 314 U.S. 339, 347. So why in God's name did the U.S. Supreme Court grant certiorari to hear it, and thereafter say it is a *political* decision especially if it is a congressional and executive decision? What if the Indians had a code regarding extinguishment which was contrary to the federal government's laws, and what if the Indians had a far more superior armed forces than the federal government? Congress fell asleep at the wheel, or did they care at all ?

R. In *Tee-Hit-Ton v. United States*, 348 U.S. 272 (1955), Alaskan Indians claimed compensation, under the Fifth Amendment of the U.S. Constitution, on the ground that the government had sold timber on land "belonging" to the tribe. The Supreme Court reasoned that their claim must be denied because "mere possession of customary (native) land is not specifically recognized by Congress." *Usucapion* was never mentioned. It was, instead, ignored. The Court tacitly relied on the English ***right*** to sovereign occupancy, title, right, ownership and possession because of Letters Patent and Orders in Council buttressed by "manifest destiny" of discovery, conquest and cession. See Newton, *At the Whim of the Sovereign: Aboriginal Title Reconsidered*, 31 Hastings L.J. 1215 (1980), for a review of the notion that Indians have some sort of legal claim to their land as opposed to a claim simply based on Congress' conscience.

Surprisingly, a 1946 decision held that compensation for a taking under the Fifth Amendment is available for *unrecognized* Indian title. *United States v. Tillamooks*, 329 U.S. 40. But the 1981 decision in *USA & Samish, Snohomish, Snoqualmie & Steilacoom Indian Tribes & Duwamish Indian Tribes v. State of Washington,* 641 F. 2d 1368, firmly and unequivocally declared that "federal recognition of an Indian tribe as a political body is **not** required for tribe to establish and exercise treaty rights." In other words, the treaty language in the Supremacy Clause (Article VI, section 2) is sufficient. (emphasis mine)

"Federal recognition" is an unnecessary political and administrative millstone around the Aboriginals necks.

But American Aboriginals are so disorganized that they cannot rally together to fight the chief thief. The Anglo-Saxon American has succeeded in disengaging the American Aboriginal solidarity as a Nation. Even the United Nations, based on American Aboriginal soil, is impotent. They still pay no usufruct to the American Aboriginal.

Congress has recognized injustice where it has occurred, returning to the problem with later jurisdictional acts that allowed Aboriginals to sue for the fair value of their lands – most notably, by the Indian Claims Commission Act of 1946, 60 Stat. 1049, 25 U.S.C. § 70 *et seq*. Is this great news for aboriginal title? The standard applied in judicially-supervised settlements has always been that Natives shall receive the fair market value – at the time of taking – of the lands they have historically used and occupied. *Crow Tribe of Indians v. United States*, 284 F. 2d 361 (Ct. Cl. 1960). This value includes all rights to the land, surface and subsurface, not merely the value of the lands to the Natives for historic purposes. *United States v. Shoshone Tribe of Indians,* 304 U.S. 111 (1938); *Otoe and Missouria Tribe of Indians v. United States*, 131 F. Supp. 265 (Ct. Cl. 1955).

This is still doubtful law; an unsettled point – *dubii juris*. We cannot function in a jurisprudence of doubt as a civilized people and nation. The Alaska Native title issue has never been put to rest except for continuous tests, at best. A lot of doublespeak and fork-tongued reasons were proffered and explained away. Meanwhile the Natives sit back and wonder and ponder what to do next. WE THE PEOPLE are the answer to this dilemma.

THE ALIANZA

S. The Spanish conquistadors, led by Coronado, were mandated by the Pope to issue land grants to local natives if and when they decided to set up a fort or a station to do business, The first such land grants were recorded in **1540** in Santa Fe, the oldest European settlement in this continent where the Pueblo Indians lived since antiquity. Under the **1680** code, *Recopilacion de leyes los Reynos de los Indias,* "not only were the Indians to have full possession of all the area they used or occupied, but they were also to be given more territory if for any reason their lands were insufficient for their needs." See "*The Baltasar Baca Grant: History of an Encroachment*," *El Palacio* 68, nos. 1 and 2 (Spring and Summer 1961): 49. Myra Ellen Jenkins, New Mexico archivist has a complete record of these transactions.

Imagine a foreigner stepping on Aboriginal America and issuing a land grant.

There was a scam artist called James Addison Reavis ("Baron of Arizona") who evidenced fake Spanish land grants and almost claimed Arizona. They made a movie based on this character played by the British actor Vincent Price as the Baron.

Mexico, which gained independence from Spain in 1821, ruled the region that is now New Mexico until 1848, when the United States government defeated the fledgling nation and took – under the Treaty of Guadalupe Hidalgo – the Southwest as new American territory. The Treaty of Cordoba, granted Indians citizenship and land rights were continued, but nothing was done to implement this provision by specific legislation or orders to the chief executives.

According to 11 Statutes at Large, 374, of November 1, 1864, Congress confirmed the Pueblo land grants. ***This is significant***. By the 1960s, *thirty-five million acres* of New Mexico was owned by the federal government using legislative measures to take whatever lands they could under the pretext of creating national parks and national forest lands.

T. The people were infuriated by the federal government's actions in taking lands originally belonging to the Indians. On June 5, 1967, a band of armed men swept into a remote northern New Mexico courthouse in search of a hated district attorney. The DA was not present, but two officers were wounded, the courthouse shot up and a newsman and a deputy were seized (kidnapped). The "courthouse raid" was led by the fiery land-grant leader **Reies Lopez Tijerina** of the land-seeking Alianza Federal de Mercedes ("Federal Alliance of Land Grants). The Alianza was a thorn in the flesh of the federal government because they challenged the legality of land grabbing.

Tijerina defended himself during the trial for kidnapping by persuading the Judge Larrazolo and jury that he was making a **citizen's arrest**. The judge instructed the jury thus: "The Court instructs the jury that citizens of New Mexico have the right to make a **citizen's arrest** under the following circumstances:

(1) If the arresting person reasonably believes that the person arrested, or attempted to be arrested, was the person who committed, either as a principal or as an aider and abettor, a felony; or
(2) If persons who are private citizens reasonably believe that a felony has been committed and that the person who is arrested, or attempted to be arrested, was the person committing, or aiding and abetting, said felony.
(3) The Court instructs the jury that a citizen's arrest can be made even though distant in time and place from the acts constituting or reasonably appearing to constitute the commission of the felony. The Court further instructs the jury that a citizen's arrest may be made whether or not law enforcement officers are present and, further, may be made in spite of the presence of said law enforcement officers.
(4) The Court instructs the jury that anyone, including ***a state police officer, who intentionally interferes with a lawful attempt to make a citizen's arrest does so at his own peril, since the arresting citizens are entitled under the law to use whatever force is reasonably necessary to defend themselves in the process of making said arrests***.
(Quoted in full, *The New Mexico Review and Legislative Journal,* January 30, 1969, page. 3).

The surprise verdict: **NOT GUILTY ON ALL THREE COUNTS….** Tijerina conducted his own defense although unversed in law. Observers say he did a spectacular job as an attorney. A true autodidact.

The Alianza motto that stood its ground: *Tierra o Muerte – Land or Death.*

Although the press, the judge, the prosecutors, the jury and Tijerina himself did not mention or imply it, the twenty-seven words, three commas and one period in the Second Amendment won the day for Tijerina and his "act of kidnapping." After all, a militia is defined as an armed citizenry whose main function is to ensure that foreign and domestic enemies are contained.

Perfectly legal, under common law, to effectuate a citizens arrest against the County Tax Assessor for fraud, deception and theft – felonies; and the Sheriffs and their deputies for illegally evicting you from your homes because you were duped into signing away your rights when your purchased

your house. Perfectly legal, too, to arrest those barracudas, and piranhas and sharks that made you sign all those fraudulent documents.

CONCLUSION

A major groundswell of support from homeowners must be impelled to take and hold **absolute title** to their homes and land upon which they are built. Millions of homeowners must step up and make this a sustaining reality. God will reward your act of faith and loyalty when you ask the original steward of this land – the American Aboriginal/Native American/American Indian - to issue you the real, legitimate, lawful, legal, and lasting title to the land upon which your house was built so that your home is your castle.

Our government continues to poke its nose and pour billions of dollars where it is not required or wanted in the Far East and the Middle East. What if these people and these governments poked their noses in our business? Our government is unable to reconcile itself with the wanton theft of Aboriginal lands and the ongoing home foreclosure nightmares, and yet it continues to want to be the world's policeman.

As recent as June 2014, we became the laughing-stock of the world when we exchanged Sgt. Bowe Bergdahl for ***five*** topnotch Taliban prisoners in Guantanamo. We reportedly did not deal with the Afghan government, but the Taliban, a terrorist organization. The prisoner exchange is purely an illustration of consorting with the enemy while aiding and abetting it. Bergdahl, according to military sources simply wandered away to be conveniently captured by the Taliban, who after five years, asked for five of their comrades. Obama sold us down the river. We, Aboriginals, need to protect our land and soil from further terrorist overtures and putative attacks. Obama has endangered our homeland because of political chicanery. Barack Hussein Obama could very well be a Manchurian Candidate.

Nemo ex proprio dolo consequitur actionem – no one can pursue an action based upon his own wrong-doing, or no one acquires a right of action through his own fraud - should be the our country's motto instead of *e pluribus unum*.

Identifiable and cognizable American legal history illuminates four core values that will save this country as a nation-state:

(1) there ought to be some restraints on arbitrary power, and, accordingly, that power should only be exercised pursuant to the rule of law although the federal government is a limited one with enumerated powers;

(2) that the ultimate political principle ought to be popular sovereignty – that the ***people*** themselves should be responsible for the content of the rules of law, and that the legal system ought to inure to the benefit of all the ***people***;

(3) that a primary purpose of the law should be the furtherance of economic progress and social mobility while political theories, acts and omissions bring the rearguard;

(4) that the law ought to construct and maintain a large area for the functioning of private enterprise relatively immune from the incursions of public power while the titans of industry in Wall Street and the commoner in Main Street share equal opportunities.

Numbers (1) to (4) above span some 250 years of doubtful jurisprudence and represents our somewhat cacophonic values laced covertly and overtly with hypocritical sophistry. These core values also showcase the undeniable fact that the supreme law of the land – the U.S. Constitution - is best used as a book-end in some dusty shelf, or as a solid vermin crusher. Avoiding the Constitution for enlightenment on the vagaries of a legislative enactment when a statute is in doubt is a canon of construction especially when *five* justices of the U.S. Supreme Court opine that the troublesome statute can be interpreted plainly and literally without need for semantics and style of prose.

The fact that we have a limited government with enumerated powers originally intended is a boring cliche. The people are not sovereign but subjects to the royal proclamation of the Congress, the White House and the Judiciary. The *rule of law* has been replaced by the *law of rules*. We are adrift in the ocean of doubt, uncertainty, confusion and inconsistency. There are different rules for different fools set in stone by administrative mules. A significant number of laws are flaws of the legal conscience and consciousness.

Until and unless this government steers the ship of sovereignty back on course, or everything it does, or does not do, will be tantamount to rearranging the deck chairs of the Titanic.

TO GOD BE THE GLORY

Judge Navin-Chandra Naidu
Member, National American Indian Court Judges Association
Member # 01798766, American Bar Association
Member # 1040751, International Bar Association

> (***Note***: I maintain the "bar" credentials in case I need to get some deserving tribal member, or a true believer in God out of a secular court. Without these credentials, those U.S. politicians in black robes will rattle my cage for "unauthorized practice of law".)

Word In Action Ministry

Lies have speed, but Truth has endurance

Ecclesiastical Court of Justice and Law Offices

An action outreach of the Word In Action Ministry.

As a lawyer who personally discovered the power of the risen Christ, with God's Word, much prayer and counsel, the Ecclesiastical Court of Justice & Law Offices (**ECJ**) was established in 2001, after God's Word spoke to my heart in accordance with The Holy Bible's mandates as contained in 1 Corinthians 6: 1-9 [1] ; and supported by Public Law 97-280 [2] of October 1982 when Congress, by passing a federal law, declared that the Holy Bible is the Word of God; locally, Article 1, section 11 of the Constitution of the State of Washington [3] which guarantees that people have an absolute right to the freedom of religion in conscience, practice, and belief; and, of course, the 1st Amendment [4] to the United States Constitution [5] that declares that **Congress shall make no law** to respect the establishment of religion nor prohibit the free exercise thereof, usually termed as the **Establishment Clause** and the **Free Exercise Clause**.

The concept and the practice of an ecclesiastical church court is not new, the Presbyterian Church, the Methodist Church, and the Catholic Church have their own ecclesiastical courts in America.

ECJ's primary objective is to be obedient to God's Word and to galvanize the jurisdiction of the church, and ensure that its sovereignty and autonomy, as guaranteed by the supreme law of the land, is observed, and adhered to, without doubt, distortion, misinterpretation, uncertianity, and needless confusion.

ECJ is usually called upon by local churches to adjudicate and resolve disputes between believers and those that are occasioned between believers and non-believers. These disputes range anywhere from marriage, divorce, property and other issues.

ECJ's key message to the church in America today is simply this: Do not forsake your first love, the Head of the Church, Jesus Christ as the true sovereign over the church. Do not surrender your jurisdiction, authority, sovereignty and autonomy to Caesar especially when Caesar has mandated

Food For Thought

Whoever shall introduce into the public affairs the principles of primitive Christianity will change the face of the world. - Benjamin Franklin, 1778

In The News

Religious Freedom Rally Los Angeles 2012 Flyer

Judge Naidu's Response Opinion regarding the Texas Attorney-General's Opinion of the Live Oak Treaty of 1838 with the Lipan Apache. 7/27/10 Read here

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- A Memorial and Remonstrance
- FindLaw.Com
- Law Dictionalries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

laws in your favor. Please read and thoughtfully consider the following...

- 1st Amendment of the Bill of Rights
- Public Law 97-280 - "Year of the Bible"
- state of Washington Constitution, Article 1, § 11
- Religious Freedom Restoration Act of 1993
  (despite City of Boerne v. Flores, 117 S. Ct. 2157, 138 L. Ed. 2d 624 (1997))
- Religious Land Use and Institutionalized Persons Act
- Authority and Jurisdiction of Ecclesiastical Courts

What these laws are saying is simply this...

> *"That the government, whether local, state or federal, has no business in the business of the church, and these laws clearly, coherently, and cogently state that government cannot, should not, and ought not to interfere, intercede, intrude, or invade the sanctitiy of the church, and it's associated religious organizations."*

This is the primary reason why we have a law school based on the premise that the Holy Bible is the original source of all law. Suitably qualified individuals can be trained in this law school to earn a fast-track law degree to blaze the trail for the first of it's kind Ecclesiastical Bar Association.

While the enemy advances his cause, the Church slumbers... The article quoted below is from a prominent secular law journal.

> ***Gay Bar President Resigns Over Comments on Discrimination Suit Against Sullivan & Cromwell***
> By Anthony Lin
> New York Law Journal
> 02-05-2007
>
> The president of the **Lesbian, Gay, Bisexual & Transgender Law Association (LeGaL)** has resigned over comments he made to the press about a Sullivan & Cromwell associate's sexual-orientation discrimination suit against the firm.
>
> A few days after Aaron Charney filed his Jan. 15 complaint, John Scheich, then-LeGal's vice president, told ABC News that the firm had been a strong supporter of gay lawyers and said: *I don't know Aaron Charney or the details of his case, but if I had to line up on one side or the other, I would have to line up with ... Sullivan Cromwell."*"
>
> The propriety of Scheich's comment had been criticized by gay groups and on the Internet, particularly at legal gossip blog Above the Law.

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News

> In a statement issued late Thursday, Scheich said he disaffirmed his statement to ABC and apologized to Charney. *"As a former litigator I should have known better," he said. "The plaintiff should be given every opportunity to prove his case and should not be prejudged simply because I knew more about the defendant than I did him."* Scheich, who was only elected president of the organization several days ago, said he was resigning because the controversy was damaging LeGal.
>
> Charney's suit claims several Sullivan & Cromwell partners discriminated against him because he is gay and retaliated against him when he made an internal complaint. The firm has categorically denied the allegations.

I've heard it said... *"Where there is the most darkness, there is the need for the most light."* The Church needs to be the tool used by God to shine the light of His Truth and Justice in every area of our culture - including the area of law. An **Ecclesiastical Bar Association** is needed **NOW!**

Please look over the law school Syllabus. The salt needs to get out of the shaker. If you think it really doesn't matter, read below what the United States Supreme Court had to say about homosexuals joining law schools to become professional attorneys in Romer v. Evans, 517 U.S. 620, 628 (1996).

> *"When the Court takes sides in the culture wars, it tends to be with the knights rather than the villeins - and more specifically with the Templars, reflecting the views and values of the lawyer class from which the Court's Members are drawn. How that class feels about homosexuality will be evident to anyone who wishes to interview job applicants at virtually any of the Nation's law schools. The interviewer may refuse to offer a job because the applicant is a Republican; because he is an adulterer; because he went to the wrong prep school or belongs to the wrong country club; because he eats snails; because he is a womanizer; because she wears real-animal fur; or even because he hates the Chicago Cubs. But if the interviewer should wish not to be an associate or partner of an applicant because he disapproves of the applicant's homosexuality, then he will have violated the pledge which the Association of American Law Schools requires all its member-schools to exact from job interviewers: "assurance of the employer's willingness" to hire homosexuals. Bylaws of the Association of American Law Schools, Inc. 6-4(b); Executive Committee Regulations of the Association of American Law Schools 6.19, in 1995 Handbook, Association of American Law Schools. This law-school view of what "prejudices" must be stamped out may be contrasted with the more plebeian attitudes that apparently still prevail in the United States Congress, which has been unresponsive to repeated attempts to extend to homosexuals the protections of federal civil rights laws, see, e.g.,* Employment Non-Discrimination Act of 1994, S. 2238, 103d Cong., 2d Sess. (1994); Civil Rights Amendments of 1975, H. R. 5452, 94th Cong., 1st Sess. (1975), and which took the pains to exclude them specifically from the Americans With Disabilities Act of 1990, see 42 U.S.C. 12211(a) (1988 ed., Supp. V)."

ECJ conducts it's business at the 75th Floor of the Columbia Tower Building in downtown Seattle, Washington. Telephone 206-384-9220 if you have any questions.

ECJ's lawbook is the Holy Bible. Disputants appearing in this court are given every opportunity to state their grievances in the presence of a selected jury. The law of the land will be adhered to provided it does not conflict with biblical principles and mandates.

The usual concern for most church leaders and churchgoers is whether the judgment of the ecclesiastical court valid in a civil court. Please refer to the first paragraph of this introduction to evaluate whether or not a civil court will disturb the findings of an ecclesiastical court especially when the supreme law of the land offers the church an unique position in jurisdictional autonomy. And also listen to the cry of the prophet in Hosea 4:6...

> *My people are destroyed for lack of knowledge: because thou hast rejected knowledge, I will also reject thee, that thou shalt be no priest to me: seeing thou hast forgotten the law of thy God, I will also forget thy children. - KJV*

Be blessed as Jesus the Risen Christ is always in charge.

Secular law seems to favor the fact that only rights can be ***enforced***. Immunities, privileges, and powers, on the other hand, can only be ***protected.***

We can only turn to God, the Holy Spirit and to our Lord and Savior Jesus Christ, for wisdom, inspiration and revelation in times of difficulties in adjudging cases and causes that come before this Court.

1 Corinthians 6: 1-8 is one of the many sources responsible for the establishment of this Court wherein God's Word stipulates that we need to exercise our ecclesiastical right to address and seek redress to disputes among those who come under the authority of the Church and its jurisdiction.

Accordingly, this Court is dedicated to invoking the power of God's Word regarding the supreme law of the Universe vis-à-vis secular law, as codified and expounded in the Bible:

- Exodus 1: 15-22 Obeying God and disobeying an unjust law of the land
- Leviticus 19:15 Perversion of justice
- Ecclesiastes 5:8 Uphold justice
- Hosea 8:4 Man appointed rulers
- Deuteronomy 1:13-18; Ezra 7: 24-26 Ecclesiastical authority
- Deuteronomy 17: 8-13 Ecclesiastical courts
- Isaiah 9:6-7 Ecclesiastical government
- Isaiah 10:1-2 Woe to injustice, unjust laws
- Hebrews 13:17 Obedience to leaders, submission to authority - church
- Matthew 22: 36-40 Love God and obey His commandments
- John 10:8 Gateway to the truth
- Romans 12:2 Nonconformity with secularism
- 1 Corinthians 10:26 Eminent domain of God - earth is the Lord's
- Colossians 1:18 Supremacy of Jesus Christ

For a more exhustive list of God's Law and how it relates to our lives today, do this - click **here**, print the page, read over the entire list, then actually go to the Bible and read the references. See 2 Timothy 2:15

Support for ecclesiastical jurisdiction, as God would have ordained it, comes from such secular sources as:

The Establishment Clause & The Free Exercise Clause of the First Amendment to the federal Constitution as enshrined in the Bill of Rights,

> ***"Congress shall make no law respecting an establishment of religion, or prohibit the free exercise thereof"***.

The First Amendment was placed in the Bill of Rights to keep the church out of governmental affairs, not to keep government out of church affairs — read *"The Mind of the Founder"*, edited with introduction and commentary by Marvin Meyers from "Sources of the Political Thought of James Madison', Brandeis University Press, Hanover and London.

The Mind of the Founders describes the business of the Founders to be...

> ***"one that involved the high enterprise of translating worthy principles into working laws and institutions with the materials imposed by history"***.

Justice Holmes remarked, a hundred and twenty years later,

> ***"that a page of history is worth a pound of logic"***.

It must be remembered that, out of the fifty-five Christian Framers of the federal Constitution, twenty-nine were Anglicans, eighteen Calvinists, two Methodists, two Lutherans, two Roman Catholics, one Quaker sometime-Anglican, and one open deist — Dr. Franklin, from twelve states of the then Union.

Public Law 97-280, annotated as 96 Stat. 1211, Senate Joint Resolution 165, Congressional Record, Volume 128 (1982) October 4 1982, **a federal law**, which declared that the **Holy Bible is The Word of God**. The year 1983 was designated as a national...

> ***"Year of the Bible in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures"***

Article 1, Section 11 of the constitution of the State of Washington which declares, among other things, that...

> "***Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one***

> ***shall be molested or disturbed in person or property on account of religion...***"

Clarification must be made that when and where practical the Court may turn to secular references to the extent that the Divine operates in the secular realm to accomplish a Divine purpose in the physical secular realm.

At all times, the **Rules of the Ecclesiastical Court of Justice** will follow the scriptural rationale of Leviticus 19:15, wherein God's Word is explicit:

> ***You shall do no injustice in judgment; you shall not be partial to the poor or defer to the great, but in righteousness shall you judge your neighbor".***

The Court is aware of the rigidity of certain rules. Rules that restrict and constrict faith, reason and fairness. Justice Benjamin Nathan Cardozo, Associate Justice of the United States Supreme Court, from 1932 to 1938, opined thus:

> ***"[O]ver-emphasis on certainty may lead us to intolerable rigidity. Justice is a concept by far more subtle and indefinite than is yielded by mere obedience to a rule. There is no solid land for fixed and settled rules. No doubt the ideal system, if it were attainable, would be a code at once so flexible and so minute, as to supply in advance for every conceivable situation the just and fitting rule. But life is too complex to bring the attainment of this idea within the compass of human power".***

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Footnotes:

1 Corinthians 6:1-6

New King James Version (NKJV)
Do Not Sue the Brethren

1. Dare any of you, having a matter against another, go to law before the unrighteous, and not before the saints?
2. Do you not know that the saints will judge the world? And if the world will be judged by you, are you unworthy to judge the smallest matters?
3. Do you not know that we shall judge angels? How much more, things that pertain to this life?
4. If then you have judgments concerning things pertaining to this life, do you appoint those who are least esteemed by the church to judge?
5. I say this to your shame. Is it so, that there is not a wise man among you, not even one, who will be able to judge between his brethren?

6. But brother goes to law against brother, and that before unbelievers!
7. Now therefore, it is already an utter failure for you that you go to law against one another. Why do you not rather accept wrong? Why do you not rather let yourselves be cheated?
8. No, you yourselves do wrong and cheat, and you do these things to your brethren!
9. Do you not know that the unrighteous will not inherit the kingdom of God? Do not be deceived. Neither fornicators, nor idolaters, nor adulterers, nor homosexuals, nor sodomites,
10. nor thieves, nor covetous, nor drunkards, nor revilers, nor extortioners will inherit the kingdom of God.
11. And such were some of you. But you were washed, but you were sanctified, but you were justified in the name of the Lord Jesus and by the Spirit of our God.

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Washington State Constitution

Article 1 - Declaration of Rights
SECTION 11 RELIGIOUS FREEDOM. Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, **and no one shall be molested or disturbed in person or property on account of religion**; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment: PROVIDED, HOWEVER, That this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional, and mental institutions, or by a county's or public hospital district's hospital, health care facility, or hospice, as in the discretion of the legislature may seem justified. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony. [AMENDMENT 88, 1993 House Joint Resolution No. 4200, p 3062. Approved November 2, 1993.]

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"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46

Word In Action Ministry

Lies have speed, but Truth has endurance

Word in Action Ministry Law College©

In Association with His Majesty's University

of the Royal Borneo Nations

Ecclesiastical Court of Justice & Law Offices©

Tel: 626-428-7669 (Judge NC Naidu)
Tel: 714-928-6914 (Mr. KC Shaw)
Tel: 011-65-9127-0489 (Mr. Lionel Ong - Singapore)

"Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered" - Luke 11:52

causa ecclesiae publicus aquiparatur
et summa est ratio quae pro religione facit

The cause of the Church is equal to public cause;
and paramount is the reason which makes for religion

Food For Thought

Those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor saftey. - Benjamin Franklin, Poor Richard's Almanac

In The News

Accredited Law Degree in 18-Months. here
Application: PDF Form

Supreme Court takes up Law School Case on Christian Student Group.

Why is Supreme Court holding onto Christian Legal Society Case? here

9th Circuit Rules Law School Cannot Be Required to Recognize Religious Student Group That Discriminates. here

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Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Law Links

- The Constitution
- The Bill of Rights

Law School Syllabus

1. Each classroom lecture session will last 4 hours, with two breaks.
2. The last hour will be used for Q and A session.
3. Classes will run every day from Mondays to Fridays.
4. There will be two lectures per day totaling 8 hours.
5. Off-campus lectures available by webinar, DVD & Skype.

Aims and Objectives

1. To train lawyers by relying on, and referring to, the wisdom of the ancient Scriptures of the Bible.

2. To establish an ecclesiastical bar association nationwide in conformity with **Luke 11:46 and Luke 11:52.** See also the dissent in **Romer v. Evans, 517 U.S. 620, 628 (1996)**

3. To establish an ecclesiastical Legislature, Executive, Judiciary, and a Police Force, (*cf*. Vatican) in conformity with the United States constitutional framework which, expressly and impliedly, regards the Church as a coequal separate sovereign with the acquiescence of the United States Constitution mandating that ***Congress shall make no law*** to prohibit the free exercise of religion.

4. To unify, if possible, plausible, and probable, the followers of Jesus Christ, the Son of God, in order to enable the ecclesiastical government to function efficiently.

5. To juxtapose the ecumenical and secular protocols in reference to the **Free Exercise Clause** of the Bill of Rights as one of the amendments to the federal Constitution; **Public Law 97-280** [Senate Joint Resolution 165] (a October 4, 1982 federal law that declared the Holy Bible as the Word of God); **76 Corpus Juris Secundum §85** (ecclesiastical jurisdic-tions of church tribunals vis-à-vis civil courts); Article 1, §11, Constitution of the state of Washington (religious freedoms); **Religious Freedom Restoration Act of 1993** (to protect the free exercise of religion); the **Religious Land Use and Institutionalized Persons Act of 2000** (to protect individuals, houses of worship, and other religious institutions from discrimination in zoning and land-marking laws); the seminal principles, maxims, doctrines emanating from the common law, tradition, custom, and mores which spawned the law of this land; and the countless landmark decisions rendered by the United States Supreme Court germane to the Establishment Clause and the Free Exercise Clause, which in totality underscores the bedrock principle that the **Church is a coequal separate sovereign** in the United States constitutional framework.

Teleconferencing of lectures is being explored for distant learning programs.

Textbooks need not be bought as law libraries have them in abundance. However, notes and materials will be issued to students by the Lecturer.

- Laws of the Bible
- Memorial & Remonstrance
- FindLaw.Com
- Law Dictionalries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News

You will learn about "*how*" to study and the proper diet you need to be on to increase your concentration and retention power. The study of law can be fun with the right attitude and proper approach to its so-called complexities and oddities. Remember what an eminent British jurist once said, "*the law may be an ass, but it need not be asinine"*. You will learn how to understand these anomalies in the law with the right stuff - common sense.

Avid reading habits are encouraged. Law students are advised to read widely. Other than law textbooks, law commentaries, treatises, articles, and reviews, law students are encouraged to read metaphysics, philosophy, poetry, economics and literature whenever you have the time. *"Reading maketh the man*", John Ruskin once said. Why read fiction when truth is stranger than fiction. Your reading habits will determine how you present a brief in writing, or yourself in court as an erudite man or woman. A man or woman of letters is always regarded with praiseworthy comments. Get into the habit. And increase your concentration power. Eat potassium rich foods.

At the end of 18 months you will sit for a major examination. When you pass this written examination, you will receive your Law degree and a special Bar License to practice in all secular courts.

The School will approach bar associations, to accredit you as a lawyer licensed to practice in federal courts through the *pro hac vice* rule or through MJP (multi-jurisdictional practice) procedures in conformity with the adoption of the **The Role of Lawyers** at the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27th August to 7th September, 1990. You must understand that we need to instruct other sovereigns that we are equals, and not inferior to them.

This law school program is designed to match theory with practical working knowledge of the law. You will spend each day reading and discussing one area of the law and the following day you will learn how to present your case based on what you studied the day before in open court. This is what is called "moot court". There will be a judge, a lawyer, a prosecutor (for criminal law) or two lawyers (civil cases) and a jury (for both civil and criminal cases). You will learn how to think on your feet and how to engage in total recall and match your wits with opposing counsel. You will learn how to enhance and improve your reasoning, understanding and memory. An avant-garde approach to acquiring professional skills and abilities.

The aim is to improve your skills as a lawyer eminently trained and qualified to handle complex legal issues. It is unlike the traditional law schools where it is all about overloading your mind with pedantic stuff, which you will hardly ever use in the practical aspects of handling a lawsuit in and out of court.

Inspired by a specific need to offer sound legal education from the fountainhead of all ethics and morals - the Holy Bible - WIAM Law College course structure is designed to avoid the strictures and impediments imposed

in other law schools where a basic college degree is insisted upon by the Admissions departments. Combine that with a law degree lasting three years, and you would have wasted seven years - with no income – towards becoming a lawyer. There is no need for this excess.

WIAM Law College is not designed to create lawyers to endorse and defend special interests. We wish to follow principles to realize just results. In other words, we do not desire to believe that "justice is blind." The legal profession should not become a surrogate for society. It has never been WIAM's intention to train law students to become lawyers in the Wall Street law firm tradition where the legal profession becomes a crucial link between corporate capitalism and social elitism. This naturally spawns power, influence, and wealth that fester as a devastating and uncontrollable disease.

We want to train and qualify lawyers who believe in the Word of God, and are willing to apply legal reasoning to Biblical principles. We do not espouse division, strife, and discord. We want lawyers who are willing to employ the mandates of Matthew 5: 25 and Luke 12 :57 (mediation and arbitration), and extol the virtues of lawyers quite unlike the Lord's admonition in Luke 11:46 and Luke 11:52 where lawyers do not take on the persona of Alexis Tocqueville's "aristocrat", Harlan F. Stone's "hired man", or Louis D. Barandeis's "adjunct."

If you can lay hands on Jerold S. Auerbach's books *Unequal Justice : Lawyers and Social Change in Modern America* (Oxford University Press, New York, 1976); and *Justice Without Law? – Resolving Disputes Without Lawyers*, Oxford University Press, New York, 1983), you will be truly blessed. These two books are a must read for those aspiring to launch a career in law.

SCHOOL VENUE:	Salt Lake City, Utah All other locations either via webinars, DVDs or onsite lectures
COURSE LECTURER:	Judge Naidu Mr. Fred Willoughby
COURSE DURATION:	18 Months If you wish to specialize in a particular or specfic area of substantive law (eg. business, banking, medical, media IT, or any other discipline) based on your current educational, training and work-related experience, the Course would entail less than 18 months.
COURSE FEES:	$30,000.00 (USD) **Financing Available by W.I.A.M.** Fees may be equally divided into 18 payments with an initial $ 500.00 (USD)

non-refundable application deposit.

FIRST QUARTER ~ 120 hours (30 classes)

1. Introduction to Law ~ 40 hours (10 classes)
   - I.D.E.A. (mnemonics)
   - Types
   - Definitions
   - Aims, Objectives, Purposes, Advantages
   - Origins
   - Concepts
   - Jurisprudence
   - Study Tips
2. Understanding Law ~ 80 hours (20 classes)
   - Laws of the Bible
   - Common Law
   - Organs of State (Government)
   - Constitutional Law
   - Native American Law & History
   - Judge-made Law (15 Hours)
   - Doctrines / Maxims
   - Executive Orders
   - Administrative Rules (APA)
   - Statutory Law
   - Study tips

SECOND QUARTER 100 hours (25 classes)

1. Substantive Law
   - Understanding the basics and the innards of contract law, torts, land law, trust law, banking law, criminal law, IPR, immigration, securities, labor, employment, etc.

2. Adjective Law
   - Rules of Practice, Procedure, Judicial Canons, Ethics, Rules of Court

3. Common Law
   - *Stare Decisis*, Tradition, Custom

4. Treaties
   - International Law

5. The U.S. Federal Constitution
   - Scope, Scale, Impact, Effect, Intent, Content, Extent

6. The Law of Evidence
7. Law and Justice
8. Study Tips

THIRD QUARTER 100 hours (25 classes)

1. Law Research
2. Legal Writing
   - Complaints, Briefs, Appeals, Law and Argument

3. Answering Complaints and Briefs
4. Win the case with the pulp, not with the entire orchard

FOURTH QUARTER 100 hours (25 classes)

1. Moot Court Trials
2. Preparing for Court
3. Preparing Arguments
4. How to Research
   - The Law, Cases, Statutes, Treatises in a law library

5. Thinking on your feet
6. The PACASSI Doctrine
   - Secrets of the Holy Bible based on the wisdom of the ancients via custom, tradition, mores and oral history

And He said, "woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not their burdens with one of your fingers" - Luke 11:46

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Ecclesiastical Court of Justice

Lies have speed, but Truth has endurance

Judgement and Order of the Ecclesiatical Court of Law and Justice

WORD IN ACTION MINISTRY ECCLESIASTICAL COURT OF JUSTICE

100 North 21 East, Suite 105, American Fork, Utah 84003
Tel: 310-200-0166 / Tel: 801-857-7823
Email: scripturalaw@yahoo.co.uk Website: www.scripturalaw.org

JUDGMENT AND ORDER OF THE ECCLESIASTCIAL COURT OF JUSTICE

Carol Lynn McMeel
(fka Carol Lynn Engen),)
)
CLM-6-2012-ECJ
Plaintiff,)
)
vs.)
)
JUDGMENT AND ORDER
CITY OF BELLEVUE, a municipal)
corporation; Steve Sarkozy, City)
Manager, City of Bellevue, an)
official and an individual;)
)
KING COUNTY, a municipal)
corporation; Dow Constantine,)
King County Executive, an official)
and an individual;)
)
John Doe 1-100)
)
Defendants.)
)

FACTS AND BACKGROUND

Docket News

AMICUS CURIAE BRIEF 10/16/12
Restoration of Customary Native Title Pursuant to the 1790 Non-intercourse Act - Judge Navin-Chandra Naidu of Native American Law - US District Court Eastern District of California.

Alvarez Motion 10/5/12
Petition for Removal to Ecclesiastical Jurisdiction. Superior Court of Bernardino County California - Case No: FSB 1004502 .

Judgement and Order of the Ecclesiastical Court of Justice 9/05/12
Order from Judge Navin-Chandra Naidu. City of Bellevue and King County. Case No: CLM-6-2012-ECJ.

Avington Brief 8/25/09
Petitioners requesting Ecclesiastical Court Jurisdiction. Tacoma Municipal Court styled as Case No: D-00035145.

The Believer's Petition
» MS Word Version here
» HTML Version here
» PDF Version here

Tacoma Municipal Court
case # D00039838 - In the matter of Lautoa Laga -

This case is all about a process server who enters a property to deliver documents with an intruder mentality, and when accosted by the property owner -the plaintiff in the instant case – decides to raise an alarm, and calls in the entire police department of the City of Bellevue. The police, as usual, decide to use all necessary and unnecessary force to bring the plaintiff woman down as if she is a psychopathic killer. The plaintiff is tazed, and handcuffed, and arrested for being a danger to the community.

The actions of the defendant City of Bellevue is typical of police in any part of our country especially when a firearm is involved. In this case, a firearm was not involved, only the false allegation of the process server that the homeowner threatened to shoot him. The "intruder" process server could very well have knocked on the door or rang the doorbell rather than kick in the door. But process servers like to imitate Navy Seals. They think they are beyond the law because the law allows them the opportunity to serve court documents. The bank intending to serve court documents decides to use an un-uniformed process server instead of an uniformed police officer. The process server is the one who should have been charged and arrested for breaking and entering and filing a false complaint.

The Defendants in this case, the City of Bellevue and the City of Seattle, were served Summonses and Complaints to defend an action initiated by the Plaintiff for violations of her constitutional rights.

Defendants chose to ignore these Summonses and Complaints. They probably entertain the notion that this Court is a powerless one with no enforcement authority and power.

LAW AND ARGUMENT

A misguided belief and a correspondingly miscast trend prevail in this country that Church and State are separate. Checking the Reports on the Continental Debates, and the Resolutions passed in the first Congress leading up to the ratification of the U.S. Constitution of the United States dispel such a misapplied belief that Church and State are separate. They are, instead, like oil and water contained in the same vessel. They cannot coagulate because their properties and characteristics differ, but they exist side by side. Each does not need the other to survive, but they compliment and complement one another because we are simply a Christian nation that presupposes a Supreme Being.

Ecclesiastical courts cannot be ordained and established by the Congress because of the constraints and restraints of the Free Exercise Clause, Bill of Rights, U.S. Constitution, despite the language of Article 1, section 8, clause 9 of the U.S. Constitution that grants power to Congress to ordain and establish inferior tribunals to the United States Supreme Court.

Ecclesiastical courts are the *sine qua non* of the Church. There are some in this country that believe ecclesiastical courts handle only canon law involving disputes between clergy and the laity, or between clergy as an intra-corporate

removal to Ecclesiastical Court

Judgment against Daniel Merritt steming from violation(s) of the EMIT Code of Conduct

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- A Memorial and Remonstrance
- FindLaw.Com
- Law Dictionalries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Food For Thought

The only thing necessary for the triumph of evil is for good men to do nothing. - Edmund Burke

Links of Value

controversy. Nothing could be further from the truth. The Holy Bible declares in 1 Corinthians 6:1-8 that Christians are prohibited from defending or initiating lawsuits in secular courts. A federal law, PL 97-280, 96 Stat.1211 of 1982, declared that the Bible is the Word of God. I believe that settles the issue that ecclesiastical courts need no legislative or executive orders and edicts to exists and operate.

Plaintiff has asked for total damages amounting to $19,620,000.00. She has evidenced pain, suffering, humiliation, depression, odium, contempt, hatred and ridicule from her family, neighbors, friends, and associates as result of the defendants' high-handed and arbitrary actions. Destroying one's reputation and standing in the community is a serious matter. Our law contemplates defamation, libel and slander as veritable causes of action.

The financial institution that wanted Plaintiff evicted from her home failed to furnish the necessary documents to evidence ownership of the Note. Court clerks in our country are readily jump in favor of issuing a non-judicial foreclosure sale proceeding without performing the civilized act of due diligence. When a lender appears in court with a foreclosure request, due process and equal protection of the laws are quickly abandoned and ignored. The sequence of events that unfold is usually traumatic and painful for foreclosure victims which this country has failed to address and redress since the housing bubble burst. Instead more and more laws are created to bring the Wall Street financial juggernauts to heel. They get away with a slap on their wrists while the homeowners face enforceable writs usually to their detriment. Most are unable to hire attorneys. The result is the inexorable loss of their nest eggs.

The contempt exhibited by the defendants in not defending the Plaintiff's Motion For Relief tells this Court that the defendants have no regard for the U.S. Constitution and federal laws guaranteeing and protecting religious rights.

Be that as it may, this Court has given latitude by extending time for the defendants to respond. They chose to ignore this Court's Notice.

Under the circumstances, Plaintiff is awarded total damages in the amount of $19,620,000.00; Defendant City of Bellevue is liable to the extent of $8,620,000.00 and Defendant City of Seattle to the extent of $11,000,000.00. There shall be no interest computed to this sum certain as the Bible frowns on usury pursuant to the edicts of Exodus 22:25; Deuteronomy 23:20 and Proverbs 28:8.

Defendants have (30) thirty days from the date of this judgment to satisfy this judgment debt.

SO ORDERED, this 5th day of September, 2012

Judge Navin-Chandra Naidu
Member #160325, American Judges Association

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"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46

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Thank You Visitors

Word In Action Ministry

Lies have speed, but Truth has endurance

Native American Law and Justice Center

The **Native American Law and Justice Center** (NALJC) was established in 2004 as a Joint Venture Partnership (JVA) between the **Word In Action Ministry** (WIAM) and the **Native American Economic Enterprise** of the Blackfeet Nation (1855 Treaty of Fort Laramie), a federally-recognized native American Tribe located in Browning, Montana, United States of America.

The primary aims and objectives of NALJC are to foster and garner both international and local partnerships in order to establish the economic development of the Church in general, for the Blackfeet Nation in particular, and other native American tribes who wish to participate, and place them firmly in the leading edge of a thriving business entity while it transforms gradually as an independent economic force. A sort of **autarky** (economic self-sufficiency) for the partners.

In the study of **aphnology** (the science of wealth) NALJC is acutely aware that the Laws of Impossible Trinity prove that no country can *simultaneously* keep its exchange rate fixed, monetary policy independent, and capital markets open to the world. The study of **cambistry** (science of exchange in international finance) proves this beyond any doubt whatsoever. (Robert Mundell, Nobel Laureate)

It is common knowledge that western nations are not suffering from **chrematophobia** (fear of money). Small wonder that they:

- Own and operate the international banking system
- Control all hard currencies
- Are the world's principal customer if not consumer
- Provide majority of the world's finished goods
- Dominate international capital markets
- Exert considerable moral leadership within many societies
- Are capable of massive military intervention
- Control the sea lanes
- Conduct the most advanced and prolific technological research and development
- Dominate the aerospace industry; international communications; hi-tech weapons industry

  - Jeffrey R. Barnett, *Parameters*, 24, Spring 1994

Food For Thought

This Book of the Law shall not depart from your mouth, but you shall meditate in it day and night, that you may observe to do according to all that is written in it. For then you will make your way prosperous, and then you will have good success. Have I not commanded you? Be strong and of good courage; do not be afraid, nor be dismayed, for the Lord your God is with you wherever you go. - Joshua 1:8-9, Bible, NKJV

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- A Memorial and Remonstrance
- FindLaw.Com
- Law Dictionalries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

NALJC heeds Mahatma Gandhi's exhortation of what he termed the...

> ***"Three Great Blunders of the World"***
> - *Knowledge without Character*
> - *Pleasure without Conscience*
> - *Worship without Sacrifice*

It is with the Guiding Light of the Holy Bible, and the words of the Mahatma's guiding lamp that NALJC ***will strive first to teach, coach, and give understanding*** as a prelude to knowledge and wisdom to its partners in their efforts to seek and secure autarky. Without knowledge there is no destination, but aimless journeys and ambiguous travel.

> ***"You have first an instinct, then an opinion, then a knowledge, as the plant has root, bud, and fruit".*** - Ralph Waldo Emerson 1803-1882

In matters relating to economics, law and finance, NALJC in conjunction with ECJ conducts it's law classes and business at the 75th Floor of the Columbia Tower Building in downtown Seattle, Washington. Telephone 206-384-9220 if you have any questions. Review the **WIAM Law College Syllabus**.

Our primary source of offering counsel and guidance to your projects is to arrange for Project Financing through our partners and access in international capital and financial markets. Review the **PROJECT FINANCING PROTOCOLS - HERE** (10 kb .pdf file). To see how it comes together please review the current **STATUS REPORT - HERE** (121 kb .pdf version).

All clients of NALJC, and all those who comes to its portals to avail of its legal, judicial, financial, economic, and ecclesiastical services will be first encouraged to ***learn and understand*** what it takes to attain true knowledge of their needs, concerns, problems and dilemmas based on their vocations, occupations, professions and callings. **No service will be rendered unless the person(s) requiring assistance is willing to learn and understand that which he or she is seeking to resolve.**

So, please read about what we do, and please do not view learning like Winston Churchill did (1874-1965) when he said in a House of Commons speech in November 1952...

> ***"I am always ready to learn, although I do not like being taught".***

Please also remember the immortal words of Alexander Pope (1688-1744, *An Essay on Criticism*)...

> ***A little learning is a dangerous Thing***
> ***Drink deep, or taste not the Pierian Spring;***
> ***There shallow Draughts intoxicate the Brain,***
> ***And drining largely sobers us again.***

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report
- **HEEP** - Home Equity Enhancement Program flyer (pdf file)

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News

Our advice is to never tire of learning. When you stop learning you cease to live. You merely exist.

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"Why do you call me 'Lord, Lord' and do not do what I say?" - Luke 6:46

Kingdom of Hawaii

HOW INTERNATIONAL LAW MAY HAVE AIDED, ABETTED, ASSISTED, AND ACTIVATED THE 1893 OVERTHROW OF THE KINGDOM OF HAWAII ©

Edmund K. Silva, Jr. Sovereign Monarch, Kingdom of Hawaii, June 20, 2014

Before he was appointed Prosecutor at the Nuremberg Trials, Justice Robert H. Jackson, of the United States Supreme Court, made a speech in which he warned against the use of judicial process for non-judicial ends, and attacked cynics who "see no reason ***why courts, just like other agencies, should not be policy weapons***. If we want to shoot Germans as a matter of policy, let it be done as such, said he, but don't hide the deed behind a court. If you are determined to execute a man in any case there is no occasion for a trial; the word yields no respect for courts that are ***merely organized to convict***." (Justice Jackson may have been referring to show trials like Alfred Dreyfus's). Mussolini may have got his just desserts, but nobody supposes he got a fair trial. . . . Let us bear that in mind as we go about punishing criminals. There are enough laws on the books to convict guilty Nazis without risking the prestige of our legal system. It is far, far better that some guilty men escape than that the idea of law be endangered. In the long run the idea of law is our best defense against Nazism in all its forms." These passages were taken from the editorial that appeared in the *Life*, May 28, 1945, page 34, and convey ideas worthy of some reflection.

In the context of the infamous, illegal, unlawful, illicit, and outrageous 1893 overthrow of the Kingdom of Hawaii, large questions loom in the horizon of conscience, morality, ethics, law, justice and military science. The 1993 Clinton Administration's Apology became a federal law, as an expression of a contrite spirit and a troubled conscience. But it did nothing else to restore the Kingdom to its original sovereign status. The law may be an ass, but it need not be asinine, opined a British judge of yore. It is law that sealed the fate of the Kingdom of Hawaii. The bully act by the United States is still seared in

Food For Thought

But he who looks into the perfect law of liberty and continues in it, and is not a forgetful hearer but a doer of the work, this one will be blessed in what he does. James 1:25, Bible, NKJV

Kingdom of Hawai'i

NOTICE

July 2, 2014

A 1993 LAW TO ACKNOWLEDGE THE BREAKING OF A 1893 LAW (Nov 23, 1993)

Link to 1993 Law

NOTICE

June 30, 2014

OFFICIAL REPLY BY HIS MAJESTY KING ALLEN NEOH WENG WAH OF THE ROYAL BORNEO NATIONS TO HIS MAJESTY KING, EDMUND K. SILVA, JR. OF THE KINGDOM OF HAWAII REGARDING INTENT TO ENTER BILATERAL TREATY RELATIONS (June 30, 2014).

Copy of Official Reply

the memories of Native Hawaiians and other bystanders who stood by watching and waiting for the consequences. Even when the Kingdom is restored, these dark memories will never fade away.

1. **What if Queen Lilioukalani's soldiers fired live rounds at the intruders, with heavy losses and causalities incurred by both sides, and succeeded in annihilating them?**
2. **Would this have restored the temporary loss of kingdom and sovereignty, or would it have enraged the Grover Cleveland Administration to declare an all out war although instigated by the United States?**
3. **Is there then, a legal or a military remedy, to the invasion and the overthrow? Or, crucially, is it too late?**
4. **If someone suggests today that we attack the United States for war crimes against the Kingdom of Hawaii in 1893, will he or she be charged with treason by the Department of Justice of the United States?**
5. **Won't it be "just war" made clear by Hugo Grotius, the father of international law, to fight the U.S. government to restore the Kingdom?**
6. **Does the Kingdom of Hawaii owe a "temporary allegiance" to the State of Hawaii or the United States?**

There are many unresolved and unanswered questions that keeps Native Hawaiians awakened, agile, active, and alert. None has forgotten the shameful overthrow.

Justice Jackson, as chief counsel for the United States in the prosecution of "Axis war criminals," in his Report to President Truman of June 7, 1945, said: "International law is ***not capable*** of development by legislation, for there is no continuously sitting international legislature. Innovations and revisions in international law are brought about ***by the action of governments*** designed to meet a change circumstances. It grows, as did the common law, through ***decisions reached from time to time in adopting settled principles to new situations.***"

Taken to its logical conclusion, if the Kingdom of Hawaii has the wherewithal today to declare a "just war" upon the United States, not just saber-rattling but serious man-for-man-weapon-for-weapon combat, this would be consistent with Justice Jackson's opinion, escalating to become a a justifiable action of the government of the Kingdom of Hawaii to meet new situations although 121 years late.

After the shock to civilization of the war of 1914-1918, however, a marked reversion to the earlier and sounder doctrines of international law took place. By the time the Nazis came to power it was thoroughly established that launching an aggressive war or the institution of war by treachery was ***illegal*** and that the defense of legitimate warfare was no longer available to those who engaged in such an enterprise. It is high time that we act on the juridical principle that aggressive war-making is illegal and criminal. It is submitted that **the 1893 overthrow of the Kingdom of Hawaii is a war crime and act of**

NOTICE

June 18, 2014

FROM THE OFFICE OF THE ATTORNEY GENERAL FOR THE KINGDOM OF HAWAII ORDER TO SHOW CAUSE (June 18, 2014).

Copy of Order to Show Cause

NOTICE

June 18, 2014

PETITION FOR JUDICIAL REVIEW AS AN ARTICLE III COURT OF ORIGINAL JURISDICTION TO DETERMINE THE VALIDITY OF THE NATION-STATE STATUS OF THE KINGDOM OF HAWAII SUBMITTED TO THE SUPREME COURT OF THE UNITED STATES OF AMERICA (June 18, 2014).

Copy of Petition for Judicial Review

NOTICE

June 17, 2014

APPOINTMENT of NAVIN-CHANDRA NAIDU (Silver Cloud Musafir) as HM Attorney General of the Kindom of Hawai'i (Nov 11, 2009).

HM Appointment of Mr. Navin-Chandra Naidu 11/11/09

Law Links

- The Constitution
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aggression that constitutes a war crime. It is not too late for a court of justice, not a court of law, to see if the role of justice will subsume the rule of law to find for the Kingdom of Hawaii as the lawful and legitimate government of Hawaii.

The re-establishment of the principle of justifiable war is traceable in many steps. One of the most significant is the **Briand-Kellogg Pact of 1928** by which Germany, Italy, and *Japan*, in common with the United States and practically all the nations of the world, ***renounced war*** as an instrument of national policy, bound themselves to seek the settlement of disputes only by pacific means, and condemned recourse to war for the solution of international controversies**.**

Were they resorting to high hypocrisy, making good newspaper copy, making friends, just venting sentiments of statesmanship, or testing the waters to see who would furnish the lighted match to the cinder of hostilities portentously developing? In the ultimate analysis, there was always international law the occupier-invader could resort to as a veritable reason, purpose and excuse for territorial expansion.
Side bar: Hitler, in his *Mein Kempf*, acknowledges territorial expansion from the United States displacement and removal of American Indians from their ancestral homelands. Even a state endorsed sterilization was justified for Hitler following *Buck v. Bell*, 274 U.S. 200 (1927), a decision of the U.S. Supreme Court, written by Justice Oliver Wendell Holmes, Jr., in which the Court ruled that a state statute permitting compulsory sterilization of the unfit, including the intellectually disabled, "for the protection and health of the state" did not violate the Due Process clause of the 14th Amendment to the United States Constitution. The decision was largely seen as an endorsement of negative eugenics —the attempt to improve the human race by eliminating "defectives" from the gene pool. Hitler needed no other justification. *Untermunchen* are unfit. He was a quick study. Monkey see monkey do.

Unless the Briand-Kellogg Pact *altered* the legal status of wars of aggression, it has no meaning at all and comes close to being an ***act of deception.*** In 1932 Henry L. Stimson, as United States Secretary of State, gave voice to the American concept of its effect. He said: "war between nations was renounced by the signatories of the Briand-Kellogg Treaty. This means that it has become *illegal* throughout practically the entire world. *It is no longer to be the* ***source and subject of rights****. It is no longer to be the principle around which the duties, the conduct, and the rights of nations revolve. It is an* **illegal thing.** . . . By that very act we have made obsolete many legal precedents and have given the legal profession the task of re-examining many of its Codes and treaties.

So, the 1893 overthrow of the Kingdom of Hawaii is essentially illegal and

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should confer no rights on the invader- occupier – the United States of America under the Briand-Kellogg Treaty. Neither can the United States assume any rights whether or not a treaty or a series of treaties were signed at gunpoint forcing the hapless Queen Lilioukalani to accede to a stronger sovereign. This is an act of terrorism minus the bombings and beheadings jihadist fashion.

The Briand-Kellogg Pact constitutes only one *reversal* of the viewpoint that all war is legal and has brought international law into harmony with the common sense of mankind - that **unjustifiable war is a crime**. The Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, signed by the representatives of forty-eight governments, which declared that **"a war of aggression constitutes . . . an international crime.** The Eight Assembly of the League of Nations in 1927, on unanimous resolution of the representatives of forty-eight member-nations, including *Germany*, declared that **a war of aggression constitutes an international crime.** At the Sixth Pan-American Conference of 1928, the twenty-one American Republics unanimously adopted a resolution stating that "**war of aggression constitutes an international crime against the human species."**
In the name of civilized behavior, anything goes when military power is unleashed to an unsuspecting victim. Retaliation has to yield some meaningful conclusion to this uneven playing field.

The Hague Regulations declare that the occupant is ***forbidden*** to compel the inhabitants to swear allegiance to the hostile power. . . . (III Hyde, *International Law*, 2d revised ed., pp. 1898-1899.) . . . Nor may he (occupant) compel them (inhabitants) to take an oath of allegiance. Since the authority of the occupant is not sovereignty, the inhabitants owe no temporary allegiance to him. . . . (II Oppenheim, *International Law*, pp. 341-344.)

When Queen Lilioukalani was forced to abdicate, agree to annul her sovereign state, her throne, and threatened to enter into another treaty arrangement with the United States, this was tantamount to a forced swearing of allegiance to a hostile power. This also means that whatever the Queen signed to prevent bloodshed could be deemed an act of compelling the Hawaiian inhabitants to do something that was unlawful, and completely at odds with international law which means the United States broke international law with impunity, knowledge and malice aforethought.

The occupant's lack of the authority to exact an oath of *allegiance* from the inhabitants of the occupied territory is but a corollary of the continuance of their allegiance to their own lawful sovereign (Queen Lilioukalani of the Kingdom of Hawaii). This allegiance does not consist merely in obedience to the laws of the lawful sovereign, but more essentially consists in loyalty or fealty to him. In the same volume and pages of Oppenheim's work above

cited, after the passage to the effect that the inhabitants of the occupied territory owe no temporary allegiance to the occupant it is said that "On the other hand, he may compel them to take an oath sometimes called an 'oath of *neutrality*' . . . willingly to submit to his 'legitimate commands.' Since, naturally, such "legitimate commands" include the **occupant's laws**, it follows that said occupant, where the rule is applicable, has the right to compel the inhabitants to take an oath of obedience to his laws; and since according to the same rule, he cannot exact from the inhabitants an *oath of obedience* to his laws; and since, according to the same rule, he cannot exact from the inhabitants an oath of allegiance, it follows that obedience to his laws, which he can exact from them, *does not constitute allegiance*.

Realpolitik, doublespeak, threats, coercion, semantics and rhetoric creep into the bargain. Queen Lilioukalani had no choice as she was at the mercy of the invaders. This is international law. This is the law that governs wars, and is no respecter of persons. It is punitive in its application. The conqueror(s) wrote the rules which became the law! This is an outrage!

The suspension of the *political law* during enemy occupation is logical, wise and humane. The latter phase outweighs all other aspects of the principle aimed more or less at promoting the necessarily *selfish motives* and purposes of a military occupant. It thus consoling to note that the powers instrumental in the crystallization of the Hague Conventions of 1907 did not forget to declare that they were "animated by the desire to serve . . . the interest of the humanity and the over progressive needs of civilization," and that "in case not included in the Regulations adopted by them, the inhabitants and the belligerents remain **under the protection and the rule of the principles of international law**, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience." These saving statements come to the aid of the inhabitants in the occupied territory in a situation wherein, even before the belligerent occupant "takes a further step and by appropriate affirmative action undertakes to acquire the right of sovereignty for himself, . . . the occupant is likely to regard to himself as clothed with freedom to endeavor to impregnate the people who inhabit the area concerned *with his own political ideology, and to make that endeavor successful by various forms of pressure exerted upon enemy officials who are permitted to retain the exercise of normal governmental functions.*" (Hyde, *International Law*, Vol. III, Second Revised Edition, 1945, p. 1879.) **Might is right, it would appear. Therefore, should the Kingdom of Hawaii invoke this to acquire the right of sovereignty even if it entails the clash of arms? Why did the United States turn a deaf ear and a Nelson's eye to this mandate? It is clear that a bully mentality subsumes civilized law. It is also clear that the very nation that wanted to "Christianize" Native Hawaiians made it a point to ignore, evade and disregard all laws that made civilization a real, meaningful and measurable quality.**

So far, I have found nothing in international law which restores the victims' rights as a sovereign state. The spoils of an unjust war are the victor's for good. It did not take long for the State of Hawaii to be birthed in the belly of bad law and an unjust invasion accompanied by an

outrageously illegal annexation.

The inhabitants of the occupied territory should necessarily be bound to the sole authority of the invading power, whose interest and requirements are naturally in conflict with those of the displaced government, if it is legitimate for the military occupant to demand and enforce from the inhabitants such obedience as may be necessary for the security of his forces, for the maintenance of law and order, and for the proper administration of the country (**United States Rules of Land Warfare, 1940, article 297**), and to demand all kinds of services "of such a nature as not to involve the population in the obligation of taking part in military operations against their own country" (**Hague Regulations, article 52**);and if, as we have in effect said, by the surrender the inhabitants pass under a temporary allegiance to the government of the occupant and are bound by such laws, and such only, as it chooses to recognize and impose, and the belligerent occupant `is totally independent of the constitution and the laws of the territory, since occupation is an aim of warfare, and the maintenance and safety of his forces, and the purpose of war, stand in the foreground of his interest and must be promoted under all circumstances or conditions." *United States vs. Rice*, 4 Wheaton, 246, and quoting Oppenheim, *International Law*, Vol. II. Sixth Edition, Revised, 1944,p. 432.)

The Kingdom of Hawaii can rely on these authorities to seize control of the State of Hawaii. It is a sovereign right. It will not be an act of war or vengeance. It would be more of an act of an owner reclaiming his lost property. I think the fact that the United States was never really attacked by a foreign power on American soil, until the September 11, 2011 attacks, impelled her to run roughshod over anyone anywhere – read: Iraq. The 1941 attack on Pearl Harbor was on Hawaiian soil. What would have been the consequences if Japan attacked Pearl Harbor to free Native Hawaiians from American bondage, and restored the Kingdom of Hawaii in its wake?

It should be borne in the mind that "the possession by the *belligerent occupant of the right to control, maintain or modify the laws* that are to obtain within the occupied area is an exclusive one. The territorial sovereign driven therefrom, *can not compete with it on an even plane*. Thus, if the latter attempt interference, its action is a mere manifestation of belligerent effort to weaken the enemy. It has no bearing upon the legal quality of what the occupant exacts, while it retains control. Thus, if the absent territorial sovereign, through some quasi-legislative decree, forbids its nationals to comply with what the occupant has ordained obedience to such command within the occupied territory *would not safeguard the individual from the prosecution by the occupant*." (Hyde, *International Law*, Vol. III, Second Revised Edition, 1945, p. 1886.) **See, in the clash of arms the law is silent, or favors the one wielding the bigger and stronger weapon. Some civilization, some law**!
The decision in the *United States vs. Rice* (4 Wheaton, 246), conclusively supports our position. As analyzed and described in *United States vs. Reiter* (27 Fed. Cas., 773), that case "was decided by the Supreme Court of the United States **against the United States**, and in favor of the authority of Great Britain, its enemy in the war, and was made shortly after the occurrence of

the war out of which it grew; and while no department of this Government was inclined to magnify the rights of Great Britain or disparage those of its own government, there can be no suspicion of bias in the mind of the court in favor of the conclusion at which it arrived, and no doubt that the *law seemed to the court to warrant and demand such a decision*.
That case grew out of the war of 1812, between the United States and Great Britain. It appeared that in September, 1814, the British forces had taken the port of Castine, in the State of Maine, and held it in military occupation; and that while it was so held, foreign goods, by the laws of the United States subject to duty, had been introduced into that port *without paying duties* to the United States. (Can you see the similarity to the Kingdom of Hawaii's plantation industries and the issue of the payment of duties?).

At the close of the war the place by treaty restored to the United States, and after that was done Government of the United States sought to recover from the persons so introducing the goods there while in possession of the British, the duties to which by the laws of the United States, they would have been liable. The claim of the United States was that its laws were properly in force there, although the place was at the time held by the British forces in hostility to the United States, and the laws, therefore, could not at the time be enforced there; and that a court of the United States (the power of that government there having since been restored) was bound so to decide. But this **illusion of the prosecuting officer there was dispelled by the court in the most summary manner**.

Mr. Justice Story, that great luminary of the American bench, being the organ of the court in delivering its opinion, said: 'The single question is whether goods imported into Castine during its occupation by the enemy are liable to the duties imposed by the revenue laws upon goods imported into the United States.. We are all of opinion that the claim for duties ***cannot*** be sustained. . . . The sovereignty of the United States over the territory was, of course, **suspended**, and the laws of the United States could no longer be rightfully enforced there, or be obligatory upon the inhabitants who remained and submitted to the conquerors. By the surrender the inhabitants passed under a **temporary allegiance of the British Government, and were bound by such laws, and such only, as it chose to recognize and impose**. From the nature of the case no other laws could be obligatory upon them. . . . Castine was therefore, during this period, as far as respected our revenue laws, to be deemed a *foreign port*, and goods imported into it by the inhabitants were subjects to such duties only as the British Government chose to require. Such goods were in no correct sense imported into the Unites States.'

The court then proceeded to say, that the case is the same as if the port of Castine had been foreign territory, ceded by treaty to the United States, and the goods had been imported there previous to its cession. In this case they say there would be no pretense to say that American duties could be demanded; and upon principles of public or municipal law, the cases are not

distinguishable. They add at the conclusion of the opinion: 'The authorities cited at the bar would, if there were any doubt, be decisive of the question. But we think it too clear to require any aid from authority.' **Does this case leave room for a doubt whether a country held as this was in armed belligerents occupation, is to be governed by him who holds it, and by him alone? Does it not so decide in terms as plain as can be stated?**

It is asserted by the Supreme Court of the United States with entire unanimity, the great and venerated John Marshall presiding, and the erudite and accomplished Joseph Story delivering the opinion of the court, that such is the law, and it is so adjudged in this case. Nay, more: it is even adjudged that no other laws could be obligatory; that such country, so held, is for the purpose of the application of the law of its former government to be deemed foreign territory, and that goods imported there (and by parity of reasoning other acts done there) are in no correct sense done within the territory of its former sovereign, the United States."

In the case of the Kingdom of Hawaii, trade and commerce in sugar together with other commodities made "just war" an utter necessity while aiding and abetting American imperialism in territorial expansion. To which court of law, justice or equity would the Kingdom of Hawaii venture in to seek restoration and redemption? Is there such a court available with enforcement powers to restore the Kingdom once the latter proves that the invasion-annexation-occupation was a travesty of justice? Or is military justice through the clash of arms the only court that can decide? Diplomacy is a lame duck, an impotent gesture, and a total exercise in futility.

But it is alleged that the sovereignty spoken of in the decision of the *United States vs. Rice* should be construed to refer to the exercise of sovereignty, and that, if sovereignty itself was meant, the doctrine has become obsolete after the adoption of the Hague Regulations in 1907. In answer, sovereignty can have any important significance only when it may be exercised; and, to our way of thinking, it is immaterial whether the thing held in abeyance is the sovereignty itself or its exercise, because the point cannot nullify, vary, or otherwise vitiate the plain meaning of the doctrinal words "the laws of the United States could no longer be rightfully enforced there, **or be obligatory upon the inhabitants who remained and submitted to the conquerors**." We cannot accept the theory of the majority, without in effect violating the rule of international law, hereinabove adverted to, that the possession by the belligerent occupant of the right to control, maintain or modify the laws that are to obtain within the occupied area is an exclusive one, and that the territorial sovereign driven therefrom cannot compete with it on an even plane. Neither may the doctrine in the *United States vs. Rice* be said to have become obsolete, without repudiating the actual rule prescribed and followed by the United States, allowing the military occupant to suspend all laws of a political nature and even require public officials and inhabitants to take an oath of fidelity (United States Rules of Land Warfare, 1940, Article 309).

In fact, it is a recognized doctrine of American Constitutional Law that mere conquest or military occupation of a territory of another State **does not** operate to annex such territory to occupying State, but that the inhabitants of the occupied district, no longer receiving the protection of their native State, for the time being **owe no allegiance to it**, and, being under the control and protection of the victorious power, owe to that power fealty and obedience. (Willoughby, *The Fundamental Concepts of Public Law* [1931], p.364.) **Nobody, but nobody, was agreeable to, eligible or available in advising Queen Lilioukalani at that material time**. **Or, maybe they knew the travesty and decided to look the other way. What if armed Native Hawaiians had invaded the White House and forced the President and his Cabinet to surrender?**

"It is but reasonable that States, when they concede to other States the right to exercise jurisdiction over such of their own nationals as are within the territorial limits of such other States, should insist that States should provide system of law and of courts, and in actual practice, so administer them, as to furnish substantial legal justice to alien residents. This does not mean that a State must or should extend to aliens within its borders all the civil, or much less, all the political rights or privileges which it grants to its own citizens; but it does mean that aliens must or should be given *adequate opportunity* to *have such legal rights* as are granted to them by the local law impartially and judicially determined, and, when thus determined, protected." (Willoughby, *The Fundamental Concepts of Public Law* [1931], p. 360.) **Nobody cared. The United States was on a wild rampage. Manifest Destiny reared its ugly heinous head again. Queen Lilioukalani faced the music bravely.**
The Hague Regulations (Article 52) that allows it to demand all kinds of services provided that they do not involve the population "in the obligation of taking part military operations against their own country." Neither does the suspension prevent the inhabitants from assuming a passive attitude, much less from dying and becoming heroes if compelled by the occupant to fight against their own country. Any imperfection in the present state of international law should be corrected by such world agency as the United Nations organizations.

"The outstanding fact to be reckoned with is the sharp opposition between the inhabitants of the occupied areas and the hostile military force exercising control over them. At heart they remain at war with each other. Fear for their own safety may not serve to deter the inhabitants from taking advantage of opportunities to interfere with the safety and success of the occupant, and in so doing they may arouse its passions and cause to take vengeance in cruel fashion. Again, even when it is untainted by such conduct, the occupant as a means of attaining ultimate success in its major conflict may, under plea of *military necessity*, and regardless of conventional or customary prohibitions, proceed to utilize the inhabitants within its grip as a convenient means of military achievement." (Hyde, *International Law*, Vol. III, Second Revised Edition [1945], p. 1912.) **Native Hawaiians were at a distinct disadvantage. Greed by the usurper was more important than the strictures of international law. Nobody, no neighboring countries helped.**

The law of nations accepts belligerent occupation as a fact to be reckoned with, regardless of the merits of the occupant's cause. (Hyde, *International Law*, Second Revised Edition [1945], Vol. III, p. 1879.). **Good, when the Kingdom of Hawaii gets its own armed forces, a takeover and overthrow of the illegal State of Hawaii will be very much within her rights under international law.**

The prohibition in the Hague Conventions (Article 45) against "any pressure on the population to take oath to the hostile power," was inserted for the *moral protection and benefit of the inhabitants*, and does not necessarily carry the implication that the latter continue to be bound to the political laws of the displaced government. The United States, a **signatory to the Hague Conventions,** has made the point clear, by admitting that the military occupant can suspend all the laws of a political nature and even require public officials and the inhabitants to take an oath of fidelity (United States Rules of Land Warfare, 1940, Article 309), and as already stated, it is a doctrine of American Constitutional Law that the inhabitants, no longer receiving the protection of their native state, for the time being owe no allegiance to it, and, being under the control and protection of the victorious power, owe to that power fealty and obedience. Indeed, what is prohibited is the application of force by the occupant, from which it is fair to deduce that the Conventions do not altogether outlaw voluntary submission by the population. The only strong reason for this is undoubtedly the desire of the authors of the Conventions to give as much freedom and allowance to the inhabitants as are necessary for their survival. This is wise and humane, because the people should be in a better position to know what will save them during the military occupation than any exile government. **Hobson's choice is no choice at all. The native Hawaiians submitted because there were no other options but death.**

The exercise of Sovereignty May be Delegated. It has already been seen that the exercise of sovereignty is conceived of as delegated by a State to the various organs which, collectively, constitute the Government. For practical political reasons which can be easily appreciated, it is desirable that the public policies of a State should be formulated and executed by governmental agencies of its own creation and which are *not subject* to the control of other States. There is, however, nothing in a nature of sovereignty or of State life which prevents one State from entrusting the exercise of certain powers to the governmental agencies of another State. Theoretically, indeed, a sovereign State may go to any extent in the delegation of the exercise of its power to the governmental agencies of other States, those governmental agencies thus becoming quoad hoc parts of the governmental machinery of the State whose sovereignty is exercised. At the same time these agencies do not cease to be Instrumentalities for the expression of the will of the State by which they were originally created.
By this allegation the agent State is authorized to express the will of the delegating State, and the legal hypothesis is that this State possesses the legal competence again to draw to itself the exercise, *through organs of its own creation, of the powers it has granted*. Thus, States may concede to colonies

almost complete autonomy of government and reserve to themselves a right of control of so slight and so negative a character as to make its exercise a rare and improbable occurrence; yet, so long as such right of control is recognized to exist, and the autonomy of the colonies is conceded to be founded upon a grant and the continuing consent of the mother countries the sovereignty of those mother countries over them is complete and they are to be considered as possessing only administrative autonomy and not political independence, in the so-called Confederate or Composite State, the cooperating States may yield to the central Government the exercise of almost all of their powers of Government and yet retain their several sovereignties. Or, on the other hand, a State may, without parting with its sovereignty of lessening its territorial application, yield to the governing organs of particular areas such an amplitude of powers as to create of them bodies-politic endowed with almost all of the characteristics of independent States. In all States, indeed, when of any considerable size, efficiency of administration demands that certain autonomous powers of local self-government be granted to particular districts. (Willoughby, The *Fundamental Concepts of Public Law* [1931], pp. 74, 75.)

There is an analogy between the Commonwealth Government and the States of the American Union which, it is alleged, preserve their own sovereignty although limited by the United States (Tenth Amendment, U.S. Constitution). This is not true for it has been authoritatively stated that the Constituent States have no sovereignty of their own, that such autonomous powers as they now possess are had and exercised by the express will or by the constitutional forbearance of the **national sovereignty (read: federalism)**, and that the sovereignty of the United States and the non-sovereign status of the individual States is no longer contested.
It is therefore plain that the constituent States have no sovereignty of their own, and that such autonomous powers as they now possess are had and exercised by the express will or by the constitutional forbearance of the national sovereignty. The Supreme Court of the United States has held that, even when selecting members for the national legislature, or electing the President, or ratifying proposed amendments to the federal constitution, the States act, *ad hoc*, as agents of the National Government. (Willoughby, the *Fundamental Concepts of Public Law* [1931], p.250.) This is the situation at the present time. The sovereignty of the United States and the non-sovereign status of the individual States is no longer contested. (Willoughby, The *Fundamental Concepts of Public Law* [1931], pp. 251, 252.). **Where territorial expansion is the currency of international law, everything gets suspended – good sense, common sense, rule of law, role of justice, civilized behavior – everything. And the irony of all this is that an entity with an area totaling ten miles square – Washington D.C. – can wreak so much havoc without even being a State of the Union but only a *federal* enclave.**

Ultimately, the Kingdom of Hawaii will realize that full restoration and redemption of its Kingdom cannot come at the price of the rule of law. The United States must first become a laughing stock of the whole wide world. Its policies, both domestic and foreign, must be ridiculed. Empire must

expire and not aspire anymore. The Day of Reckoning is nigh. God on High will not see this Kingdom crumble away. CARPE DIEM –SEIZE THE DAY NATIVE HAWAIIANS.

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Lies have speed, but Truth has endurance

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Food For Thought

The right to freedom being the gift of God Almighty, it is not in the power of man to alienate this gift and voluntarily become a slave. These may be best understood by reading and carefully studying the institiutes of the great Lawgiver and Head of the Christian Church, which are to be found clearly written and promulgated in the New Testament. - Samuel Adams, 1772

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

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"Why do you call me 'Lord, Lord' and do not do what I say?" - Luke 6:46

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News & Views

Fiji and Media Distortion -
Media distortion behind Fiji's George Speight & Navin Naidu, Esq.

by D.P. Dwyer
August 8, 2009

Mahendra Chaudhury, an ethnic Indo-Fijian, won the Fijian popular vote in the year 2000, becoming Prime Minister, and helming a Parliament comprising a large number of ethnic Indian legislators. He soon set about amending the Native Title Act which would have given Indo-Fijians - descendants of indentured plantation workers hired from India to work for the burgeoning sugar-cane industry- clear title to customary native lands. This was the spark that ignited a series of events that, till today, has spawned political and economic unease in the idyllic Fiji Islands. - (Full article is here)

Clifford Chance Targets India -
Related Work With Singapore Securities Team

Emma Sadowski
Legal Week - 04-18-2008

Clifford Chance is preparing to strengthen its Indian offering with the launch of a new team in its Singapore office.

The Magic Circle firm is set to form a capital markets group in the office, which will focus solely on Indian clients, later this year. - (Full article is here)

As Deals Plummet,
Law Firms Focus on New Opportunities

Noeleen G. Walder
04-10-2008

As credit woes choke off leveraged deals, New York attorneys say that their firms increasingly are focused on other opportunities -- transactions involving foreign investors, sovereign wealth funds and corporations making strategic acquisitions with stock and/or cash.

Food For Thought

This Book of the Law shall not depart from your mouth, but you shall meditate in it day and night, that you may observe to do according to all that is written in it. For then you will make your way prosperous, and then you will have good success. Have I not commanded you? Be strong and of good courage; do not be afraid, nor be dismayed, for the Lord your God is with you wherever you go. - Joshua 1:8-9, Bible, NKJV

In The News

Judge Naidu's Response Opinion regarding the Texas Attorney-General's Opinion of the Live Oak Treaty of 1838 with the Lipan Apache. 7/27/10 Read here

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Review the "Believer's Petition" here

Thomson Financial reported last week that the value of worldwide announced acquisitions had declined 24 percent in the first three months of the year, compared to the same period in 2007. The sudden nose-dive followed a record-setting year. - (Full article is here)

A CHRONOLOGICAL ORDER OF DISORDER – MORTGAGES, LOANS, AND PREDATORY LENDING PRACTICES

If there is no struggle, there is no progress... Power concedes nothing without a demand. It never did, and it never will. - Frederick Douglas, 1857

I have been watching the development of uncontrolled and unregulated lending practices over the last few years with growing alarm because the regulatory authorities, whose function is to regulate and control, seem to turn a blind eye to the practical implications and consequences of such economic terrorism that is occurring daily right in our communities.

A glimpse into history gives us some insights as to who is behind all this. (ViewsPaper: January 9, 2008 - Full article is here)

Is Credit Default Swap Litigation the Next Big Thing?

Robin Sparkman
10-03-2008

It seems that hardly a day goes by anymore without someone predicting with utmost confidence that boom times for litigators are just over the horizon.

Thursday's prognostication, courtesy of a media lunch hosted Wednesday by Paul, Hastings, Janofsky & Walker: It's going to be all about the credit swaps. (ViewsPaper: October 3, 2008 - Full article is here)

"US TO HOST GLOBAL SUMMIT ON ECONOMY"

...Screamed a page 15 headline in Sunday's *The Seattle Times*. I was shaking uncontrollably with laughter that I did not need a spoon to stir my sugar in my morning chai tea.

Get this, the United States is hosting a global summit on the economy chaired and convened by Bush 43. He and his government did nothing to stop the greed and uncontrollable frenzy in Wall Street to make money at the expense of the investors, but now intends to host a summit! And I am NOT talking about the fat cat investors. I am referring to the middle-class taxpayers who invested in their future for themselves and their children by buying homes, so that some day these homes could be their nest eggs. (ViewsPaper: October 19, 2008 - Full article is here)

"Malaysia & the Aboriginal Peoples Act"

Malaysia has a legislatively approved statute (sounds like an oxymoron) called the Aboriginal Peoples Act of 1950 in which is codified the state's obligations and fiduciary duties towards the aboriginal peoples of Malaysia numbering some seven hundred thousand people whose descendants inhabited the Malay Peninsula – once called the Golden Chersonese - several

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- Memorial & Remonstrance
- FindLaw.Com
- Law Dictionaries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News

thousands years ago.

The interesting aspect of this legislation is that the state is obligated, and mandated, to honor and respect aboriginal peoples rights to their lands and to their general welfare as the nation's *first peoples*. Bush 43 has used the same words to describe the American Indians while not directly referring to their plight. (ViewsPaper: Undated - Full article is here)

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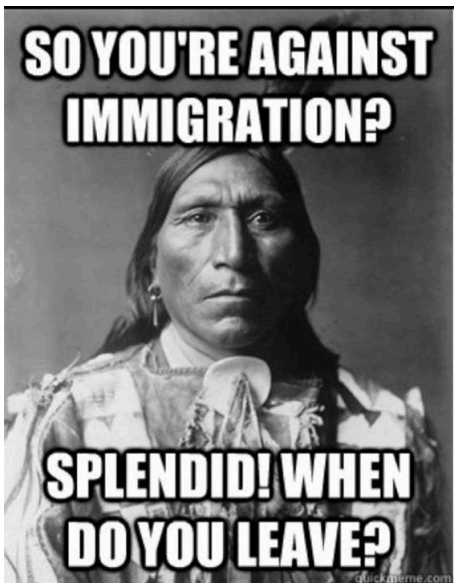
"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46



CURRENT IMMIGRATION LAWS AS VIEWED IN THE NATIVE AMERICAN CONTEXT

(*An Opinion by Judge Silver Cloud Musafir*

based on the rule of law)

THE END OF THE BEGINNING

Be mindful of Article 1, section 8, clause 4 of the U.S. Constitution: *The Congress shall have Power . . . To establish an uniform* ***Rule*** *of Naturalization, and uniform* ***Laws*** *on the subject* of Bankruptcies throughout the United States.

There is a *Rule* of Naturalization and *Laws* for Bankruptcies. Isn't that odd? Why not Laws for Naturalization. Are we to believe that the Committee on Detail allowed this oversight deliberately, implied or meant that a Rule and a Law did not mean the same thing. We Indians and our tribes are the cause and the effect. We adored Nature. We lived with Nature. We needed no Laws except for a Code of Conduct. And then, the Europeans found us in our Paradise. *Causa causae est causa causati* – the cause of the cause

is the cause of the effect.

(The Committee on Detail was established by the United States Constitutional Convention on July 24, 1787 to put down a draft text reflecting the agreements made by the Convention up to that point, including the Virginia Plan's 15 resolutions. It was chaired by John Rutledge, and other members included Edmund Randolph, Oliver Ellsworth, James Wilson and Nathaniel Gorham. We are told that these were some of the "movers and shakers" who birthed our Constitution. The Convention adjourned from July 26 to August 6 to await the report of this committee. This report, when made, constituted the first draft of the US Constitution and much of what was contained in the final document was present in this draft.)

I can imagine the enormous task at hand, but maybe the Committee on Detail did not want to use the word 'law' because no uniform rules or laws dealing with immigration and naturalization existed in 1787. They knew they were in America as colonists by the King's grant (*ex donatione regis*), not by immigration or naturalization laws and rules of the thirteen colonies, or international law by any stretch of the imagination. It would be interesting to find such royal immigration grants conferred on Columbus, the conquistadores, the Pilgrim Fathers, and other explorers and adventurers who came to our shores without permission or consent from Indian tribes..

Or maybe, the framers and realized that this was all Indian country, and that they had no legal right to make laws in someone else's land. After all Indian tribes were considered foreign nations in international law which necessitated treaty-making between a superior and a less superior sovereign.

CASES THAT MATTER

In *Nishimura Ekiu v. United States,* 142 U. S. 651, 142 U. S. 659, the Court, in sustaining the action of the Executive Department, putting in force an act of Congress for the exclusion of aliens, said:

> "It is an accepted maxim of *international law* that every sovereign nation has the power, as *inherent in sovereignty*, and essential to self-preservation, *to forbid* the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe. In the United States, this power is vested in the National Government, to which the Constitution has committed the entire control of international relations, in peace as well as in war. It belongs to the political department of the Government, and may be exercised either through treaties made by the President and Senate or through statutes enacted by Congress." (emphasis added)

The aliens referred to in *Nishimura Ekiu* can apply to the Europeans who came to our lands, settled here, and made laws to "legally" take our lands from us. As Indian tribes and separate sovereigns, international law acknowledges our inherent sovereignty. It then follows that we have a say as a sovereign nation as to who is or is not allowed in their country even though there were no colonial immigration laws except for the King's grant? It has been 217 years. Shouldn't the Indian tribes have a unequivocal say in who is to be allowed into Indian country notwithstanding the United States of America. Should we not insist on enforcing our laws?

Emmerich de Vattel, a Swiss jurist (1714-1767), whose influential treatise *Le Droit des gens* published in 1758 (The Law Of Nations), played a significant role in matters of equality and liberty is eloquently quoted in the American Declaration of Independence, says:

> "Every nation has the *right to refuse to admit a foreigner into the country, when he cannot enter without putting the nation in evident danger, or doing it a manifest injury*. What it owes to itself, the care of its own safety, gives it this right; and, in virtue of its natural liberty, it belongs to the nation to judge whether its circumstances will or will not justify the admission of the foreigner. . . . Thus, also, *it has a right to send them elsewhere*, if it has just cause to fear that they will corrupt the manners of the citizens; that they will create religious disturbances, or occasion any other disorder, contrary to the public safety. In a word, it has a right, and is even obliged, in this respect, to follow the rules which prudence dictates." (Vatt. Law Nat. lib. 1, c. 19, §§ 230, 231) (emphasis added)

Manifest injury owing to Manifest Destiny is blatantly evident since the westward tsunami across the Appalachians could not be controlled or regulated notwithstanding the hundreds of treaties entered into between Indian tribes and the US government to protect their lands. Demography trumped diplomacy as the White House and Congress looked on helplessly. European settlers brought their illnesses and diseases that our People had no immunity for, and gradually these maladies took its toll. They forced Christianity upon us to civilize us as though we had none.

Which court of conscience or justice do we take this to?

Joseph L.E. Ortolan (1802-1873), a French jurist says:

> "The Government of each State has always the right *to compel* foreigners who are found within its territory to go away, by having them taken to the frontier. This right is based on the fact that, the foreigner not making part of the nation, his individual reception into the territory *is matter of pure permission*, of simple tolerance, and creates no obligation. The exercise of this right may be subjected,

> doubtless, *to certain forms by the domestic laws* of each country; but the right exists nonetheless, universally recognized and put in force. In France, no special form is now prescribed in this matter; the exercise of this right of expulsion is wholly left to the executive power." (emphasis added)

Ortolan, Diplomatie de la Mer, (4th Ed.) lib. 2, c. 14, p. 297. No tribal consent was ever recorded when Europeans first set foot in Indian country. They just came and took what they could impelled by greed for precious metals.

Sir Robert Phillimore (1810-1885), a British judge and politician says:

> "It is a *received maxim of international law* that the government of a State *may prohibit the entrance of strangers into the country*, and may, therefore, regulate the conditions under which they shall be allowed to remain in it, or may require and *compel their departure* from it." (emphasis added) 1 Phillim. Int.Law, (3d Ed.) c. 10, § 220.

Can we ask these intruders who settled here, made laws, and choked us till now to remain and let us alone, or ask them to leave as is our right under international law? We are constitutionally asphyxiated.

To repeat the careful and weighty words uttered by Mr. Justice Curtis in delivering a unanimous judgment of the U.S. Supreme Court upon the question what is **due process of law**:

> "To avoid misconstruction upon so grave a subject, we think it proper to state that *we do not consider Congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law or in equity or admiralty, nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a*

> *subject for judicial determination.* At the same time, there are matters involving public rights which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which Congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper."
>
> *Murray v. Hoboken, Co*., 18 How. 272, 59 U. S. 284.

By the law of nations, doubtless, aliens residing in a country with the intention of making it a permanent place of abode acquire, in one sense, a domicile there, and, while they are permitted by the nation to retain such a residence and domicile, are subject to its laws and may invoke its protection against other nations. This is recognized by those publicists who, as has been seen, maintain in the strongest terms the right of the nation to expel any or all aliens at its pleasure. Vatt. Law Nat. lib. 1, c. 19, § 213; 1 Phillim. Int. Law, c. 18, § 321; Mr Marcy, in *Koszta's Case,* 2 Whart. Int.Law Dig. § 198. *See also Lau Ow Bew v. United States,* 144 U. S. 47, 144 U. S. 62; Merl.Repert. "Domicile," § 13, quoted in the case above cited, of *In re Adam,* 1 Moore P.C. 460, 472, 473. (emphasis added)

The aliens from Europe, beginning with Columbus, Cortez, Balboa, Hernando, and others who came in hordes to the New World as settlers and immigrants, never sought the consent of Indian tribes. One can suppose that *inter arma enim silent leges* – in the clash of arms the law is silent. Might is right. Our bows and arrows were no match to their superior arms.

> "*The writers upon the law of nations distinguish between a temporary residence in a foreign country for a special purpose and a residence accompanied with an intention to make it a permanent place of abode.* The latter is styled by Vattel 'domicile,' which he defines to be 'a habitation fixed in any place, with an intention of always staying there.' Such a

> person, says this author, becomes a member of the new society at least as a permanent inhabitant, and is a kind of citizen of the *inferior order from the native citizens*, but is, nevertheless, united and subject to the society, without participating in all its advantages. This right of domicile, he continues, is not established unless the person makes sufficiently known his intention of fixing there, either tacitly of by an express declaration. Vatt. Law Nat. pp. 92, 93. (emphasis added)

Can we consider all these “United States citizens” inferior to us under international law? If they are inferior, shouldn’t they be asking us permission to stay permanently?

Hugo Grotius (1583-1645) a Dutch jurist who is considered the father of international law, nowhere uses the word 'domicile,' but he also distinguishes between those *who stay in a foreign country by the necessity of their affairs, or from any other temporary cause, and those who reside there from a permanent cause.* The former he denominates *'strangers,' and the latter, 'subjects*.' (emphasis added)

So, we are saddled with aliens who, under international law, are subjects or strangers even though they spawned generations of their progeny.

The rule is thus laid down by Sir Robert Phillimore:"

> "There is a class of persons which *cannot be, strictly speaking, included in either of these denominations of naturalized or native citizens, namely, the class of those who have ceased to reside in their native country, and have taken up a permanent abode in another.* These are domiciled inhabitants. They have not put on a new citizenship through some formal mode enjoined by the law or the new country. They are *de facto,* though not *de jure,* citizens of the country

> of their domicile." 1 Phillim. Int.Law, c. 18, p. 347. (emphasis added).

Need we say more as to the immigration rights of all these “US citizens’?

In the *Koszta Case*, it was said by Secretary Marcy:

> "This right to protect persons having a domicile, though not native-born or naturalized citizens, *rests on the firm foundation of justice, and the claim to be protected is earned by considerations which the protecting power is not at liberty to disregard.* Such domiciled citizen pays the same price for his protection as native-born or naturalized citizens pay for theirs. He is under the bonds of allegiance to the country of his residence, and, if he breaks them, incurs the same penalties. He owes the same obedience to the civil laws. His property is, in the same way and to the same extent as theirs, liable to contribute to the support of the Government. In nearly all respects, his and their condition as to the duties and burdens of Government are undistinguishable."2 Whart. Int.Law Dig. § 198. (emphasis added)

One can assume that Catholics and Jews permanently residing in the United States owe no allegiance to the Vatican or Israel, respectively. Shouldn’t the Native Code of Conduct be inducted in the hall of fame for law and justice as well since all law was imported from Europe.

And in *Lau Ow Bew v. United States,* 144 U. S. 47, 144 U. S. 61, this Court declared that,

> "*by general international law, foreigners who have become domiciled in a country other than their own acquire rights, and must discharge duties, in many respects the same as possessed by and imposed upon the citizens of the country, and no restriction on the footing upon which such persons*

stand by reason of their domicile is to be presumed."

Indeed, there is force in the contention of counsel for appellants that these persons are "**denizens**", within the true meaning and spirit of that word as used in the common law. The old definition was this:

> "A denizen of England by letters patent for life, entail or in fee, whereby he becomes a subject in regard of his person."*Craw v. Ramsey,* Vaughan 278.

And again:

> "A **denizen** is an alien born, but who has obtained *ex donatione regis* (by the King's grant) letters patent to make him an English subject. . . . A denizen is in a kind of middle state between an alien and a natural-born subject, and partakes of both of them."1 Bl. Comm. 374.

In respect to this, after quoting from some of the early Constitutions of the States, in which the word "denizen" is found, counsel say:

> "It is claimed that the appellants in this case come completely within the definition quoted above. They are alien born, but they have obtained the same thing as letters patent from this country. *They occupy a middle state between an alien and a native.* They partake of both of them. They cannot vote, or, as it is stated in Bacon's Abridgment, they have no 'power of making laws,' as a native-born subject has, nor are they here as ordinary aliens. An ordinary alien within this country has come here under no prohibition and no invitation, but the appellants have come under the direct request and invitation, and under the 'patent,' of the federal Government. They have been guarantied 'the same privileges, immunities, and exemptions in respect to . . . residence' (Burlingame Treaty, concluded July 28, 1868) as that enjoyed in the United States

> by the citizens and subjects of the most favored nation. They have been told that if they would come here, they would be treated just the same as we treat an Englishman, an Irishman, or a Frenchman. They have been invited here, and their position is much stronger than that of an alien, in regard to whom there is no guaranty from the Government, and *who has come not in response to any invitation, but has simply drifted here because there is no prohibition to keep him out. They certainly come within the meaning of 'denizen,' as used in the Constitutions of the States."* (emphasis added)

But, whatever rights a resident alien might have in any other nation, here, he is within the express protection of the Constitution, especially in respect to those guaranties which are declared in the original amendments. It has been repeated so often as to become axiomatic that this Government is one of enumerated and delegated powers; and, as declared in Article 10 or the amendments:

> "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." Does “people” include Native Americans in the wake of the Snyder Act?

It is said that the power here asserted is inherent in sovereignty. This doctrine of powers inherent in sovereignty is one both indefinite and dangerous. Where are the limits to such powers to be found, and by whom are they to be pronounced? Is it within legislative capacity to declare the limits? If so, then the mere assertion of an inherent power creates it, and despotism exists. May the courts establish the boundaries? Whence do they obtain the authority for this? Shall they look to the practices of other nations to ascertain the limits? The Governments of other nations have elastic powers. Ours are fixed and bounded by a written Constitution. The expulsion of a race may be within the inherent powers of a despotism. History, before the adoption of this

Constitution, was not destitute of examples of the exercise of such a power, and its framers were familiar with history, and wisely, and it seems to me, they gave to this Government no general power to banish. *Banishment may be resorted to as punishment for crime, but among the powers reserved to the people, and not delegated to the Government, is that of determining whether whole classes in our midst shall, for no crime but that of their race and birthplace, be driven from our territory.* (emphasis added)

Thus far, we can see that there are dozens of sanctions and punishments that Native Americans ought to mete out to these denizens who have never been contrite except to invent and unleash such legal sarcasms as “plenary power of Congress,” “trust relationship,” “domestic dependent wards with a limited sovereignty,” “Manifest Destiny,” “discovery and conquest,” among other things.

Profound and wise were the observations of Mr. Justice Bradley, speaking for the court in *Boyd v. United States,* 116 U. S. 616, 116 U. S. 635:

> "*Illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches, and slight deviations from legal modes of procedure*. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the courts to be watchful for the constitutional rights of the citizen, and *against any stealthy encroachments thereon*. Their motto should be *'obsta principiis*.' (Resist the first advances.) (emphasis added).

By stealth, these denizens deprived us our very own wealth and health. But, we had no militia, no standing army, no resources with

which we could thwart the encroachment in friendly terms.

As said by the U.S. Supreme Court, speaking by Mr. Justice Matthews, in *Yick Wo v. Hopkins,* 118 U. S. 366, 118 U. S. 369:

> "When we consider the nature and the theory of our institutions of Government, the principles upon which they are supposed to rest, and review the history of their development, *we are constrained to conclude they do not mean to leave room for the play and action of purely personal and arbitrary power*. . . . The fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to man the *blessings of civilization under the reign of just and equal laws*." (emphasis added)

These denizens who are here permanently used law and justice to suppress, oppress and depress us for the last 217 years. None of the principles of law, nice doctrines, maxims, axioms, tenets and narrow decisions has been of any lasting hope for us.

> “There is a great deal of confusion in the use of the word ‘sovereignty’ by law writers. *Sovereignty or supreme power is in this country vested in the people, and only in the people*. By them certain sovereign powers have been delegated to the Government of the United States, and other sovereign powers reserved to the States or to themselves. This is not a matter of inference and argument, but is the express declaration of the Tenth Amendment to the Constitution, passed to avoid any misinterpretation of the powers of the General Government. That Amendment declares that "that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." When, therefore, power is exercised by Congress,

> authority for it must be found in express terms in the Constitution, *or in the means necessary or proper for the execution of the power expressed*. If it cannot be thus found, it does not exist. (*Fong Yue Ting v. United States*, 149 U.S. 698(1893)) (emphasis added)

The people of the United States pride themselves to be sovereigns because there is no monarch here to render them "subjects." When you appear in court *sui generis* to defend your rights as a sovereign, the judge will immediately consider you a crackpot, an extremist, a zealot, maybe a bigot, or worse, label you an "enemy of the state." You will be subjected to intense scrutiny by the FBI and other agencies of the government.

CAN NATIVE AMERICAN TRIBES ADOPT, NATURALIZE AND BESTOW CITIZENSHIP UPON FOREIGNERS?

All said and done, we have international law favoring us. Let's take a look at some decided cases and see where we can, and ought, to go from here:

1. "A tribe's right to define it's own membership for tribal purpose has long been recognized as central to it's existence as an independent political community. A tribe is free to maintain or establish its own form of government. This power is the first element of sovereignty. Tribal government need not mirror the U.S. government but, rather, may reflect the tribe's determination as to what form best fits its needs based on practical, cultural, historical or religious considerations."

Smith v. Babbitt, 875 F.Supp. 1353,1360 (D. Minn. 1995);

Santa Clara Pueblo v. Martinez 436 U.S. 49, 72, n.32 (1978);

United States v. Wheeler, 435 U.S. 313, 322 n. 18 (1978);

Roff v. Burney, 168 U.S. 218 (1897)

Cherokee Intermarriage Cases, 203 U.S. 76 (1906);

Native American Church v. Navajo Tribal Council, 272 F. 2nd 131 (10th Cir. 1959)

Chapoose v. Clark, 607 F. Supp 1027 d. Utah 1985 aff'd 831, Fed 931 (10th Cir. 1987)

2. "**Unlawful aliens** have long been **recognized** as persons guaranteed 5th & 14th Amendments due process of law."

Yick Wo v. Hopkins, 6 S.Ct. 1064 (1886)

Wong Wing v. U.S., 16 S.Ct.977 (1896)

Shaughnessy v. Mezei, 73 S.Ct. 625 (1953)

Mathews v. Diaz, 96 S.Ct./ 1883 (1976)

Plyler v. Doe, 102 S.Ct. 2382 (1982)

3. If an individual is recognized as an Indian by the individual's tribe or community, he satisfies the criterion of being an Indian.

United States v. A.W.L. 117 F. 3d 1423 (8th Cir. 1997);

Ex parte Pero, 99 F.2d 28 (7th Cir. 1938);

United Stets v. Rogers, 45 U.S. 567, 572-573 (1846).

4. These "unlawful aliens" can be adopted or admitted as Enrolled Tribal Members under the Indian Civil Rights Act of 1968; and the Indian Self-Determination Act of 1994. When federal courts pretend to tax their minds over this issue they usually shove it aside and say this is a "political question" which only the legislature or the president can solve. But, in hundreds of cases, these federal courts, and the U.S. Supreme Court, have interfered

in political matters. As Associate Justice Stephen Breyer says in his book *Making Our Democracy Work*, "a court that acts "politically" plays with fire." (p. 45)

5. After Sergio Garcia, an "illegal undocumented alien" was allowed to practice law in the State of California after having passed the California bar examinations, I think we have great hope and promise for issuing qualified persons with Enrolled Tribal Membership status. See the judgment from the California Supreme Court **ISSUED IN JANUARY 2014**.

(Read the decision of the California Supreme Court here).

The State of California, situated in Indian country according to 18 U.S.C. Section 1151, tweaked, massaged and cajoled federal immigration law into state law to allow an undocumented alien to practice law in California. The usual rumor is that immigration is a federal matter. Arizona and California, cheated out of Mexico during the James K Polk watch in the 1840's, decided to do their own thing regarding undocumented aliens.

Logic, reason and plain common sense dictate that while these denizens helped themselves to do whatever they wanted with political football to boot, it is up to Native Americans to become wary of who we allow into (our) Indian country. We must have a say in immigration although we are not represented in Congress as a distinct political community. Just because these denizens "made laws" does not make them right all the time.

With the recent five-prisoner exchange for Sgt. Bowe Bergdahl who was a voluntary captive of the Taliban in Afghanistan, we Native Americans shudder at the thought of what these five Gitmo enemy combatants may plan against Indian country. We have some ideas, too, as to how we can contain the unpredictable proclivities of dedicated jihadists.

Filed 1/2/14

IN THE SUPREME COURT OF CALIFORNIA

In re SERGIO C. GARCIA on Admission.	)	S202512

The Committee of Bar Examiners (Committee) — the entity within the State Bar of California (State Bar) that administers the California bar examination, investigates the qualifications of bar applicants, and certifies to this court candidates it finds qualified for admission to the State Bar — has submitted the name of Sergio C. Garcia (hereafter Garcia or applicant) for admission to the State Bar. In conjunction with its certification, the Committee has brought to the court's attention the fact that Garcia's current immigration status is that of an undocumented immigrant,[1] and has noted that the question whether an

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[1] In this opinion, we use the term "undocumented immigrant" to refer to a non-United States citizen who is in the United States but who lacks the immigration status required by federal law to be lawfully present in this country and who has not been admitted on a temporary basis as a nonimmigrant. This category of persons has sometimes been referred to by other terms, such as unlawful, unauthorized, or illegal aliens or immigrants. Although no shorthand term may be perfect, the United States Supreme Court and the California Legislature have at times used the term "undocumented immigrants" to refer to this category of persons (see *Mohawk Industries v. Carpenter* (2009) 558 U.S. 100, 103 ["undocumented immigrants"]; Stats. 2001, ch. 814, § 1, subd. (a)(4), p. 6653 ["undocumented immigrant students"]; Stats. 2002, ch. 19, § 1, subd. (a)(4), p. 199 [same]), and this terminology avoids the potential problematical connotations of alternative terms. (See generally Legomsky, Immigration and Refugee Law and Policy (4th ed. 2005) pp. 9-11, 1192-1193.)

(Footnote continued on next page.)

undocumented immigrant may be admitted to the State Bar is an issue that has not previously been addressed or decided by this court. We issued an order to show cause in this matter to address the question.

Our order to show cause requested briefing on a number of issues raised by the Committee's motion to admit Garcia to the State Bar, including the proper interpretation of a federal statute — section 1621 of title 8 of the United States Code (hereafter section 1621) — that generally restricts an undocumented immigrant's eligibility to obtain a professional license but that also contains a subsection expressly authorizing a state to render an undocumented immigrant eligible to obtain such a professional license through the enactment of a state law meeting specified requirements. Very shortly after we held oral argument in this matter, the California Legislature enacted a statute that was intended to satisfy this aspect of section 1621 and the Governor signed that legislation into law. (Bus. & Prof. Code, § 6064, subd. (b); Stats. 2013, ch. 573, § 1, enacting Assem. Bill No. 1024 (2013-2014 Reg. Sess.) as amended Sept. 6, 2013.) The new legislation became effective on January 1, 2014.

In light of the recently enacted state legislation, we conclude that the Committee's motion to admit Garcia to the State Bar should be granted. The new legislation removes any potential statutory obstacle to Garcia's admission posed by section 1621, and there is no other federal statute that purports to preclude a

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(Footnote continued from previous page.)

Current federal immigration statutes generally use the term "nonimmigrant" to refer to a person who "enter[s] the U.S. for a temporary period and [is] restricted to activities consistent with [his or her] visa." (Kurzban, Immigration Law Sourcebook (13th ed. 2012) p. 759; see 8 U.S.C. § 1101(a) (15)(A)-(V) [listing numerous categories of "nonimmigrant aliens"].)

state from granting a license to practice law to an undocumented immigrant. The new statute also reflects that the Legislature and the Governor have concluded that the admission of an undocumented immigrant who has met all the qualifications for admission to the State Bar is fully consistent with this state's public policy, and, as this opinion explains, we find no basis to disagree with that conclusion. Finally, we agree with the Committee's determination that Garcia possesses the requisite good moral character to warrant admission to the State Bar and, pursuant to our constitutional authority, grant the Committee's motion to admit Garcia to the State Bar.

I. Summary of Facts and State Bar Proceedings

The record before us indicates that applicant Garcia was born in Villa Jimenez, Mexico, on March 1, 1977. When he was 17 months old, his parents brought him to California, without inspection or documentation by immigration officials. He lived in California until 1986 (when he was nine years old) and then he and his parents moved back to Mexico. In 1994, when Garcia was 17 years old, he and his parents returned to California; again Garcia entered the country without documentation. At that time, Garcia's father had obtained lawful permanent resident status in the United States pursuant to federal immigration law, and on November 18, 1994, his father filed an immigration visa petition (form I-130 [petition for alien relative]) on Garcia's behalf.[2] The petition was accepted by federal immigration officials on January 31, 1995. Under federal immigration law, the visa petition provides Garcia with a basis to apply for adjustment of his immigration status to that of a lawful permanent resident when an immigrant visa

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[2] Garcia's father became a United States citizen on August 11, 1999, after Garcia had turned 18 years old.

number becomes available. Under current provisions of federal immigration law, however, the number of available immigrant visas that may be issued each year is limited and is based upon an applicant's country of origin. Because the current backlog of persons of Mexican origin who are seeking immigrant visas is so large, as of the date of this opinion — more than 19 years after Garcia's visa petition was filed — a visa number still has not become available for Garcia.[3]

Garcia has resided in California without interruption since 1994. During this period of time, he graduated from high school, attended Butte College, California State University at Chico, and Cal Northern School of Law. He received his law degree from Cal Northern School of Law in May 2009, and took and passed the July 2009 California bar examination.

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[3] The current United States Citizenship and Immigration Services (USCIS) Web site explains: "USCIS processes Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident." (<http://www.uscis.gov/i-130> [as of Jan. 2, 2014] [explaining purpose of form].) Another page on the Web site states: "For alien relatives in preference categories, a limited number of immigrant visas are issued each year. The visas are processed in the order in which the petitions are properly filed and accepted by USCIS." (Instructions for Form I-130 (Dec. 18, 2012) p. 6 [OMB No. 1615-0012] <http://www.uscis.gov> [as of Jan. 2, 2014].)

When visited on December 31, 2013, a visa bulletin Web page (<http://www.travel.state.gov/visa/bulletin/bulletin_6211.html>) indicated that as of December 2013 the cutoff date for Mexico family preference (F-1) visas was September 22, 1993, meaning that persons in Garcia's category (Mexican family members with first preference) were eligible to be scheduled for a visa interview if their priority date was earlier than September 22, 1993. Based upon the date his visa petition was filed, Garcia's priority date is November 18, 1994. If the progression of available visa numbers over the past few years is a reliable guide, Garcia's priority date may not be reached for at least two and perhaps many more years and only then could he be scheduled for a visa interview.

In response to questions on the State Bar's application for determination of moral character, Garcia indicated that he is not a United States citizen and that his immigration status is "Pending."[4] The Committee conducted an extensive investigation of Garcia's background, employment history, and past activities, received numerous reference letters supporting Garcia's application and attesting to his outstanding moral character and significant contributions to the community, and ultimately determined that Garcia possessed the requisite good moral character to qualify for admission to the State Bar.[5]

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[4] Although the Committee's briefs do not disclose when it began asking bar applicants about their immigration status, an amicus curiae brief filed by numerous local bar associations states that the State Bar began requesting such information from new applicants in 2008.

[5] The Committee's investigation establishes that Garcia is a well-respected, hard-working, tax-paying individual who has assisted many others and whose application is supported by many members of the community, by past teachers, and by those for whom he has worked, but the record also reveals that Garcia's conduct has not been entirely flawless.

Shortly after returning to this country at age 17, Garcia obtained a nonpaying position in a grocery store as part of a school work training program. After several months, the store manager asked Garcia if he would like to continue working at the store in a paid position. As part of the hiring process, having initially provided his school identification card and Social Security number, Garcia was asked several days later to fill out an additional employment form; on that form Garcia provided a false "alien registration number" and falsely attested that he was a lawful permanent resident. Although he did not remember the contents of the form when first asked about his grocery store employment during the Committee's moral character investigation, Garcia thereafter went to the grocery store staff, discovered the document in question, and immediately gave it to his attorney who was representing him on a pro bono basis. On his attorney's advice Garcia did not immediately provide the document to the Committee (on the theory that disclosure was not necessary because it did not refresh Garcia's recollection); thereafter the attorney provided the document to the Committee, explicitly acknowledged that she had been wrong in advising Garcia that disclosure was not necessary and requested that the Committee not hold against Garcia the fact that he had followed counsel's advice. When questioned by the

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Thereafter, in connection with its motion submitting Garcia's name to this court for admission to the State Bar, the Committee brought to this court's attention the fact that Garcia "does not have legal immigration status in the United States" and noted that, to its knowledge, "this is a case of first impression, as we are not aware of any other jurisdiction that has ever knowingly admitted an undocumented alien to the practice of law." The Committee also pointed out "that there are additional applicants currently working their way through the admissions process with similar immigration issues."[6]

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Committee concerning his provision of a false alien registration number and false attestation on the employment form, Garcia acknowledged the wrongfulness of his conduct, but explained that at the time he signed the document he was young, had an imperfect comprehension of English, and had "panicked" when asked to complete the form. He emphasized that he had never subsequently signed a similar document and would not sign a similar document at present. The Committee believed that Garcia was sincerely remorseful for his past misconduct and that his delay in disclosing the document was a product of his reliance upon the erroneous advice of counsel, and concluded that under the circumstances the conduct did not reflect moral turpitude.

The record also reveals that Garcia was once cited for driving without a license or insurance (an infraction), paid the fine, stopped driving, and thereafter sought and ultimately obtained a driver's license in Oregon. At the time, Oregon did not require proof of lawful residency, but did require a six-month residency period; Garcia lived with relatives in Oregon for some period of time, but it is not entirely clear from the record whether he actually resided in Oregon for a full six months before obtaining the license. The Committee found that Garcia obtained the Oregon driver's license in good faith, having a subjective belief that he met the Oregon residency requirements.

As explained, the Committee investigated these matters at length. It determined that none of these incidents impugns Garcia's good moral character, and that the record as a whole establishes that Garcia possesses the requisite good moral character to warrant admission to the State Bar.

6 While this matter was pending before our court, the Committee submitted the names of two other undocumented immigrant applicants for admission to the

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In response to the Committee's motion, we issued an order directing the Committee "to show cause before this court why its motion for admission of Sergio C. Garcia to the State Bar of California should be granted." Our order set forth a number of issues to be addressed, including several related to the relevance, interpretation, and significance of the federal statute noted earlier, namely section 1621.[7] In addition, our order invited the filing of applications for permission to file an amicus curiae brief, either in support of or opposition to the motion, and, in particular, invited such applications from the State of California

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State Bar. (See *In re Elizabeth Y. De la Torre Arambula on Admission* (S208655); *In re Oscar Espino-Padron on Admission* (S208656).) The former matter has been held in abeyance pending the resolution of the current matter. In the latter matter, upon notification that the applicant was granted asylum by federal immigration authorities while the matter was pending in this court, we granted the Committee's motion to admit the applicant to practice law in California. (See 8 U.S.C. §§ 1621(a)(1), 1641(b)(1) [excepting individuals who have been granted asylum from the restrictions imposed by § 1621].)

[7] The order stated in this regard: "The following are among the issues that should be briefed:

"1. Does 8 U.S.C. section [1621(c)] apply and preclude this court's admission of an undocumented immigrant to the State Bar of California? Does any other statute, regulation, or authority preclude the admission?

"2. Is there any state legislation that provides — as specifically authorized by 8 U.S.C. section [1621(d)] — that undocumented immigrants are eligible for professional licenses in fields such as law, medicine, or other professions, and, if not, what significance, if any, should be given to the absence of such legislation?

"3. Does the issuance of a license to practice law impliedly represent that the licensee may be legally employed as an attorney?

"4. If licensed, what are the legal and public policy limitations, if any, on an undocumented immigrant's ability to practice law?

"5. What, if any, other public policy concerns arise with a grant of this application?"

Department of Justice, Office of the Attorney General and the United States Department of Justice, Office of the Attorney General.

In response to our order, the Committee and Garcia filed separate briefs in support of the motion for admission of Garcia to the State Bar. In addition, the California Attorney General as well as a large number of organizations and individuals filed amicus curiae briefs supporting the motion for Garcia's admission.[8] The United States Department of Justice and two individuals filed amicus curiae briefs in opposition to the motion. The Committee and Garcia then filed separate replies to the amicus curiae briefs opposing the motion.

We held oral argument in this matter on September 4, 2013. On September 6, 2013, a pending bill — Assembly Bill No.1024 (2013-2014 Reg. Sess.) — was amended in its entirety and its contents were replaced by a new provision adding Business and Professions Code section 6064, subdivision (b) (hereafter section 6064(b)), authorizing this court to admit as an attorney at law "an applicant who is not lawfully present in the United States [who] has fulfilled the requirements for admission to practice law . . . ."[9] Assembly Bill No. 1024, as amended on September 6, 2013, was quickly passed by overwhelming majorities in both the state Senate and state Assembly,[10] and was enrolled and presented to

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[8] In addition to the amicus curiae brief filed by the California Attorney General, 13 amicus curiae briefs were filed in support of the motion.

[9] Section 6064(b) provides in full: "Upon certification by the examining committee that an applicant who is not lawfully present in the United States has fulfilled the requirements for admission to practice law, the Supreme Court may admit that applicant as an attorney at law in all the courts of this state and may direct an order to be entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court."

[10] The bill was approved in the Senate by a 29-to-5 vote and in the Assembly by a 62-to-4 vote.

the Governor on September 26, 2013. The Governor signed the bill into law on October 5, 2013. Pursuant to article IV, section 8, subdivision (c) of the California Constitution, the new statute — section 6064(b) — became effective on January 1, 2014.

After the legislation enacting section 6064(b) was signed into law, we vacated submission in this matter and indicated that the matter would be resubmitted on January 2, 2014, after the new statute took effect. At our request, the parties and amici curiae have filed supplemental briefs addressing the effect of the new statute on the matter before us.

II. State and Federal Authority Regarding Eligibility of Undocumented Immigrants to Obtain a License to Practice Law in California

As a general matter, the question whether an applicant should be admitted to the State Bar and thereby obtain a license to practice law in California is governed by state law. In California, the general requirements and standards for admission to the State Bar are set forth both in statutory provisions enacted by the Legislature (Bus. & Prof. Code, § 6060 et seq.) and in court rules that are promulgated by this court (see, e.g., Cal. Rules of Court, rule 9.30 [Rules on Law Practice, Attorneys and Judges]; see also Rules of the State Bar of Cal., tit. 4, rules 4.1 to 4.269 [Admissions and Educational Standards]). Although both the Legislature and this court possess the authority to establish rules regulating admission to the State Bar, under the California Constitution this court bears the ultimate responsibility and authority for determining the issue of admission. (See, e.g., *Hustedt v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 329, 336-337 ["In California, the power to regulate the practice of law, including the power to admit and to discipline attorneys, has long been recognized to be among the inherent powers of the article VI courts. Indeed, every state in the United States recognizes

that the power to admit and to discipline attorneys rests in the judiciary" (fn. omitted)]; *In re Lavine* (1935) 2 Cal.2d 324, 328 ["[N]otwithstanding the inherent power of the courts to admit applicants for licenses to practice law it is generally conceded that the legislature may prescribe reasonable rules and regulations for admission to the bar which will be followed by the courts. The regulations so prescribed must . . . be reasonable and shall not deprive the judicial branch of its power to prescribe additional conditions under which applicants shall be admitted, nor take from the courts the right and duty of actually making orders admitting them."].)[11]

Although the determination whether an applicant will be admitted to the State Bar is generally governed by state law, there are circumstances in which the issue of bar admission is controlled by federal law. Perhaps the most obvious circumstance arises when a state law relating to bar admission contravenes a provision of the United States Constitution. Thus, for example, in *Raffaelli v. Committee of Bar Examiners* (1972) 7 Cal.3d 288, we held that a California statutory provision that limited admission to the State Bar only to applicants who were United States citizens (Bus. & Prof. Code, § 6060, former subd. (a), amended by Stats. 1972, ch. 1285, § 4.3, p. 2559) could not be applied because it violated the equal protection clause of the United States Constitution. (*Raffaelli, supra,* at pp. 294-304; see also *In re Griffiths* (1973) 413 U.S. 717 [reaching same conclusion as *Raffaelli*].)

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11 The Committee makes recommendations to this court regarding the admission of individual applicants (Bus. & Prof. Code, § 6046), but this court makes the ultimate decision on admission pursuant to the court's constitutional authority over the practice of law in California. (See, e.g., *Brydonjack v. State Bar* (1929) 208 Cal. 439, 445-446.)

Under the supremacy clause of the federal Constitution, however, state law must give way to lawfully adopted federal *statutes* as well as to provisions of the federal Constitution. (U.S. Const., art. VI, cl. 2 ["This Constitution, *and the laws of the United States which shall be made in pursuance thereof* . . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding" (italics added)].) Thus, when a federal statute has been adopted pursuant to authority granted to Congress under the federal Constitution, the federal statute preempts any conflicting state law.

As relevant to the issue presented by this case, past decisions of the United States Supreme Court clearly establish that the federal government generally has "plenary authority" over matters relating to immigration (including limitations on the conduct or activities of non-United States citizens who are present in this country without legal authorization or documentation) and that provisions of federal law relating to immigration prevail over any conflicting state law. (See, e.g., *Arizona v. United States* (2012) 567 U.S. ___, ___ [183 L.Ed.2d 351, 366-369]; *Takahashi v. Fish Comm'n.* (1948) 334 U.S. 410, 419; *Hines v. Davidowitz* (1941) 312 U.S. 52, 62-74.) Accordingly, even with respect to matters that ordinarily and historically are an appropriate subject of state regulation — such as a state's granting or denial of a license to practice law in the state — when the federal government has enacted a law restricting the right of a non-United States citizen to obtain such a professional license, under the supremacy clause the applicable federal statute will necessarily take precedence and prevail over any conflicting state law. (*Arizona v. United States*, *supra*, at p. ___ [183 L.Ed.2d at p. 368]; *Hines v. Davidowitz*, *supra*, at pp. 62-63 ["[w]hen the national government by treaty or statute has established rules and regulations touching the rights, privileges, obligations or burdens of aliens as such, the treaty or statute is

the supreme law of the land. No state can add to or take from the force and effect of such treaty or statute . . . ."]; accord, *Ellen S. v. Florida Bd. of Bar Examiners* (S.D.Fla. 1994) 859 F.Supp. 1489 [holding that federal Americans with Disabilities Act applies to a state's bar admission process].)

For this reason, in analyzing the legal issues presented by Garcia's application, we turn first to the potential restriction imposed by federal law with regard to Garcia's application, before addressing any state law issues that are implicated by the Committee's motion.

III. Does the Federal Statute That Limits an Undocumented Immigrant's Eligibility to Obtain a State-provided Professional License — Section 1621 — Restrict Garcia's Eligibility to Obtain a License to Practice Law in California?

Section 1621 was enacted by Congress in 1996 as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. No. 104-193 (Aug. 21, 1996) 110 Stat. 2105) (hereafter 1996 Act), a lengthy legislative measure — combining and revising provisions contained in numerous bills that had been introduced and considered in prior congressional sessions — that was primarily concerned with comprehensive welfare reform. The 1996 Act imposed additional work requirements on recipients of federal welfare benefits and made other very significant changes to a wide range of federal programs dealing with, for example, Supplemental Security Income, food stamps, child support payments, child care, child nutrition, and job training. The 1996 Act includes over 900 sections and, as published in the United States Statutes at Large, runs more than 250 pages. (110 Stat. 2105-2355.) Section 1621, the statutory provision at issue here, is contained in title IV of the 1996 Act, a part of the act entitled "Restricting Welfare and Public Benefits for Aliens."

A. Overview of the language of section 1621

1. *Section 1621(a)*

Section 1621(a) provides: "Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not — [¶] (1) a qualified alien (as defined in section 1641 of this title),[12] [¶] (2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or [¶] (3) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for less than one year, [¶] is not eligible for any State or local public benefit (as defined in subsection (c) of this section)."

There is no dispute that an undocumented immigrant, like Garcia, does not fall within any of the three exempt categories listed in section 1621(a), and thus, under section 1621(a), an undocumented immigrant is not eligible for "any State or local public benefit" as defined in section 1621(c), subject to the exceptions set forth in section 1621(b) and 1621(d).

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12 Title 8 United States Code section 1641 defines the term "qualified alien" to mean "(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], [¶] (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158], [¶] (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157], [¶] (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year, [¶] (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253(h)] . . . or section 241(b)(3) of such Act [8 U.S.C. 1251(b)(3)] . . . , [¶] (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7)] as in effect prior to April 1, 1980; or [¶] (7) an alien who is a Cuban [or] Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980)." (Fn. omitted.)

2. *Section 1621(c)*

Section 1621(c), in turn, provides: "(1) Except as provided in paragraphs (2) and (3), for purposes of this subchapter the term 'State or local public benefit' means — [¶] (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and [¶] (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government. [¶] (2) Such terms shall not apply — [¶] (A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect; [¶] (B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act . . . qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General; or [¶] (C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States. [¶] (3) Such term does not include any Federal public benefit under section 1611(c) of this title." (8 U.S.C. § 1621(c).)

The initial round of briefing in this matter, filed prior to the enactment of the new state legislation, focused primarily upon the proper interpretation of the portion of section 1621(c)(1)(A) that defines "State or local public benefit" for

purposes of this statute to include "[a]ny grant, contract, loan, *professional license*, or commercial license *provided by an agency of a State or local government or by appropriated funds of a State or local government*." (Italics added.) The Committee and Garcia asserted that the italicized language does not encompass a law license that is issued by this court.

3. *Section 1621(b) and 1621(d)*

As noted, section 1621(b) and 1621(d) set forth exceptions to the general restrictions imposed by section 1621(a). Section 1621(b) lists a number of specific types of benefits to which section 1621 does not apply, but none of those benefits are relevant to the issue before us in this matter.[13]

The exception embodied in section 1621(d), on the other hand, is directly relevant to the issue before us. Section 1621(d) provides in full: "A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be

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13 Section 1621(b) provides that the restriction on eligibility set forth in section 1621(a) shall not apply to the following state or local public benefits: "(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b(v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure. [¶] (2) Short-term, non-cash, in-kind emergency disaster relief. [¶] (3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease. [¶] (4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety." (8 U.S.C. § 1621(b).)

ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility."

The Committee and Garcia maintain that the recent legislation passed by the California Legislature and signed by the Governor enacting section 6064(b) satisfies the federal requirements set forth in section 1621(d) and thus removes any obstacle this federal statute would otherwise pose to this court's admission of Garcia to the State Bar. As discussed below, we agree with this contention.

B. Has California enacted a law affirmatively providing that undocumented immigrants are eligible to obtain a professional license to practice law in California so as to satisfy the requirements of section 1621(d)?

As noted above, in the initial round of briefing the Committee and Garcia maintained that, in light of the specific language in section 1621(c)(1)(A) defining the term "State or local public benefit" to mean "any . . . professional license . . . *provided by an agency of a State or local government or by appropriated funds of a State or local government*" (italics added), that section should not be interpreted to render an undocumented immigrant ineligible to obtain a license to practice law in California. The Committee and Garcia argued that the first clause of section 1621(c)(1)(A) — referring to any professional license "provided by an agency of a State or local government" — applies only to a professional license that is issued by a state or local *administrative* agency and does not apply to a law license that is issued by this court. The Committee and Garcia asserted that the second clause of section 1621(c)(1)(A) — referring to public benefits provided by "appropriated funds of a State . . . government" — is inapplicable to this court's issuance of a law license either because the amount of funds expended by this court in the bar admission process should be considered "de minimis" or because the clause should be interpreted to refer only to public benefits that involve the payment of

money or funds to undocumented immigrants and not to the issuance of a license to practice law.

In light of the recent enactment of California's section 6064(b), we need not determine the validity of the parties' contentions with regard to the proper interpretation of section 1621(c)(1)(A). Under section 1621(d), the restrictions imposed upon undocumented immigrants by section 1621(a) and 1621(c)(1)(A) are inapplicable if a state enacts a law that (1) renders undocumented immigrants eligible for a public benefit that undocumented immigrants would otherwise be ineligible to obtain under section 1621(a) and section 1621(c) and (2) otherwise satisfies the requirements of section 1621(d). Accordingly, we turn to the question whether the enactment of section 6064(b) satisfies the requirements of section 1621(d).

As noted, section 1621(d) reads in full: "A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996 [the date section 1621(d) was enacted], which affirmatively provides for such eligibility."

Section 1621(d) grants a state the authority to make undocumented immigrants eligible for the types of public benefits for which such persons would otherwise be ineligible under section 1621(a) and 1621(c). But under section 1621(d), a state may make undocumented immigrants eligible for such benefits only through the enactment of a law, adopted subsequent to the date section 1621(d) was enacted, that "affirmatively provides" that undocumented immigrants are eligible for such benefits.

This court had occasion to address the provisions of section 1621(d) in *Martinez v. Regents of University of California* (2010) 50 Cal.4th 1277, 1294-

1296 (*Martinez*). In *Martinez*, we found that section 68130.5 of the Education Code — a statute enacted in 2001 that explicitly exempted "a person without lawful immigration status" from paying nonresidential tuition at the California State University and California community colleges — satisfied the provisions of section 1621(d) and thus rendered undocumented immigrants eligible to obtain such a public benefit. (*Martinez, supra*, at p. 1295.)

In reaching this conclusion in *Martinez*, our opinion held that (1) the wording of Education Code section 68130.5, subdivision (a)(4) itself (which provided that the statute applied "[i]n the case of a person without lawful immigration status"), and (2) the wording of the uncodified portion of the legislation (which stated that "[t]his act . . . allows all persons, including undocumented immigrant students who meet [prescribed] requirements . . . , to be exempt from nonresident tuition in California's colleges and universities" [Stats. 2001, ch. 814, § 1, subd. (a)(4), pp. 6652-6653]) was sufficient to demonstrate that this statutory provision "affirmatively provides" that qualifying undocumented immigrants are eligible for the nonresident tuition exemption so as to satisfy the requirements of section 1621(d). (*Martinez*, *supra*, 50 Cal.4th at p. 1295.) We rejected the contention that in order to satisfy section 1621(d) a state law was required to explicitly refer to section 1621(d) itself and to indicate that it was enacted pursuant to that federal statute, concluding instead that in order to satisfy the " 'affirmatively provides' requirement" it was sufficient that the state law in question " 'expressly state that it applies to undocumented aliens, rather than conferring a benefit generally without specifying that its beneficiaries may include undocumented aliens.' " (*Martinez, supra,* at p. 1296.)[14]

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14 In reaching the contrary conclusion that a specific reference, within the state statute, to section 1621(d) itself was required to satisfy the federal provision,

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In light of our interpretation of section 1621(d) in *Martinez*, *supra*, 50 Cal.4th 1277, it is clear that the enactment of section 6064(b) satisfies the requirements of this federal statute. First, section 6064(b) was enacted after August 22, 1996. Second, by explicitly authorizing a bar applicant "who is not lawfully present in the United States" to obtain a law license, the statute expressly states that it applies to undocumented immigrants — rather than conferring a benefit generally without specifying that its beneficiaries may include undocumented immigrants — and thus "affirmatively provides" that undocumented immigrants may obtain such a professional license so as to satisfy the requirements of section 1621(d). (*Martinez*, *supra*, 50 Cal.4th at p. 1295.)

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the Court of Appeal opinion in *Martinez* had relied upon a statement contained in a portion of the conference committee report on the 1996 Act that discussed this particular subsection. The conference committee report stated in this regard: "Only the affirmative enactment of a law by a State legislature and signed by the Governor after the date of enactment of this Act, *that references this provision*, will meet the requirements of this section." (H.R.Rep. No. 104-725, 2d Sess., p. 383 (1996), italics added.)

In rejecting the Court of Appeal's conclusion, our opinion in *Martinez* explained that because a requirement that the state law explicitly refer to section 1621(d) was not contained in the language of section 1621(d) itself, such a requirement could not properly be read into the statute. Noting that "[b]oth this court and the high court have cautioned against reading into a statute language it does not contain or elements that do not appear on its face" (*Martinez*, *supra*, 50 Cal.4th at p. 1295), the court in *Martinez* went on to observe that "[t]he general rule that a court should not add an element not appearing on the face of a statute has particular force here. The Legislature could easily have referenced section 1621 in section 68130.5, and no doubt it would have done so if section 1621 had so required. It is unreasonable to conclude that Congress intended to require the states to comply with section 1621's express requirements *and* to scour committee reports for other possible requirements not visible in the statutory language. The committee report may not create a requirement not found in section 1621 itself." (*Id*. at p. 1296.)

Accordingly, once section 6064(b) took effect on January 1, 2014, this enactment removed any obstacle to Garcia's admission to the State Bar that was posed by section 1621(a) and 1621(c)(1)(A).

The parties and amici curiae have not cited, and we are unaware of, any other federal statute that would render an undocumented immigrant ineligible to obtain a license to practice law in California.

IV. Are There Reasons, Under State Law, That the Committee's Motion to Admit Garcia to the State Bar Should be Denied?

Section 6064(b)'s removal of any federal statutory barrier to Garcia's admission to the State Bar posed by section 1621 does not fully resolve the legal issues presented by the Committee's motion to admit Garcia to the State Bar. We must still determine (1) whether there is any reason *as a matter of state law* why undocumented immigrants, in general, should not be admitted to the State Bar, and (2) whether there is any reason, specific to Garcia himself, that he should not be admitted to the State Bar.

A. Is there any reason, under state law, that undocumented immigrants, as a class or group, should not be admitted to the State Bar?

Section 6064(b) reflects that the Legislature and the Governor have concluded that there is no state law or state public policy that would justify denying qualified undocumented immigrants, as a class, the opportunity to obtain admission to the State Bar. As discussed earlier in this opinion, however, prior decisions of this court make clear that this court, rather than the Legislature or Governor, possesses the ultimate authority, and bears the ultimate responsibility, to resolve questions of general policy relating to admission to the State Bar. (See, e.g., *Hustedt v. Workers' Comp. Appeals Bd.*, *supra*, 30 Cal.3d 329, 336-337; *In re Lavine*, *supra*, 2 Cal.2d 324, 327-333; *Brydonjack v. State Bar, supra*, 208 Cal.

439, 442-446.) Nonetheless, in evaluating the relevant considerations of state public policy in this setting, we believe it is appropriate to give due respect to the judgment of the Legislature and the Governor as reflected in the recent enactment of section 6064(b). (See, e.g., *Hustedt v. Workers' Comp. Appeals Bd.*, at pp. 337-338; *In re Attorney Discipline System* (1998) 19 Cal.4th 582, 602-603.)

One of the amicus curiae briefs filed in opposition to Garcia's admission to the State Bar advances a number of policy objections that potentially would apply to the admission of any undocumented immigrant to the State Bar.[15] The objections relate to two circumstances: (1) the fact that, under federal law, undocumented immigrants are not lawfully authorized to be present in this country, and (2) the restrictions that federal law imposes upon the employment of undocumented immigrants in the United States. We discuss each of these subjects in turn.

1. *Unlawful presence*

Amicus curiae contends that because an undocumented immigrant is in violation of federal immigration law simply by being present in this country without authorization (8 U.S.C. §§ 1182, 1227), an undocumented immigrant cannot properly take the oath of office required of every attorney, which requires the individual to promise to " 'faithfully . . . discharge [the] duties of any attorney at law' " (quoting Bus. & Prof. Code, § 6067), including the duty " '[t]o support the Constitution and *laws of the United States* and of this state.' " (Quoting Bus.

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[15] In his amicus curiae brief, Attorney Larry DeSha describes himself as "a retired former prosecutor for the State Bar of California" who "has more than 12 years experience in protecting the public from attorney misconduct . . . [and] was the initial or final evaluator for more than 10,000 formal complaints of attorney misconduct to the State Bar."

& Prof. Code, § 6068, italics added by amicus curiae.) Amicus curiae reasons that an undocumented immigrant cannot properly take the oath of office "since he will be in violation of federal law while he takes the oath and at all times later until he either becomes legal or leaves the United States."

Past California cases, however, do not support the proposition, implicit in amicus curiae's contention, that the fact that a bar applicant's past or present conduct may violate some law invariably renders the applicant unqualified to be admitted to the bar or to take the required oath of office. In *Hallinan v. Committee of Bar Examiners* (1966) 65 Cal.2d 447, 459, this court explained that "every intentional violation of the law is not, ipso facto, grounds for excluding an individual from membership in the legal profession. [Citations.] 'There is certain conduct involving fraud, perjury, theft, embezzlement, and bribery where there is no question that moral turpitude is involved. On the other hand, because the law does not always coincide exactly with principles of morality there are cases that are crimes that would not necessarily involve moral turpitude.' [Citation.] In such cases, investigation into the circumstances surrounding the commission of the act must reveal some independent act beyond the bare fact of a criminal conviction to show that the act demonstrates moral unfitness and justifies exclusion or other disciplinary action by the bar."

We conclude the fact that an undocumented immigrant is present in the United States without lawful authorization does not itself involve moral turpitude or demonstrate moral unfitness so as to justify exclusion from the State Bar, or prevent the individual from taking an oath promising faithfully to discharge the duty to support the Constitution and laws of the United States and California. Although an undocumented immigrant's presence in this country is unlawful and can result in a variety of *civil sanctions* under federal immigration law (such as removal from the country or denial of a desired adjustment in immigration status)

(8 U.S.C. §§ 1227(a)(1)(B), 1255(i)), an undocumented immigrant's unauthorized presence does *not* constitute a *criminal offense* under federal law and thus is not subject to criminal sanctions. Moreover, federal law grants federal immigration officials broad discretion in determining under what circumstances to seek to impose civil sanctions upon an undocumented immigrant and in determining what sanctions to pursue. (See, e.g., *Arizona v. United States*, *supra*, 567 U.S. ___, ___ [183 L.Ed.2d 351, 366-367].) Under current federal immigration policy it is extremely unlikely that immigration officials would pursue sanctions against an undocumented immigrant who has been living in this country for a substantial period of time, who has been educated here, and whose only unlawful conduct is unlawful presence in this country.[16] Under these circumstances, we conclude that the fact that an undocumented immigrant's presence in this country violates federal statutes is not itself a sufficient or persuasive basis for denying undocumented immigrants, as a class, admission to the State Bar.[17]

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16 See generally United States Immigration and Customs Enforcement, Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens, page 4 (listing 19 nonexclusive factors to be considered when exercising prosecutorial discretion, including lengthy residence in this country and successful pursuit of a college or advanced degree at a legitimate institution of higher education in the U.S.) <http://www.ice.gov/doclib/secure-communities/pdf/prosecutorial-discretion-memo.pdf>[as of Jan. 2, 2014].

17 Amicus curiae also advances a related argument, contending that because federal law permits immigration officials to remove an undocumented immigrant from this country on the basis of his or her unauthorized presence, the possibility that an undocumented immigrant may be removed from the country and leave his or her clients without representation is another reason that justifies the exclusion of all undocumented immigrants from the State Bar. A similar argument was advanced in *Raffaelli v. Committee of Bar Examiners*, *supra*, 7 Cal.3d 288, as one justification for excluding non-United States citizens from admission to the State Bar, but this court rejected the contention, pointing out that the risk of such

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2. *Employment restrictions*

Amicus curiae further contends that it would be improper to grant a law license to an undocumented immigrant in light of the restrictions federal law places on the lawful employment of undocumented immigrants in the United States.

In response to questions posed in our order to show cause in this matter (see, *ante*, at p. 7, fn. 7), in the initial round of briefing the Committee, Garcia, and many amici curiae, including the United States Department of Justice and the California Attorney General, discussed the restrictions that federal law imposes upon the employment of undocumented immigrants. All of the briefs agree that even if an undocumented immigrant is granted a license to practice law, federal law would prohibit an undocumented immigrant who lacks work authorization from practicing law as an "employee" of a law firm, corporation, or governmental entity. (See 8 U.S.C. § 1324a(a)(1)(A).) There is also general agreement that a licensed undocumented immigrant would not violate federal law if he or she provided legal services on a pro bono basis or outside the United States. The briefs disagree, however, regarding whether under current federal law a licensed undocumented immigrant without work authorization could lawfully practice law in this country as an "independent contractor," for example, as a sole practitioner. The briefs filed by the Committee and Garcia maintain that federal law would not

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removal was no greater than "the possibility that a lawyer, even though a citizen, may be involuntarily removed from his practice by death, by serious illness or accident, by disciplinary suspension or disbarment or by conscription. In any of the latter circumstances the client will undergo the same inconvenience of having to obtain substitute counsel." (*Raffaelli, supra,* at p. 299.)

bar a licensed undocumented immigrant from representing clients as a sole practitioner, but the amicus curiae brief filed by the United States Department of Justice states that federal law prohibits an undocumented immigrant who lacks work authorization from engaging in the practice of law for compensation in this country in any capacity, including as an independent contractor or sole practitioner. Amicus curiae DeSha agrees with the United States Department of Justice's interpretation of the applicable federal statute and maintains that this court should not grant a law license to undocumented immigrants when federal law prohibits such individuals from actually practicing law in California for compensation.

The bill analysis of the recently enacted section 6064(b) that was prepared for the Senate Judiciary Committee when it considered the bill at a hearing on September 11, 2013, explicitly addressed the employability issue. Under the heading "Ability to Represent California Clients," the bill analysis states: "Individuals not lawfully present in the United States who are admitted to the California State Bar may be automatically disqualified from representing certain clients and taking on some types of cases because of their immigration status. For example, federal law may preclude attorneys not lawfully present in the U.S. from representing others in matters before the U.S. Citizenship and Immigration Services agency. [Citation.] These attorneys may also be precluded from working for a law firm, corporation, or public agency by operation of federal law. (See 8 U.S.C. Sec. 1324a (prohibiting the employment of an alien in the United States knowing the alien lacks work authorization).) [¶] However, the inability to represent California residents in some legal matters does not necessarily preclude all possible uses of a law license. Each person admitted to practice law in California, irrespective of immigration status, is obligated to 'faithfully . . . discharge the duties of any attorney at law to the best of his [or her] knowledge

and ability.' (Bus. & Prof. Code, Sec. 6067.) California attorneys have an obligation to decline representation in matters where they cannot competently represent the interests of their client, whether due to lack of skill or experience, or because of an ethical or legal restriction. (See California Rules of Professional Conduct, Rule 3-110 (Failing to Act Competently).) This bill would not alter this existing standard, and attorneys not lawfully present in the United States would, like every other California attorney, be duty bound to practice law competently and in a manner commensurate with their legal and ethical obligations." (Sen. Jud. Com., Analysis of Assem. Bill No. 1024 (2013-2014 Reg. Sess.) as amended Sept. 6, 2013, pp. 6-7 [for hearing on Sept. 11, 2013].)

As this bill analysis accurately recognizes, this court's granting of a law license to undocumented immigrants would not override or otherwise affect the federal limitations upon the employment of undocumented immigrants. Nonetheless, for a number of reasons we conclude that existing federal limitations on the employment of undocumented immigrants do not justify excluding undocumented immigrants from admission to the State Bar.

First, as discussed above, the most directly applicable federal statute — section 1621 — expressly authorizes a state, through a sufficiently explicit statute, to permit undocumented immigrants to obtain a professional license, notwithstanding the limitations on employment imposed by other federal statutes. No federal statute precludes a state from issuing a law license to an undocumented immigrant. Further, although the amicus curiae brief filed by the United States Department of Justice disagrees with the interpretation of federal immigration law relating to employment advanced by the Committee and Garcia, the brief at the same time emphasizes that "[t]he enforcement of the federal provisions governing employment by aliens is a responsibility of the federal government, and is not the proper subject of state-court proceedings, particularly in the context of state

licensing" and urges this court not to "attempt to resolve any question about the types of legal services that Mr. Garcia may provide if granted a license."

Second, federal law restrictions on employment are subject to change, and under current federal immigration policy many undocumented immigrants are now eligible to obtain work authorization. Under the "deferred action for childhood arrivals" policy promulgated by the Secretary of the United States Department of Homeland Security (Secretary of Homeland Security) in June 2012, many undocumented immigrants who came to this country as children and were under the age of 30 when the new policy was adopted are eligible to obtain work authorization that is subject to renewal every two years.[18]

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[18] On June 15, 2012, the Secretary of Homeland Security issued a policy statement with regard to the exercise of prosecutorial discretion to "defer[] action" with regard to the removal and deportation of undocumented immigrants who came to this country as children. The policy statement sets forth a set of criteria to be considered by immigration officials in exercising such discretion — including whether the person came to the United States under the age of 16, has continually resided in the United States for at least five years, is currently in school or has graduated from high school, and was not above the age of 30 when the policy was adopted — and directs that any individual who is found to be a good candidate for the exercise of prosecutorial discretion in light of these criteria be issued a designation deferring action on any removal proceedings for two years, subject to repeated renewal on a two-year basis. The policy also directs immigration officials to determine whether any individual who obtains deferred action under this policy should also be granted work authorization during his or her period of deferred action. (U.S. Dept. of Homeland Security, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012) <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf> [as of Jan. 2, 2014].)

In September 2013, the Department of Homeland Security reported that from August 2012 to August 2013 over 455,000 applications for deferred action for childhood arrivals had been approved nationally and that over 130,000 of the approved applications were from California. (USCIS Off. of Performance and Quality, Data on Deferred Action for Childhood Arrivals (Sept. 11, 2013) <http://www.uscis.gov/tools/reports-studies/immigration-forms-data/individual-

(Footnote continued on next page.)

Third, as the bill analysis quoted above suggests, even with regard to an undocumented immigrant who lacks work authorization and faces significant federal law restrictions on his or her legal employment, we believe it would be inappropriate to deny a law license to such an individual on the basis of an assumption that he or she will not comply with the existing restrictions on employment imposed by federal law. Consistent with the provisions of Business and Professions Code section 6060.6,[19] foreign law students who have passed the California bar examination and have been certified to this court by the Committee have been admitted to the State Bar, even though such individuals may lack authorization to work in the United States. Although it may be reasonable to assume that most foreign law students, when licensed, will return to their home countries to practice law, we rely upon these licensed attorneys to comply with

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applications-and-petitions/data-individual-applications-and-petitions>[as of Jan. 2, 2014].)

Garcia is not eligible for the deferred action program because he was over the age of 30 when the policy was promulgated.

[19] Business and Professions Code section 6060.6 provides: "Notwithstanding Section 30 of this code and Section 17520 of the Family Code, the Committee of Bar Examiners may accept for registration, and the State Bar may process for an original or renewed license to practice law, an application from an individual containing a federal tax identification number, or other appropriate identification number as determined by the State Bar, in lieu of a social security number, if the individual is not eligible for a social security account number at the time of the application and is not in noncompliance with a judgment or order for support pursuant to Section 17520 of the Family Code." The legislative history of this provision indicates that it was adopted to permit foreign law students attending California law schools to take the California bar examination and seek admission to the State Bar. (Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 664 (2005-2006 Reg. Sess.) as amended Aug. 31, 2005, p. 3.)

their ethical obligations to act in accordance with all applicable legal constraints and do not condition or limit their law licenses. We conclude it is appropriate to treat qualified undocumented immigrants in the same manner. To the extent federal immigration law limitations on employment are ambiguous or in dispute, as in other contexts in which the governing legal constraints upon an attorney's conduct may be uncertain, we assume that a licensed undocumented immigrant will make all necessary inquiries and take appropriate steps to comply with applicable legal restrictions and will advise potential clients of any possible adverse or limiting effect the attorney's immigration status may pose.

For all of the foregoing reasons, we conclude there is no state law or state public policy that would justify precluding undocumented immigrants, as a class, from obtaining a law license in California.

B. Are there reasons, specific to applicant Garcia, that the Committee's motion should be denied?

Finally, we must determine whether there are reasons, specific to Garcia himself, that should lead this court to deny the Committee's motion to admit Garcia to the State Bar.

To qualify for consideration for admission to the State Bar, an applicant must, among other things, demonstrate that he or she possesses "good moral character." (Rules of the State Bar of Cal., tit. 4, rule 4.40(A); see Bus. & Prof. Code, §§ 6060, subd. (b), 6068, subd. (a)(2).) The Committee makes an initial determination, on a case-by-case basis, whether an applicant has met his or her burden of establishing good moral character, but this court retains the authority to independently review and weigh the evidence of moral fitness and to make the ultimate determination whether the applicant has satisfied this requirement. (See, e.g., *Hightower v. State Bar* (1983) 34 Cal.3d 150, 155-156; *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1047.)

As we explained in *In re Menna* (1995) 11 Cal.4th 975, 983: " 'Good moral character' has traditionally been defined as the absence of conduct imbued with elements of 'moral turpitude.' [Citations.] It includes 'qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the state and the nation and respect for the rights of others and for the judicial process.' [Citations.]" The fundamental question is whether the applicant is fit to practice law, taking into account whether the applicant has engaged in conduct that reflects moral turpitude or has committed misconduct that bears particularly upon the applicant's fitness to practice law. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1068; *In re Lesansky* (2001) 25 Cal.4th 11, 14; *Hallinan v. Committee of Bar Examiners*, *supra*, 65 Cal.2d 447, 452.)[20]

As set forth earlier in the statement of facts, applicant Garcia initially was brought to California by his parents as a very young child, lived here until he was nine years old, moved back to Mexico for several years, and then returned to California with his parents when he was 17 years old. He has resided in California continually since that time — for more than 19 years — and has gone to college, completed law school, and has successfully passed the bar examination in California. He has been a diligent and trusted worker and has made significant

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20 As we explained in *Baker v. State Bar* (1989) 49 Cal.3d 804, 815, footnote 3: "Because the right to practice a profession is sufficiently important to warrant legal and constitutional protection, the term ['moral turpitude'] must be given a meaning and content relevant to the attorney's fitness to practice." (See also *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 227 [when a statute authorizes the imposition of professional discipline for conduct demonstrating moral turpitude, "the meaning of . . . 'moral turpitude' must depend upon, and thus relate to, the occupation involved . . . ."].)

contributions to his community. He has never been convicted of a criminal offense.

The record of the Committee's moral character investigation discloses that no individual raised any concern with respect to Garcia's moral fitness. Numerous individuals who worked with, taught, and participated in community activities with Garcia over many years had nothing but the highest praise for the applicant. For example, an attorney for whom Garcia worked as an unpaid intern during law school stated that "I know with absolute certainty that Mr. Garcia [is] among the most honest, forthright, and moral individuals that I have ever met." A law school professor described him as "an exemplary student" who "was always prepared and always conducted himself with the utmost integrity. . . . I know I speak for the faculty and administration when I say it has been our honor to play a small part in his education." And an administrative law judge, who became acquainted with Garcia in connection with Garcia's volunteer activities in Chico, stated that Garcia "has selflessly and effectively worked in a broad range of projects which address the needs of those included within diverse ethnic, social, cultural, and language groups," and further declared that he "is both honest and reliable," "circumspect in his judgment and conduct," and "a credit to his family and community. If allowed, he will be a credit to the State Bar. He carries my highest recommendation."

Although, as noted earlier, the Committee's investigation of Garcia disclosed one or two problematical incidents in his past (see, *ante*, pp. 5-6, fn. 5), the Committee investigated the applicant's entire background very thoroughly and concluded that, taking into account his entire life history and conduct, Garcia met his burden of demonstrating that he possesses the requisite good moral character to qualify for a law license. From our review of the record, we agree with that determination.

V. Conclusion

The Committee's motion to admit Garcia to the State Bar is granted.

CANTIL-SAKAUYE, C. J.

WE CONCUR:

KENNARD, J.
BAXTER, J.
WERDEGAR, J.
CHIN, J.
CORRIGAN, J.
LIU, J.

CONCURRING OPINION BY CHIN, J.

The majority opinion does not acknowledge it, but just over three years ago, in *Martinez v. Regents of University of California* (2010) 50 Cal.4th 1277, this court specifically considered how to designate persons in Garcia's position, and we unanimously rejected the term the majority uses, "undocumented immigrant," in favor of a term we believed was more accurate, "unlawful alien."

This is what we said: "Before we turn to the issues, we must comment on terminology. Defendants and supporting amici curiae generally refer to a person not lawfully in this country by a term such as 'undocumented immigrant.' Plaintiffs and supporting amici curiae generally use the term 'illegal alien,' as did the Court of Appeal. The term 'undocumented immigrant' is vague and is not used in the relevant statutes. It is also euphemistic, because it is unlawful to be in this country and to be undocumented in the sense in which defendants use the term. On the other hand, some view the term 'illegal alien' as pejorative. Wishing to be as neutral, yet as accurate, as possible in our terminology, we turn to the most relevant statutes for assistance. [Education Code, s]ection 68130.5, subdivision (a)(4), uses the phrase 'a person without lawful immigration status.' The federal provisions, sections 1621(d) and 1623(a) [tit. 8 U.S.C.], use the phrase 'an alien who is not lawfully present in the United States.' Both of these phrases are too bulky to be used continually. We believe it best to shorten these phrases to the two-word term 'unlawful alien.' Accordingly, we will use that term in this

opinion." (*Martinez v. Regents of University of California*, *supra*, 50 Cal.4th at p. 1288.)

The statutes at the heart of this case use the terms "an alien who is not lawfully present in the United States" (8 U.S.C. § 1621(d)) and "an applicant who is not lawfully present in the United States" (Bus. & Prof. Code, § 6064, subd. (b)), both of which are closer to the shorthand term used in *Martinez* than to the one used in the majority opinion.

Nevertheless, I consider the question of which term to use to come within the discretion of the opinion's author. Accordingly, I have signed the majority opinion.

CHIN, J.

See last page for addresses and telephone numbers for counsel who argued in Supreme Court.

Name of Opinion In re Garcia

Unpublished Opinion
Original Appeal
Original Proceeding XXX
Review Granted
Rehearing Granted

Opinion No. S202512
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Court:
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DOES THE MUNICIPAL, COUNTY, OR STATE GOVERNMENT HAVE THE RIGHT TO COLLECT REAL ESTATE PROPERTY TAXES IN INDIAN COUNTRY ?

The predictable and standard response you will receive, as a homeowner, is a resounding "yes" from the bureaucrats if addicted to the rule of law. **18 United States Code, §1151** ("**Indian country**") is the basic premise upon which we unleash the genie from the bottle, and open up Pandora's box containing all the dirty secrets relating to tribal lands. All three organs of government – the legislature, executive and judiciary – have played pucks with this issue depending on *political* inclinations, persuasions and preferences since the Louisiana Purchase followed by the westward tsunami of pioneers, settlers and homesteaders.

Like grammar and usage is to language teaching and learning, **Indian country** is the *sine qua non* to tribal land and soil in America which never got repealed by a successor treaty. New laws were made circumventing and circumscribing treaties that were concluded between Indian tribes and the federal government to avoid repealing them. Repeal would require tribal consent.

Indian country has had the maternal patience, grace and courtesy to accommodate airports, hospitals, homes, commercial buildings, government buildings, byways, highways, freeways, recreational parks, hotels, motels, resorts, army barracks, naval dockyards, wharves, quays, harbors, manufactories, golf courses, railroads, turnpikes, canals, orchards, farms ranches, and all other improvements of tribal land**. There is no evidence that any tribe received any rent from the usufruct (**the right to enjoy the use and advantages of *another's* property short of the destruction or waste of its substance)**.**

The Native American Law & Justice Center Tribal Court ©, a tribal organization under the aegis of **25 United States Code 450b[L],** has developed a Questionnaire designed to be addressed to the County Tax Assessor under the Judicial Affidavit Rule (JAR). The County Tax Assessor is required answer those Questions truthfully under the rule of law and the role of justice. If the property taxes have a legal foundation and standing, then by all means, collect the taxes due and payable. Otherwise, be civilized and let Indian Manifest Destiny guide your conscience.

For the Native American Indians, “Manifest Destiny” is the continuation in the enjoyment of a “warm, deep and lasting communal bond among all things in nature in a common vision of their proper relationship,” which “assumes the form of an interpersonal spiritual communion which has never been and may never be destroyed by outside forces.” to quote Russel Lawrence Barsh and James Youngblood Henderson in their enlightening work *The Road: Indian Tribes and Political Liberty* (p. vii, Prologue).

WHAT IS THE JUDICIAL AFFIDAVIT RULE

1. The JUDICIAL AFFIDAVIT RULE (JAR), an element of tribal law, is used to save time and other resources so that a speedy and just outcome to conflicts and controversies can be accomplished without the need for trials where transport, time, money, and other resources may prove cumbersome.

2. The JAR is made up of several Questions that are sent to the County Tax Assessor so that all the relevant facts, data, details and particulars can be marshaled by the Tribal Judge to arrive at a just conclusion as to how the case ought to be disposed and decided with all Parties participating. The County Tax Assessor is required to send their Responses and Answers to the Questions as Affidavits.

3. Tribal courts are recognized by the United States government because tribal sovereignty, although limited in certain instances, is sacrosanct under federal Indian law and policy that emanated from treaties, agreements, executive orders, congressional imperatives and decisions of the United States Supreme Court with useful hints and tips from international law.

4. The County Tax Assessor is required to send written answers to the Tribal Court within **fourteen days** upon receipt of the JAR. Failure to do so will trigger the imposition of sanctions by way of a declaratory or money judgment in favor of the Plaintiff(s) who sought this Tribal Court’s intercession in the matter. This matter may be referred to a federal court for disposition since federal questions and cognizable legal theories exist in federal Indian law and policy. These judgments are effective and enforceable as negotiable instruments.

5. Defendants are cautioned that federal Indian law determines the outcome of this matter. Indians and Indian tribes have been deemed “ sovereign dependent domestic wards” protected by the United States (federal)

government from any encroachment upon their rights recognized since time immemorial.

6. This Tribal Court exercising its tribal ordinances and customs, is duly constituted pursuant to the Northwest Ordinance of 1787, the Indian Reorganization Act of 1934, the Indian Civil Rights Act of 1968, the Indian Tribal Self-Governance Act of 1994, and 25 United States Code § 1322 (c).

QUESTIONS TO THE COUNTY TAX ASSESSOR

1. A) Do you have proof and evidence in your records as to the exact date that the Enduring Native Aboriginal Customary Title (ENACT) was transferred and conveyed to APN# _____with a physical address of _____ _____; and, B) the name of the aboriginal tribe that first occupied and possessed the realty.

2. Assuming your records show valid transfer of ENACT to fee simple, land patent, or land grant, please send this Tribal Court any proof or evidence as to the name of the ***first*** owner of that particular piece of realty cited as APN# _____ in #1 above.

3. Who was the ***first*** purchaser of the realty in question, and how was the realty acquired – by treaty provisions, judicial sale, private contract, homestead laws, annexation, cession, Manifest Destiny, etc.

4. What was the consideration for the transfer and conveyance of the ENACT to fee simple, land patent or land grant relating to APN# _____ .

5. List the number of times this realty experienced transfer and conveyance of title commencing with ENACT.

6. Were any funds that were collected from property taxes ever sent to any Indian tribe(s) in California?

7. Please evidence a list of Indian tribes, both historic and created, that lived in California during the material time it achieved statehood.

8. Do you agree that that all land and soil in California belonged to Indian tribes before achieving statehood?

9. Please evidence the first law passed by the legislature of the State of California authorizing the collection of property taxes.

10. Please state the legislative authority, or other authority, if any, that expressly granted you the power and authority to tax the realty in question cited as APN# _____ .

11. Please, accurately and truthfully, state the total funds you have collected from the realty in question cited as APN# _____.

CONCLUSION

If the County Tax Assessor employs the "oh-go-away" attitude, the Tribal Court shall issue Show Cause Order. If this is also ignored, an Order and Judgment may be awarded in favor of the homeowner(s).

Tribal courts deserve full faith and credit since they are the court of an independent sovereign (Wis. Stat. § 806.245; in order to end confusion, cases filed in state or **tribal courts** require mutual consultation. *Teague v. Bad River Band,* 236 Wis.2d384 (2000). According to the Restatement (Second) of Conflicts § 86, when courts of separate sovereigns both have jurisdiction over the same matter, the court ***first*** rendering judgment is commonly entitled to have its judgment receive full faith and credit by the other jurisdiction.

Judge Silver Cloud Musafir
NATIVE AMERICAN LAW & JUSTICE CENTER TRIBAL COURT©

FOR ENQUIRIES: PLEASE EMAIL US AT drjag49@yahoo.com

From The Royal House Of Tunica Matriarch Unity United Royal Emperial Washitaw de Dugdahmoundyah Empire Nation Sovereign Tribes U.N. Indigenous Peoples project #215/93
Treaty of Camp Holmes, 24 August 1835 | 7 Stat.474 |
P.O. Box 1686 NEW YORK - NEW YORK REPUBLIC [10035] (718)240-9391 Unitywashitaw.nation@yahoo.com

February 4, 2010

Justice Navin-Chandra Naidu (Silver Cloud Musafir)
Royal Borneo Nations
Suite 813, 8th Floor, East Wing
Shim Sha Shui Center
77 Mody Road,
Kowloon, Hong Kong

Dear Justice Naidu,

The Washitaw de Dugdamoundyah Muur Empire wishes to appoint Your Honor as Chief Judge for its Tribal Court system. The United Nations Center for Human Rights recognized us in 1993 as the oldest indigenous Tribe in the world. We have a Treaty relationship with the US government - the Treaty of Camp Holmes of 24 August 1835 (7 Stat.474).

We truly need your expert counsel in setting up our judiciary from the ground up not limited to hiring personnel, setting policies with the counsel of the Tribal Council, writing our Rules and applying ancient consecrated principles of law.

There are many issues, cases and controversies that need to be addressed, and Your Honor's name was highly recommended to handle these matters. We need your presence in our Nation to redeem all that was lost to greed and adventure with reckless abandon by those who came into our shores and took our land and soil without our consent and agreement.

We look forward to your accepting this offer based on a Treaty of Peace, Partnership & Prosperity we wish to conclude with Royal Borneo nations.

Respectfully,

Queen Mother Washitaw Alma Staton El-Bey

Queen Mother Washitaw Alma Staton El-Bey

P.O. Box 1686 NEW YORK - NEW YORK REPUBLIC [10035]
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QUEEN MOTHER WASHITAW ROYAL SEAL

JAWAID A. MINHAS
Notary Public, State of New York
Registration #01MI4738264
Qualified In Nassau County
Commission Expires May 31, 2015

3/10/14

NEWS, UPDATES AND VIEWS TO OUR ENROLLED TRIBAL MEMBERS OF AN INDIAN ORGANIZATION

By Judge Silvercloud Musafir, Mund-Barefan Yamassee Nation
May 18, 2014

INTRODUCTION

As you read this today, I believe you already know that Indians and tribes are not bound to or by the U.S. Constitution, the supreme law of the land. Our inherent sovereignty and jurisdiction ("law expression") predates the U.S. Constitution. Our rights, privileges and immunities do not emanate from the U.S. Constitution or from Congress through laws, rules and regulations, but from our ancient Tribal Code which are often acknowledged by the federal government with a dash of seasoning.

You may ask: a) How then are we protected?; b) How do we exercise, invoke, or enforce our rights?; c) Who will protect us?; d) Should we protect ourselves with our own standing army?

To answer these obvious questions and concerns, we have to peek into the past to see where we stood then, and we stand today as Indians and tribes in the helter-skelter, hodge-podge, willy-nilly matrix of treaties, statutes, courts decisions, administrative rules, regulations, decisions, opinions, and Executive Orders which have developed into what we term as ***federal Indian law.***

The beginning of the awareness of American Indian rights dawned with Felix S Cohen's *Handbook of Federal Indian Law* which he wrote in 1942 after his appointment as Special Assistant to the Attorney General in 1939 to direct an "Indian Law Survey." Associate Justice Felix Frankfurter of the U.S. Supreme Court wrote in a Foreword to Cohen in *Dialogue on Private Property*, 9 RUTGERS L. REV. 355, 356 (1954) that:

"*Only a ripe and imaginative scholar with a synthesizing faculty would have brought luminous order out of such mishmash. He was enabled to do so because of his wide learning in the various fields of inquiry which are relevant to so-called technical legal questions. Learning would not have sufficed. It requires realization than any domain of law, but particularly the intricacies and peculiarities of* ***Indian law****, demanded an appreciation of*

history and understanding of the economic, social, political and moral problems in which the more immediate problems of that law are entwined."

Cohen's *Handbook* is an invaluable source for understanding the issues facing federal Indian policy. Senator Sam Ervin, recognizing the unevenness of the playing field, commented in 1968 while supporting the revision and updating of Cohen's *Handbook* that:

"*For most Americans claiming deprivation of some right afforded them under the laws and treaties of the United States, it is a simple matter to have an attorney look up the law and court interpretations thereof, and to bring suit based on the result of such legal research. For the* ***American Indian such a solution is difficult because of the inadequacy and sometimes even the total absence of legal documents***." (114 CONG. REC. 394 of 1968).

The Handbook of Federal Indian Law: The first edition of this great compendium was published in 1942 with periodical revisions over the years as federal Indian law developed and morphed to tackle the 21st century issues faced by Indians and tribes. This is the go-to book for reference, solutions and remedies because federal Indian law has been uncertain, inconsistent and flexible depending on the composition of the Executive, the Congress and the U.S. Supreme Court. Some administrations have been kind and favorable, others could not come to terms with inherent tribal sovereignty, while others simply miscast us "uncivilized savages." The fact that these "uncivilized savages" had tribal governments and constitutions is lost somewhere in the axiom that "*Government, to an American, is the science of his political safety.*" (George Clinton, "Letters to Cato,"(1787), Letter No.1, reprinted in Paul Leicester Ford, Essays on the Constitution of the United States (Brooklyn, N.Y.: 1892))

So, are we Indians considered Americans in the strict sense of the word? The text of the **1924 Indian Citizenship Act** (43 U.S. Stats. At Large, Ch. 233, p. 253 (1924) "Snyder Act")) reads as follows:

BE IT ENACTED by the Senate and house of Representatives of the United States of America in Congress assembled, That all non citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: Provided That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property."

Nice, we are U.S. citizens. We did not demand it. What good is it to us because we are not represented in Congress. No seats are apportioned to us by legislative imperatives. The Constitution excluded us as did legislation. Why is the government so petrified in giving us representation in Congress as a distinct political community just like Whigs, Federalists, Republicans and Democrats are deemed eligible to sit in Congress after being voted in? We can get voted in, too. from our tribes, clans, bands and nations. We are almost 1.2 million strong now.

HISTORY

Recorded history is unequivocal that we were the original owners of the land and soil. We were here first. Thousands of years ago, some tribes were into agriculture; others were hunters, trappers, fishermen and gatherers; others simply made war with one another while engaging in the lucrative business of plunder whenever they found victims.

Then came the explorers, adventurers, pirates and looters in their fancy ships financed by some European kings, queens and popes. The arrival of these easterners changed the social, cultural, political and economic dynamics of Indians and tribes.

The foundation for federal Indian law was laid long before the formation of the Republic. Indian rights predate the U.S. Constitution. The basic concepts of original Indian title and tribal sovereign status originated as principles of **16th century international law** in the writings of scholars such as Francisco de Victoria. See F. Victoria, *De Indis et de Jure Belli Relectiones* 128 (J. Bate trans. 1917) (orig. ed. 1557). Hugo Grotius and Emmerich Vattel contributed vast and expansive scholarly works of the tribal political communities in the New World.

Suddenly, Indians and tribes found themselves governed by strange outlandish laws and customs through rules and regulations that had no relevance in wilderness societies. Adjustment, acculturation aimed at assimilation was difficult if not impossible. It can best be summed up in the words of Peter Graves of Red Lake testifying in "Hearings, Readjustment of Indian Affairs", 219, House Committee on Indian Affairs, 73rd Congress, 2nd Session (1934):

The older people . . . expect their young people to have a home. From which place they can go out into the world, and if the world is too fast for them they will have a place to return when they seek refuge. That was the intention of the old chiefs.

THE SITUATION TODAY

Long acquiescence in some practice by the government does not render it constitutional. Fairbank v. U.S., 181 U.S. 283, 307 (1901); Marshall Filed & Co. v. Clark, 143 U.S. 649, 691 (1892). However, some practices must be given great weight. Cohens v. Virginia, op. cit., at 418; The "Genessee Chief" v. Fitzhugh, 12 How.443, 458 (1852); Burrow Giles Litho. Co. v. Sarony, 111 .S. 53, 57 (1884).

The government has relied on long acquiescence as a tool and a veritable justification to say what an Indian or a tribe needs. Even unpersuasive dicta, is treasured and measured as a yardstick to make some point stick which slowly but surely evolves into federal Indian policy.

The first thing we need to understand is that the Commerce Clause of the U.S. Constitution grants (only) Congress the power to "regulate commerce with Indian nations" (Art. 1, sec.8, cl. 3). "Commerce" means the business of trade – buying, selling, bartering, lending, and borrowing. Commerce does not mean rearranging the Indians and their tribal affairs or intruding into tribal affairs, customs, mores, traditions and tribal law. That intrusion continues to this day.

SPECIAL NOTE: James Madison's *Federalist #42* laid the groundwork for the Commerce Clause when the U.S. Constitution was adopted, removing all references to ***state power*** originally contemplated in the Articles of Confederation with respect to **Indian affairs** (self-determination, inherent sovereignty, adoptions and tribal memberships, taxation, business corporations, domestic relations, driver licenses, trust relationship between federal and Indian tribes). The Commerce Clause of the U.S. Constitution, Article 1, section 8, clause 3, is cogent, unambiguous, and clear that *only* Congress shall the power to regulate commerce among the Indian tribes. It does not contemplate or imply state police power, or any state authority to preempt federal power granted by the U.S. Constitution to Congress. It would be tautological to say Congressional power is not state (police) power.

The second thing we need to understand is that Congress is given the power of "Exclusive legislation in all Cases whatsoever" (Art.1, sec. 8, cl. 17) within the federal district of Washington D.C. which has no legislature of its own, nor even exists as a territorial entity despite its ten mile square sphere of influence, power and authority. Why did the framers not grant Congress exclusive legislation over Indians and tribes instead of just regulating commerce? It is difficult to justify stretching this into a grant of virtually despotic power greater than "exclusive Legislation in all Cases whatsoever" with the concept of congressional "plenary power" which developed into the "trust relationship" over Indian country with "allotments" and "reservations" spawned by the Chief Justice Marshall's doctrine of "domestic, dependent nations" in *Cherokee v. Gerogia*.

The third thing to remember is that tribes are not even granted the status of States. We are not even represented in Congress. We should not be taxed. The American Revolution started on this premise. We should always invoke a tax *exception*. We don't want to ask for an *exemption*. They can say "no."

Interestingly, the Articles of Confederation referred to some Indians as "members" of states, an explicitly political test (Article IX, cl.4). Today, under 25 United States Code Section 450b[L] - **An "Indian organization" need not be a tribe or group of tribes, just a group of *tribal members.***

"*Indian tribes are not states. They have a status higher than that of states. They are . . . possessed of all powers as such only to the extent that they have expressly been required to surrender them by the superior sovereign, the United States."* Native American Church v. Navajo Tribal Council, 272 F.2d 131, 133, 8th Cir. 1959. (The US Supreme Court avoided this case altogether).

The twisted logic in this case is evident. We enjoy a higher status than states, BUT, whatever inherent powers we have are dependent on that which we Indians and tribes have been forced to surrender to a stronger superior sovereign! This argument has no constitutional mooring. It is legislative bullying and judicial terrorism. This is simply judge-made law otherwise known as legislating from the bench by politicians attired in black robes.

What, if we had a standing army to face might with might? The Second Amendment does not stop us from forming one!

The mischief created by the "domestic, dependent ward" stamp of disapproval by the *Cherokee* court in 1831 is yet to be eradicated from our affairs. If we are NOT in Washington D.C. to come under the ambit and gambit of "exclusive Legislation in all Cases whatsoever, and if the U.S. Constitution is the supreme law of the land (Art.VI, sec.2), ***the federal government has no business regulating our affairs regardless of "plenary power," an un-enumerated power arrogated to itself by Congress.***

WHAT NEEDS TO BE DONE

1. A concerted effort to **increase tribal membership** must be an ongoing exercise because federal law leaves membership criteria almost entirely in tribal hands. See Martinez v. Santa Clara Pueblo, 402 F. Supp. 5 [D.C.N.M. 1975]; 98 S. Ct. 1670 (1978). Although 25 U.S.C. 372a and 25 U.S.C. 476 limit our naturalization procedures for non-Indians because federal funding will have to be increased. We insist that we do **NOT** want federal funding as a tribal organization under 25 U.S.C. Section 450b[L]. **We want to be let alone. We need to be let alone**. **We have a right to be let alone**. That's federal common law first formulated by Judge Cooley (Cooley on Torts, 2d ed., p. 29. [p. 195 Note 4 in original].

2. Our credo and manifesto, that we want **no** federal or state or even municipality assistance must be made known to the President of the United States and to the Secretary of the Interior. The meddlesome attitudes by the Department of the Interior must stop. The Bureau of Indian Affairs should have no authority on us as a **tribal organization.** Treaty rights have been replaced by the suspect "federal recognition" political doctrine question even when treaties have not been abrogated or repealed. Treaty making with tribes ended in 1871, but that did not terminate our treaty rights.

3. We must invoke our tax exception rights, privileges and immunities since we want **no** federal or state or municipality assistance.

4. Since we have Tenth Amendment exceptions, exclusions, and exemptions, because we are not states, we should have the power to

tax commerce, sign treaties with other nation-states, grant letters of marque and reprisal, etc.

5. Use our ancestral lands as an asset base, and issue secondary native title to a financial institution with which a negotiable instrument could be obtained for continual funding and continuous financing of our very own economic development models. This asset base will not be collateralized because under the doctrine of ***usucapion***, we are the original land and soil owners. Our **e**nduring **n**ative **a**ncestral **c**ustomary **t**itle (**ENACT**) has not been extinguished unless by clear congressional enactments **(Title 18, U.S.C. Section 1151**). It is still Indian country, today, wherein reside States of the Union, counties and municipalities.

6. Our economic development models are not limited to schools, hospitals, department stores, grocery stores, a peacekeeping security unit, correctional facilities, banks, stock exchanges, executive, legislative and judicial organs of the Tribe. We have more than ample natural resources in our land and soil which only we should use while conserving the environment.

7. Peacekeeping security unit - So powerful were treaties that it recognized the capacity of Indian tribes to **make war** – see the Treaty with the Choctaws, 1830, art. 5, 7 Stat. 333 (Treaty of Dancing Rabbit Creek). This was discussed in Fleming v. McCurtain, 215 U.S. 56, 60 (1909).

8. TAXATION

Please review the following cases to see where we stand as Indians and tribes.

a) Immediate revenue can be extracted by imposing a tax on municipalities for property taxes, fuel taxes, mineral taxes, toll taxes and other taxes based on the undeniable fact that every municipality is in Indian country. As one court wrote in 1900, Indian tribes controlled entrance onto Indian lands, and therefore could "**impose conditions**." (Maxey v. Wright, 54 S.W. 807, 810-11 (Ind. Terr. App.), *aff'd*, 105 F. 1003 (8th Cir. 1900). Since all municipalities, counties and states of the Union are in Indian country, tribes have a right, duty and

obligation to issue travel permits/driver licenses, and impose taxes as well to no-Indians living and working within Indian country.

b) In Bryan v. Itasca County, 426 U.S. 373 (1976), in a matter involving Public Law 280, the United States Supreme Court struck down the imposition of a state tax levied on personal property located on a Public Law 280 reservation. In other words despite the language of Public Law 280, Congress did not give exclusive jurisdiction to the State.
Following the precedent set in *Bryan*, the **recovery of back taxes was upheld** in Topash v. Commissioner of Revenue, 291 N.W. 2d 679 (Minn. 1980).

c) The Staff of American Indian Policy Review Commission, Report on federal, State, and Tribal Jurisdictions 103-06 (1976) released details on many reservation Indians who paid taxes later found to be beyond the states' jurisdiction.

d) **United States Code Title 18, Part I, Chapter 53, § 1162**. State Jurisdiction***:*** **(**b) Nothing in this section shall authorize the alienation, encumbrance, or *taxation of any real or personal property,* including water rights, *belonging to any Indian or any Indian tribe, band, or community* that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof. (emphasis added)

e) The United States Supreme Court declared in Elk v. Wilkins, 112 U.S. 94, 110 (1884):

"*The Indian tribes, being within the territorial limits of the United States, were not, strictly speaking, foreign states; but they were alien nations, distinct political communities, with whom the United States might and habitually did deal, as they thought fit, either through treaties made by the president and senate, or through acts of congress in the ordinary forms of legislation. The members of those tribes owed immediate allegiance to their*

several tribes, and were not part of the people of the United States. They were in a dependent condition, a state of pupilage, resembling that of a ward to his guardian. Indians and their property, *exempt from taxation by treaty or statute of the United States, could not be taxed by any state. General acts of Congress did not apply to Indians, unless so expressed as to clearly manifest an intention to include them*. Const. art. 1, §§ 2, 8; art. 2, § 2; Cherokee Nation v. Georgia, 5 Pet. 1; Worcester v. Georgia, 6 Pet. 515; U. S. v. Rogers, 4 How. 567; U. S. v. Holliday, 3 Wall. 407; Case of the Kansas Indians, 5 Wall. 737; Case of the New York Indians, Id. 761; Case of the Cherokee Tobacco, 11 Wall. 616; U. S. v. Whisky, 93 U. S. 188; Pennock v. Commissioners, 103 U. S. 44; Crow Dog's Case, 109 U. S. 556; S. C. 3 SUP. CT. REP. 396; Goodell v. Jackson, 20 Johns. 693; Hastings v. Farmer, 4 N. Y. 293. (emphasis added).

f) Merrion v. Jicarilla Apache Tribe, 455 U.S. 130 (1982) – The U.S. Supreme Court declared that Indian nations have the *power to tax* non-Indians because of their power as a sovereign through dependent nation with treaty rights. The Court said that "sovereign power, even when unexercised, is an enduring presence that governs all contracts subject to the sovereign's jurisdiction, and will remain intact unless surrendered in unmistakable terms."

g) In Mescalero Apache Tribe v. Jones, 411 U.S. 145, 93 S.Ct. 1267, 36 L.Ed.2d 115, decided March 27, 1973, the U.S. Supreme Court held that that the state could not tax personalty (personal movable property as opposed to realty) which has merged with realty exempt under 25 U.S.C. § 465.

h) The **Buck Act** (Act of 30 June 1947, 61 Stat. 644, 4 U.S.C. 104-10 as amended) authorizes state motor fuels taxes, sales taxes, use taxes, and income taxes in "Federal Areas" exempting only "federal instrumentalities" and "Indians not otherwise taxed." Every inch of land and soil in this continent was *Indian country* until treaty-making, land allotment and homesteading took effect. Our realties are in a federal area and a federal instrumentality under the Buck Act which preempts state taxation power.

i) Carpenter v. Shaw, 280 U.S. 363, 367 (1930) " doubtful expressions are to be resolved in favor of the weak and defenseless people who are the wards of the nation, dependent upon its protection and good faith." 25 USC 194 must have been intended to have this effect. "In all trials about the right of

property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person," etc. See 34 Op. A.G. 439 (1925) construing this provision, which has since become neglected.

j) Tribal corporations enjoy tax exemption according to Section 17 of the Indian Reorganization Act of 1934. See Revenue Ruling 94-16.

9. ***TRIBAL COURTS***

Tribal members are urged and encouraged to seek tribal court jurisdiction whether civil or criminal in nature. We are separate sovereigns just like the military, federal, or state governments with their own courts. Our judgments that award damages can be monetized especially if you a homeowner who has been foreclosed and evicted. You are one of the millions who signed away your rights when you inked the Sale & Purchase Agreement (SPA) without realizing that you also signed a Security Instrument. Check your SPA. For example, a **$700,000.00** home was securitized to **$1.75 billion** as evidenced in the Pooling & Servicing Agreement, a public document. You received no advantages, benefits or profits like the lenders, speculators, brokers and investors, and yet every month you are required to enslave yourselves to make that dastardly monthly mortgage payment that **YOU DO NOT OWE in the first place. Some call it mortgage cancellation.**

Tribal courts are established already to fight for your rights as a homeowner, and redeem what you lost.

Please review what federal Indian law has to say about tribal courts:

1. **United States Code Title 28, Part V, Chapter 115, § 1738**: State and Territorial statutes and judicial proceedings; full faith and credit:

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

*The records and judicial proceedings of **any court** of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists,*

together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the ***same full faith and credit in every court*** *within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken*. (Emphasis added)

a) Tribal courts deserve full faith and credit since they are the court of an independent sovereign (Wis. Stat. § 806.245) ; in order to end confusion cases filed in state or tribal courts require mutual consultation. Teague v. Bad River Band, 236 Wis.2d384 (2000). According to the Restatement (Second) of Conflicts § 86, when courts of separate sovereigns both have jurisdiction over the same matter, the court ***first*** rendering judgment is commonly entitled to have its judgment receive full faith and credit by the other jurisdiction.

b) In Williams v. Lee, 358 U.S. 217 (1959), the United States Supreme Court upheld exclusive tribal judicial jurisdiction over actions involving contracts entered into on an Indian reservation between a non-Indian plaintiff and an Indian reservation in order to promote and protect tribal self-government.

c) In Kennerly v. District Court, 400 U.S. 423 (1971), The United States Supreme Court struck down asserted state judicial jurisdiction over civil contract actions brought by a non-Indian against an Indian concerning a transaction occurring on the reservation.

d) In denying the plaintiffs' argument that the Sioux tribal court was a recent creation, the district court judge portrayed a long, historic tradition of tribal self-rule that antedated contact with Europeans:

" *From time immemorial the members of the Ogallala Sioux tribe have exercised powers of local self-government, regulating domestic problems and conducting foreign affairs including in later years the negotiation of treaties and agreements with the United States*." Iron Crow v. Ogallala Sioux Tribe*, 231 F.2d 89, 99 (8th Cir. 1956*). Later, the 8th Circuit relied on the formulation of inherent tribal sovereignty and upheld a **tribal tax** on non-Indians. Barta v. Oglala Sioux Tribe*, 259 F.2d 553, 556 (8th Cir. 1958*)

e) Tribal courts, which have repeatedly been recognized as appropriate forums for adjudicating disputes involving important interests of both Indians and non-Indians, are available to vindicate rights created by the Indian Civil Rights Act. Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978)

f) The U.S. Supreme Court held that the historical failure of the tribe to execute its powers did not bar a modern tribal assumption of jurisdiction in constituting a tribal court. It upheld exclusive jurisdiction of tribal courts and stating that such exclusive jurisdiction is justified because it is intended to benefit the Indians by furthering the congressional policy of Indian self-government. Fisher v. District Court, 424 U.S. 382 (1976).

g) As one court wrote in 1900, Indian tribes controlled entrance onto Indian lands, and therefore could "impose conditions." (Maxey v. Wright, 54 S.W. 807, 810-11 (Ind. Terr. App.), *aff'd*, 105 F. 1003 (8th Cir. 1900). Since all municipalities, counties and states of the Union are in Indian country, tribes have a right, duty and obligation to issue travel permits/driver licenses, and impose taxes as well to no-Indians living and working within Indian country.

Thus, the findings of a duly constituted tribal court that upholds federal Indian law and policy must be accorded judicial currency in our shifting and ambivalent jurisprudence germane to federal Indian law.

10. ***IMMIGRATION***

Article 1, section 8, clause 4 of the U.S. Constitution (the supreme law of the land,) mandates that Congress shall have the power "*To establish an uniform* ***Rule*** *of Naturalization, and uniform* ***Laws*** *on the subject for Bankruptcies throughout the United States."*

Did you catch that: The ***Rule*** for Naturalization and the ***Laws*** for Bankruptcies difference?

Why didn't the framers use the word "***Laws"*** for both Naturalization and Bankruptcies? Could it be because Columbus, the Spaniards, French and English, like the Pilgrim Fathers, who came here had no passports or visas? There are no immigration records. Are they here illegally"? Are they

undocumented aliens who left their descendants here who subsequently made rules and regulations that became laws for Immigration and Customs Enforcement (ICE) and the Border Patrol under the Department of Homeland Security?

The indisputable fact is that Indian tribes, as a separate dependent sovereign and a distinct political community, reserve the right to define **tribal membership**. There are more than a dozen U.S. Supreme Court cases to support this argument. That is all there is to it. Immigration is a catchphrase that has no meaning in Indian country.

CONCLUDING REMARKS

Indians and tribes must resist the autocratic federal, state and municipal governments who take advantage of us because we exhibit passive obedience. "*Tribes cannot lose their struggle for political identity because their objectives are un-American, but only because contemporary America has departed from its original ideals of political liberty*," to quote Russel Lawrence Barsh and James Youngblood Henderson, *The Road: Indian Tribes and Political Liberty*, p.287.

To quote again from Barsh and Henderson's *The Road,* above:

"*Congressional policy since the earliest days of the Republic has sought to answer the riddle of tribalism in a modern nation-state. It has refused to consider tribal statehood seriously. It has refused to afford tribal citizens the same liberties as the million os immigrants who came to populate their country. Every tribe has been subjected to inconsistent and often unique requirements without constitutional recourse. The closest we have come to a general Indian policy is the recurrent rhetoric of "assimilation," "integration into the mainstream," and "Americanization," which challenges the ethnicity and lifestyle of individual Indians without addressing their legal choice."* (ibid at p. 286)

May the great spirit of Tecumseh be emulated to unite our People to offer not just resistance like revolutionaries, but reform, restitution and redemption of that which we temporarily lost during the territorial expansion phase of early America.

God bless you.

United Bangsamoro People (UBP)
The Royal House of Shariefs
Sultanate of Sulu Archipelago
Astana Bay Putih Ka Sharifan
(The Noble White House Palace)
Ipil Maimbung, Sulu Darul Islam.
Satellite Office: Blk4 Lt1 Mahardika Village
Indanan, Sulu 7407 Philippines
Email add.: sharifjubair@gmail.com / sharifjubair@yahoo.com
Mobile No. 0063-9272148225/ 09178412830

ROYAL APPOINTMENT

KNOW ALL MEN BY THESE PRESENTS:

I, **RAJA SHARIF JUBAIR B. SHARIFUL HASHIM BIN SULTAN SHARIF MOHAMMAD PULALON AMIRIL-MUHMININ**, The Reigning 38th Paramount Sultan of the Sultanate of Sulu Archipelago, Mindanao and North Borneo (Sabah) do hereby Appointed, Designated and Entrusted the person mentioned below to be my Chief Legal Adviser and sole Representative to the United Nation and the International Court of Justice.

Judge Navin-Chandra Naidu, Esq.
(Malaysian Nationality with Malaysian Passport No. A16962701)
Chief Justice Mund-Barefan Yamassee & Washitaw Native American Nations;
HM Attorney General, Kingdom of Hawaii.

Signed and Sealed this 26th day of June 2014

Granted By:

SULTAN SHARIF JUBAIR BIN HASHIM
OFFICIAL SEAL

His Royal Highness :
PARAMOUNT SULTAN RAJA SHARIF JUBAIR B. SHARIFUL HASHIM BIN SULTAN SHARIF MOHAMMAD PULALON AMIRIL-MUHMININ
Sultanate of Sulu Archipelago, Mindanao and North Borneo (Sabah)

SULTANATE OF SULU ARCHIPELAGO
1400 - 2014

Accepted By:

Chief Justice Judge Navin-Chandra Naidu, Esq.

HM Attorney General
Navin-Chandra Naidu

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

The Kingdom of Hawai'i,	:	
through His Royal Majesty	:	PETITION FOR JUDICIAL
Edmund K. Silva, Jr., for and in		REVIEW AS AN ARTICLE III
behalf of Native Hawaiians,	:	COURT OF ORIGINAL
Plaintiffs,	:	JURISDICTION TO
v.		DETERMINE THE VALIDITY
	:	OF THE NATION-STATE
The Government of the United States,	:	STATUS OF THE KINGDOM
The President of the United States,	:	OF HAWAII
The Attorney General	:	
of the United States,	:	
The Speaker of the House of	:	
Representatives,	:	

Dolo malo non videtur habere qui suo iure atitur – he who exercises his rights does not have bad intentions (Domitus Ulplanus, Diget 43, 29, 3, 2.)

Member #01798766, American Bar Association – 2500 East Imperial Highway, Suite 201-371, Brea, California 92821.
truthnjustice1950@yahoo.com.ph

INTRODUCTION

Plaintiffs, through its Attorney General, respectfully petitions the United States Supreme Court, in its capacity as an Article III court of original jurisdiction, to determine the validity and viability of the Kingdom of Hawai'i (hereinafter the "Kingdom") as a nation-state, owing to uncertainty surrounding the Kingdom's standing in the international community, and the national polity.

Plaintiffs invoke this Court's standing to adjudicate as a court of original jurisdiction under Article III, Section 2 of the U.S. Constitution. This standing gained meaningful utterance in *Marbury v. Madison,* 5 U.S. 137 (1803).

FACTS AND BACKGROUND

Contra factum non valet argumentum – there is no valid argument against a fact. The Kingdom believes this honorable Court will be encouraged by the aphorism *da mihi factum, dabo tibi ius* – give me the facts, and I will give you justice.

1. After the entry of the Europeans into the Islands, by 1810 King Kamehameha I and his successors had shaped the government of the Kingdom of Hawai'i, turning it into a constitutional monarchy, which was **recognized by other nations** as a sovereign nation. See 100 Consol. T.S. 287-290; 108 Consol. T.S. 217-229; 117 Consol. T.S. 435-459 (treaties with Sweden-Norway, Denmark and France); S. Doc. No. 55-64 (1898) (reprint of two treaties between Japan and Hawai'i relating to Japanese emigrants in Hawai'i, signed September 27, 1871 and March 8, 1886); 8 T.I.A.S. 861-879 (1968) (treaties between United States and Hawai'i). **None of these treaties were repealed or abrogated after the 1893 overthrow of the Kingdom of Hawai'i. Thus, they continue to be valid, and bear evidence and proof of the Kingdom of Hawai'i's standing as a nation-state, despite the politics of statehood in 1959. Treaties enjoy the special distinction of being the supreme law of the land for which the State of Hawaii and state judges must necessarily give deference to and obey. Article VI, section 2, United States Constitution.**

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2. Under public international law, the Kingdom enjoyed an autonomous sovereign status until the overthrow of its lawful and legitimate government in 1893. Subsequent expressions of apology, codified as Public Law 103-150, did nothing to restore the Kingdom's standing as an independent autonomous sovereign entity after the unfortunate overthrow of 1893, often viewed by legal scholars as a continuum of the 19th century political sentiment expressed as "Manifest Destiny," whose arsenal included the weapons of discovery and conquest amplified to the realities of overthrows and annexation of another sovereign's territory. It began with the acquisition of Florida from Spain, the Louisiana Purchase from France, the annexation of Texas, New Mexico and Arizona, the acquisition of California from Mexico, and eventually the annexation of Oregon, impelled by fear that the British and Canada would lay claim to it.

Plaintiff implores this honorable Court to act surely and firmly to right the wrongs committed against the Kingdom of Hawai'i, in the interests of justice, as the Defendants engage in shaky and expensive foreign policy imperatives reverberating in Syria, Iraq and Afghanistan, which continue to echo as a modern version of Manifest Destiny.

APPLICABLE LAW AND ARGUMENT

1. Article 1 of the 1933 Montevideo Convention on the Rights and Duties of States defines "state" in international law as follows:

The state as a person of international law should possess the following qualifications:

(a) a permanent population;
(b) a defined territory;
(c) government; and
(d) capacity to enter into relations with the other states.

It is Plaintiff's position that the Kingdom satisfies all four of these qualifications. The right of statehood is one that is invoked under international law, and requires no permission, consent or approval from another sovereign as a political gesture. The Vatican, East Timor, South Sudan and Taiwan are some examples of statehoods that were invoked under international law. Taiwan

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is not recognized by the United Nations, yet the Defendants have had bilateral relations with Taiwan since the Nationalists, under Generalissimo Chiang Kai Shek, occupied Formosa (now Taiwan) after the Sino-Japanese War of 1937.

2. **Public Law 103-150, 107 Stat. 1510 (1993)** acknowledged the 100th anniversary of the ***overthrow*** of the Kingdom of Hawai'i and the Defendants apologized for their participation in the overthrow, and called for reconciliation. This did not mean or even imply that the United States would return the Islands back to the Native Hawaiians, or restore the Kingdom of Hawai'i. The ***overthrow*** of the legitimate government of Queen Lili'uokalani was a typical illustration of *inter arma enim silent leges* – in the clash of arms the law is silent. Instead *of inter leges silent arma* – the law must speak and speak loudly so that arms are silenced – Manifest Destiny won the day based on "just war," which writers of antiquity like Hugo Grotius and Emmerich Vattel opined as justification for territorial expansion.

Plaintiff implores this honorable Court to consider if Manifest Destiny has any place in the strictures of law and justice, although it occupies a hallowed pedestal in political realms. If this honorable Court finds that Manifest Destiny is a manifestation of wilderness taming perpetrated by frontiersmen, pioneers and settlers, which probably found relevance to the 1893 overthrow, Plaintiff would see justice being done and delivered to a legitimate sovereign.

3. *Rice v. Cayetano*, 528 U.S. 495 (2000), is a United States Supreme Court decision which raised concerns about the continued viability of congressional laws absent an organized Native Hawaiian government and formal recognition by the United States**.**

The Kingdom of Hawai'i does qualify as a nation-state under Article 1 of the 1933 Montevideo Convention, which is enough to satisfy the plaintive call of *Cayetano,* should this honorable Court give deference to Article 1 of the 1933 Montevideo Convention.

4. In November of 1978, state voters amended the Hawaii Constitution to include a provision specifically protecting traditional and customary rights of ***ahupua'a*** tenants. See

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Hawaii Constitution, Article XII, § 7:

Traditional and Customary Rights

The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ***ahupua'a*** *tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, (subject to the right of the State to regulate such rights).*

The upshot of Article XII, Section 7 is it is proof and evidence of congressional willingness to recognize the Kingdom's inherent sovereignty, which may have been temporarily impaired with the overthrow of 1893, without permanently extinguishing Plaintiff's right to autonomy. Unfortunately, there is no civil remedy like the Mandatory Victims Restitution Act of 1996, 18 U.S.C. §§ 3663 A-3664, which the Kingdom could have invoked to settle these claims.

5. Statutory law controls inconsistent customary law [*Haalelea v. Montgomery*, 2 Haw. 62, 65 (1858)], but custom can be used to clarify ambiguous statutes [*In re Estate of Nakuapa*, 3 Haw. 342, 347-358 (1872)]. It must be noted and observed that custom and usage were referred to and consulted in Hawaiian courts before statehood;

Common law and statutory law emanate from custom and usage as a first principle of law.

RELIEF SOUGHT

Plaintiff prays for the following relief in the interests of justice:

1. A Declaratory Order and Judgment recognizing and restoring the Kingdom of Hawai'i as a nation-state under Article 1 of the 1933 Montevideo Convention with full police powers, without impairing the corporate structure of the State of Hawaii.

2. Payment of rents due from Defendant usufructs for every home, hotel motel, airport, highway, byway, freeway, street, boulevard, business center, shopping mall, golf course, manufactory, dock, wharf, quay, harbor, armed forces facility, ranch, orchard, farm and

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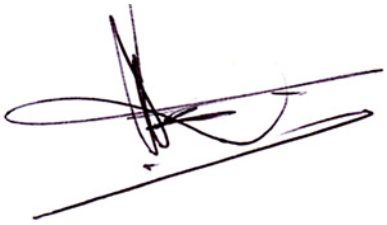
plantation built on Native Hawaiian land. Such rents to be determined by mutually accepted actuaries from the Plaintiff and Defendants.

3. Other just and equitable relief as the Court may deem fit in the interests of justice..

Given under my hand, this 18th day of June, 2014.



Attorney General, Kingdom of Hawai'i
Judge Navin-Chandra Naidu
Member #01798766, American Bar Association
Member # 1040751, International Bar Association
Member, National American Indian Court Judges Association

Member #01798766, American Bar Association – 2500 East Imperial Highway, Suite 201-371, Brea, California 92821.
truthnjustice1950@yahoo.com.ph

CERTIFICATE OF MAILING

I, Jennifer Eileen Pawlowski, of the Kingdom of Hawai'i, mailing address of 1760 Mahani Loop, Honolulu, Hawai'i [96819], do hereby certify that I am over the age of 18 and am not a party in the above entitled case. On Friday, June 20, 2014, I placed this Petition for Judicial Review in an envelope addressed to the recipients listed below, sealed it, had it registered as certified mail, return receipt requested, and deposited the envelopes with the United States Postal Service Office located in Paia, Hawai'i. I declare under penalty of perjury that the following is true and correct.

Dated: June 20, 2014

_____

Jennifer E. Pawlowski
21 N. Laelua Place
(650)-669-9124

The Government of the United States
The White House
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Washington, District of Columbia [20500] United States

President Pelekikena Barak H. Obama
President of the United States
1600 Pennsylvania Avenue, NW
Washington, District of Columbia [20500] United States

Eric H. Holder, Jr.
Attorney General of the United States
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Chair,
Senate Indian Affairs Committee,
United States Senate
838 Hart Office Building
Washington, DC 20510

Assistant Secretary-Indian Affairs
Office of Federal Acknowledgment
Department of Interior
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ROYAL BORNEO NATIONS

Suite 813, 8TH Floor, East Wing, Tsim Sha Sui Center,
66 Mody Road, Tsim Sha Sui East, Kowloon, Hong Kong

U.S. Mailing Address:
177 Riverside Ave., Suite F 1091, Newport Beach, California 92663
Tel:(626) 428-7669 email: drjag49@yahoo.com

Date: 15 September, 2013

ROYAL ORDER

To
Mr. Roosevelt Harrison
"Washitaw Empire"
Detroit, Michigan

This is to inform you that we will no longer be transacting any business with you regarding Empire Washitaw de Dugdahmoundyah. You have perpetrated and committed fraud by feigning leadership of Empire Washitaw de Dugdahmoundyah when in reality Mr. Fredrix Joe Washington should have been the point person. Under the circumstances the Treaty that you signed, the Conditional Promissory Note, and all other related assurances and promises are hereby declared null and void by this Royal Order.

In the event you choose to use our previous communications as a tool for personal enrichment we can assure you that you will be arrested and charged with major fraud. We may even request the U.S. government to extradite you to Royal Borneo Nations for further action.

Be warned and be advised accordingly.

HRH KING ALLEN W. W. NEOH ROYAL

HRH Allen Neoh Weng Wah
Sovereign Monarch, ROYAL BORNEO NATIONS

Cc:
Fredrix Joe Washington
Empire Washitaw de Dugdahmoundyah
c/o 106 N. Western Avenue, #306
San Pedro, California 90732

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"Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered" - Luke 11:52

Supreme Court Takes Up Law School Case on Christian Student Group

Tony Mauro
The National Law Journal
December 07, 2009

The Supreme Court agreed Monday morning to take up the first church-state case of the term, a dispute over recognition of the **Christian Legal Society**'s chapter at the **University of California, Hastings College of the Law**. The case, ***Christian Legal Society v. Martinez***, stems from the state law school's denial of official recognition to the Christian student group because it does not conform to the school's requirement that membership and leadership positions be open to all.

The Hastings chapter of the society requires members and officials to sign a statement of faith that vows devotion to Jesus Christ and has been interpreted to bar those with a "sexually immoral lifestyle." Student groups that are officially recognized are eligible for meeting space, means of communicating with students and student funds for their activities.

The 9th U.S. Circuit Court of Appeals, in an unpublished two-sentence ruling in March, said the law school's action was "viewpoint neutral and reasonable." The society, in asking for high court review, asserted that the 9th Circuit decision is in clear conflict with a 2006 7th Circuit decision involving the same organization, ***Christian Legal Society v. Walker***. In that case, which originated at the Southern Illinois University School of Law, the court found that the Christian group's message would be weakened if it was forced to accept members who disagree with it, thereby violating its First Amendment rights.

Americans United for the Separation of Church and State reacted to Monday's high court action with a statement by executive director Barry Lynn: "Public schools have every right -- indeed, an obligation -- to refuse to advance religious discrimination. Groups that wish to engage in discrimination should not expect public subsidies."

*This article first appeared on **The BLT: The Blog of Legal Times**.*

And He said, "woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not their burdens with one of your fingers" -

Food For Thought

Whoever shall introduce into the public affairs the principles of primitive Christianity will change the face of the world. - Benjamin Franklin, 1778

In The News

Supreme Court takes up Law School Case on Christian Student Group.

Why Is Supreme Court Holding onto Christian Legal Society Case? here

9th Circuit Rules Law School Cannot Be Required to Recognize Religious Student Group That Discriminates. here

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Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

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"Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered" - Luke 11:52

Why Is Supreme Court Holding Onto Christian Legal Society Case?

Tony Mauro
The National Law Journal
November 12, 2009

The Supreme Court first considered the petition in the closely watched case of *Christian Legal Society v. Martinez* at its Sept. 29 closed conference. It did not act then, and according to the Court's online docket, it has re-listed the case for five subsequent conferences, including the conference scheduled for this Friday, Nov. 13 -- an unusually long delay.

The petition challenges a decision of the **University of California, Hastings College of the Law** to deny official recognition to **the Christian student group** because it does not conform to the school's requirement that membership and leadership positions be open to all. The Hastings chapter of the society requires members to sign a statement of faith that vows devotion to Jesus Christ and has been interpreted to bar those with a "sexually immoral lifestyle." The 9th U.S. Circuit Court of Appeals, in an unpublished two-sentence ruling in March, **said the law school's action was "viewpoint neutral and reasonable**."

The society in its petition points out that the 9th Circuit decision is in clear conflict with a 2006 7th Circuit decision involving the same organization, *Christian Legal Society v. Walker*. In that case, involving the **Southern Illinois University School of Law**, the court found that the Christian group's ability to convey its message would be hampered if it was forced to accept members who disagree with it. It ruled that the state school had no compelling interest in imposing the policy on the organization.

The society, among others, is mystified at the high court's handling of the case. "We're going for the record books" in the number of conferences at which consideration of the case was put off, said Kim Colby, senior counsel of the Center for Law and Religious Freedom, the society's litigating arm. "But we're happy for them to keep thinking about it, and we remain hopeful."

She said the case deserves review because "there is such a dramatic split" between the circuits on the fundamental issue of whether the society has the "right to choose its own officers."

When the Court puts off cases for this long, it sometimes means that it is ready to deny review, but one or more justices is preparing a dissent from denial of review. It could also mean the Court is awaiting or considering a related case. On Oct. 29, the society informed the high court by letter that a similar case pending before the 11th Circuit had

Food For Thought

One who turns his ear from hearing the law [God's law or man's law], even his prayer is an abomination. Prov. 28:9, Bible, NKJV

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become moot, but that is unlikely to be the cause for the Court's hesitation. The Court's delay also could simply mean that a justice wants more time to consider the case. But a delay from late September to mid-November is unusual. If the Court decides to act on the case Friday, its action would likely be announced Monday.

And He said, "woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not their burdens with one of your fingers" - Luke 11:46

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9th Circuit Rules Law School Cannot Be Required to Recognize Religious Student Group That Discriminates

Pamela A. MacLean
The National Law Journal
March 19, 2009

The University of California Hastings College of the Law cannot be required to recognize and fund a religious student group that discriminates in the selection of members and officers, the 9th U.S. Circuit Court of Appeals ruled on Tuesday.

Just a week after **hearing arguments in the case**, the 9th Circuit issued a one-paragraph, unpublished order that Hastings' open membership rule prohibiting discrimination based on religion or sexual orientation of members is "viewpoint neutral and reasonable."

The Christian Legal Society made clear after the March 10 argument that it would appeal if it lost at this stage. *Christian Legal Society v. Kane*, No. 06-15956.

Hastings' attorney, Ethan Schulman of Folger Levin & Kahn in San Francisco, said the issue has arisen repeatedly in test cases at various university campuses across the country. The most recent was Feb. 6 in San Diego. In that case, U.S. District Judge Larry Burns granted summary judgment for San Diego State University against a challenge by Christian student groups.

The CLS case is one of a half-dozen test cases the group has filed in recent years against law schools around the country over similar nondiscrimination pledge requirements. The 9th Circuit decision to side with Hastings may put it in direct conflict with the 7th Circuit.

CLS attorney Timothy J. Tracey, of the Springfield, Va.-based Center for Law and Religious Freedom, argued that the school's denial of official recognition deprives it of some funding, access to recruit students at official events and access to the school Web site and other publications. The school does provide meeting space.

The 9th Circuit panel found that Hastings' rule requiring open voting membership in all student groups, even if members disagree with the mission of the group, is permitted under the 9th Circuit's decision in *Truth v. Kent School Dist.*, 542 F.3d 634 (9th Cir. 2008), which currently has an application for U.S. Supreme Court review pending.

Food For Thought

The only thing necessary for the triumph of evil is for good men to do nothing. - Edmund Burke

In The News

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Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

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Word In Action Ministry

our name is our ministry

Monday, January 8, 2007

The Supreme Court of the United States
One First Street, NE
Washington, D.C. 20543

MAY IT PLEASE THE COURT, Honorable Justices of the Supreme Court of the United States of America;

Honorable Chief Justice John G. Roberts, Jr.
Honorable Associate Justice John Paul Stevens
Honorable Associate Justice Antonin Scalia
Honorable Associate Justice Anthony M. Kennedy
Honorable Associate Justice David H. Souter
Honorable Associate Justice Clarence Thomas
Honorable Associate Justice Ruth Bader Ginsburg
Honorable Associate Justice Stephen G. Breyer
Honorable Associate Justice Samuel A. Alito, Jr.

I am writing to seek your esteemed consideration of judicial review regarding alien Christian ministers, and religious workers, intending to enter the United States of America to perform ecclesiastical work for churches, and associated Christian religious organizations, under the guarantee provided in the Free Exercise Clause of the First Amendment that Congress shall make no law prohibiting the free exercise of religion.

It is my humble, but nevertheless fervent belief, that the existing legislation embodied in our nation's immigration laws, regulations, and directives, are, ipso facto, laws that fly into the face of the very Free Exercise Clause that was entrenched in our Constitution to guard and guide the course of human events relating to the sincerely held beliefs in religious matters.

Therefore, I respectfully beseech this august Article III Court, as the highest tribunal in the land entrusted with the task of *interpreting* the law, to consider issuing a policy declaration, or directive, tantamount to an extraordinary writ - not as an act of a premature judicial intrusion - to the effect that intending alien Christian ministers and religious workers, may be able to enter the United States to perform their ecclesiastical duties at the behest of Christian organizations, for a specific period of time, and return to their country of domicile upon completion of their ecclesiastical duties.

Food For Thought

But he who looks into the perfect law of liberty and continues in it, and is not a forgetful hearer but a doer of the work, this one will be blessed in what he does. James 1:25, Bible, NKJV

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

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The effect of this policy declaration, directive, or writ, would obviate the need, for the intending alien Christian ministers and religious workers, to request or petition the Department of Homeland Security, whose Bureau of Citizenship and Immigration Services could, and usually does, exercise its *privilege* of refusing an entry visa, and thereafter sets in motion inevitably, to the detriment of the intending Christian alien religious workers, an entirely unnecessary, if not onerous, series of motions, petitions and appeals beginning at the Executive Office of Immigration Review, through the Administrative Appeals Unit, on to the Board of Immigration Appeals, thereafter to the 9th Circuit appellate courts, and ultimately to this very Court, entailing several years in the frustrating process, not without considerable effort, time and financial resources, while becoming another statistic in the overcrowded court dockets.

I believe there are some precious lessons to be extracted from the decision rendered in Holy Trinity Church v. United States, 143 U.S. 457, 12 S.Ct. 511, 36 L. Ed. 226 (Feb. 29, 1892) which declared, inter alia, this august Court's decision in refusing to apply to churches a federal statute forbidding employment contracts with aliens to work in the United States.

I crave your indulgence on this matter in the hope that this request does not, in any way, disturb the delicate balances between the tripartite arrangement of the organs of government.

I beg your forgiveness for not quite observing the virtues of brevity.

Yours respectfully,

_____/s/_____
Minister Aidun N C Naidu

Tel: 206-384-9220
Fax: 206-274-4816
scripturalaw@yahoo.co.uk

Return to the top

"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46

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Ecclesiastical Ministry in Truth

Lies have speed, but Truth has endurance

"Teaching them to observe all things whatsoever I have commanded you"
- Matthew 28:20 KJV

AN OPEN LETTER TO ALL MEMBERS OF EMIT
~ ECCLESIASTICAL MINISTRY IN TRUTH ~

November 1, 2008

Today is November 1, 2008. I have been watching the word "TRUTH" which constitutes one of the words for EMIT. The Latin word for truth is veritas. Thousands of words and hundreds of quotations have been expended to clarify, elucidate, explain, define, evaluate, and determine the exact and precise meaning of TRUTH. Most of them are accurate. My favorite is "lies have speed, but truth has endurance." You can see this as part of my signature in my emails.

In our efforts to live with the TRUTH, and to operate within its jurisdiction, we have had a recent struggle with one of the members of the Presiding Council that subsequently resulted in a Judgment against him to remove him from any fiduciary responsibilities. Please see "Merritt Judgment" in this website. It became necessary, and it was well worth the pain and agony removing someone we had all trusted. We have had a similar experience with TOTAJ. We may continue to have problems of trust, but we endeavor to weed out the worst in our midst. Once in a while, it becomes easy to trap a person with hidden agendas especially when they react in a certain manner that is detrimental to a common cause.

I want to personally assure you that everything is otherwise great with EMIT's activities. The AEPs, EEPs, and COPs are being pursued vigorously. We are still short, but I am working on getting my overseas clients to participate. Call me personally to get details. The only issue that is slowing that participation is co-mingling of funds. Asians take a longer time to commit, but I do not foresee any problems.

The Believers Lawsuit, which some of you have contributed to, will be heard November 3, 2008 at the Central Lutheran Church, Tacoma, Washington. The returns are structured to be tenfold. EMIT, as a wealthy enough investor whose net worth is at least $5 million, qualifies as an Accredited Investor, under Securities and Exchange Commission Regulation D, Rule 501 (see page 5, Barron's Dictionary of Finance & Investment Terms). So far, nobody from

Docket News

The Believer's Petition
» MS Word Version here
» HTML Version here
» PDF Version here

Tacoma Municipal Court
case # D00039838 - In the matter of Lautoa Laga - removal to Ecclesiastical Court

Merritt judgement order steming from violation(s) of the EMIT Code of Conduct

Dan Merritt's smear campaign begins.

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

The Believer's Petition article

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- Memorial & Remonstrance
- FindLaw.Com

the government has responded as to whether they would send a Representative to attend the Hearing. I had assured the government that we are not suing anyone in particular, but bringing an action, as Believers of the Lord Jesus Christ, against non-compliance with scriptural and biblical mandates that rendered the so-called Wall Street mess.

We continue with our educational seminars and broadcasts as usual.

There shall be no more unnecessary secrecy and confidentiality regarding what is happening with the AEPs and EEPs. Just call me or contact me anytime between 8 a.m. and 8 p.m. PST to get as much details as you can handle. There shall be total transparency and accountability. If anything involves EMIT, every EMIT Member ought to be told and kept informed except for personal private matters.

I encourage you to contact me directly via email at scripturalaw.co.uk and by telephone at 206-409-7025 should you have any questions regarding EMIT, law, finances, banking, politics, and economics. What I know I shall share with you as always.

Judge Naidu Seattle, Washington

Return to the top

"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46

- Law Dictionaries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Links of Value

Worthy of your visit

- Indianz.Com
- Indian Country News

the page you are currently viewing was last updated on: undefined, undefined NaN, NaN

Thank You Visitors

Excerpts of the Apology with image of signing

- **Congressional Record - Senate**, October 27, 1993
- **Congressional Record - House**, November 15, 1993
- **Acrobat PDF formatted for print**

UNITED STATES PUBLIC LAW 103-150

103d Congress Joint Resolution 19

Nov. 23, 1993

To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

Whereas, prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion;

Whereas, a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii;

Whereas, from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

Whereas, the Congregational Church (now known as the United Church of Christ), through its American Board of Commissioners for Foreign Missions, sponsored and sent more than 100 missionaries to the Kingdom of Hawaii between 1820 and 1850;

Whereas, on January 14, 1893, John L. Stevens (hereafter referred to in this Resolution as the "United States Minister"), the United States Minister assigned to the sovereign and independent Kingdom of Hawaii conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii;

Whereas, in pursuance of the conspiracy to overthrow the Government of Hawaii, the United States Minister and the naval representatives of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16, 1893, and to position themselves near the Hawaiian Government buildings and the Iolani Palace to intimidate Queen Liliuokalani and her Government;

Whereas, on the afternoon of January 17,1893, a Committee of Safety that represented the American and European sugar planters, descendants of missionaries, and financiers deposed the Hawaiian monarchy and proclaimed the establishment of a Provisional Government;

Whereas, the United States Minister thereupon extended diplomatic recognition to the Provisional Government that was formed by the conspirators without the consent of the Native Hawaiian people or the lawful Government of Hawaii and in violation of treaties between the two nations and of international law;

Whereas, soon thereafter, when informed of the risk of bloodshed with resistance, Queen Liliuokalani issued the following statement yielding her authority to the United States Government rather than to the Provisional Government:

> "I Liliuokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.
>
> "That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed a Honolulu and declared that he would support the Provisional Government.
>
> "Now to avoid any collision of armed forces, and perhaps the loss of life, I do this under protest and impelled by said force yield my authority until such time as the Government of the United States shall, upon facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands.".
>
> Done at Honolulu this 17th day of January, A.D. 1893.;

Whereas, without the active support and intervention by the United States diplomatic and military representatives, the insurrection against the Government of Queen Liliuokalani would have failed for lack of popular support and insufficient arms;

Whereas, on February 1, 1893, the United States Minister raised the American flag and proclaimed Hawaii to be a protectorate of the United States;

Whereas, the report of a Presidentially established investigation conducted by former Congressman James Blount into the events surrounding the insurrection and overthrow of January 17, 1893, concluded that the United States diplomatic and military representatives had abused their authority and were responsible for the change in government;

Whereas, as a result of this investigation, the United States Minister to Hawaii was recalled from his diplomatic post and the military commander of the United States armed forces stationed in Hawaii was disciplined and forced to resign his commission;

Whereas, in a message to Congress on December 18, 1893, President Grover Cleveland reported fully and accurately on the illegal acts of the conspirators, described such acts as an "act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress", and acknowledged that by such acts the government of a peaceful and friendly people was overthrown;

Whereas, President Cleveland further concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair" and called for the restoration of the Hawaiian monarchy;

Whereas, the Provisional Government protested President Cleveland's call for the restoration of the monarchy and continued to hold state power and pursue annexation to the United States;

Whereas, the Provisional Government successfully lobbied the Committee on Foreign Relations of the Senate (hereafter referred to in this Resolution as the "Committee") to conduct a new investigation into the events surrounding the overthrow of the monarchy;

Whereas, the Committee and its chairman, Senator John Morgan, conducted hearings in Washington, D.C., from December 27,1893, through February 26, 1894, in which members of the Provisional Government justified and condoned the actions of the United States Minister and recommended annexation of Hawaii;

Whereas, although the Provisional Government was able to obscure the role of the United States in the illegal overthrow of the Hawaiian monarchy, it was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation;

Whereas, on July 4, 1894, the Provisional Government declared itself to be the Republic of Hawaii;

Whereas, on January 24, 1895, while imprisoned in Iolani Palace, Queen Liliuokalani was forced by representatives of the Republic of Hawaii to officially abdicate her throne;

Whereas, in the 1896 United States Presidential election, William McKinley replaced Grover Cleveland;

Whereas, on July 7, 1898, as a consequence of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawaii;

Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States;

Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government;

Whereas, the Congress, through the Newlands Resolution, ratified the cession, annexed Hawaii as part of the United States, and vested title to the lands in Hawaii in the United States;

Whereas, the Newlands Resolution also specified that treaties existing between Hawaii and foreign nations were to immediately cease and be replaced by United States treaties with such nations;

Whereas, the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government;

Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

Whereas, on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawaii and defined the political structure and powers of the newly established Territorial Government and its relationship to the United States;

Whereas, on August 21,1959, Hawaii became the 50th State of the United States;

Whereas, the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land;

Whereas, the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people;

Whereas, the Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions;

Whereas, in order to promote racial harmony and cultural understanding, the Legislature of the State of Hawaii has determined that the year 1993, should serve Hawaii as a year of special reflection on the rights and dignities of the Native Hawaiians in the Hawaiian and the American societies;

Whereas, the Eighteenth General Synod of the United Church of Christ in recognition of the denomination's historical complicity in the illegal overthrow of the Kingdom of Hawaii in 1893 directed the Office of the President of the United Church of Christ to offer a public apology to the Native Hawaiian people and to initiate the process of reconciliation between the United Church of Christ and the Native Hawaiians; and

Whereas, it is proper and timely for the Congress on the occasion of the impending one hundredth anniversary of the event, to acknowledge the historic significance of the illegal overthrow of the Kingdom of Hawaii, to express its deep regret to the Native Hawaiian people, and to support the reconciliation efforts of the State of Hawaii and the United Church of Christ with Native Hawaiians;

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACKNOWLEDGMENT AND APOLOGY.

The Congress -

(1) on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawaii on January 17, 1893, acknowledges the historical significance of this event which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people;

(2) recognizes and commends efforts of reconciliation initiated by the State of Hawaii and the United Church of Christ with Native Hawaiians;

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people; and

(5) urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and the Native Hawaiian people.

SEC. 2. DEFINITIONS.

As used in this Joint Resolution, the term "Native Hawaiians" means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

SEC. 3. DISCLAIMER.

Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the United States.

Approved November 23, 1993

_____
LEGISLATIVE HISTORY - S.J. Res. 19:

SENATE REPORTS: No. 103-125 (Select Comm. on Indian Affairs)
CONGRESSIONAL RECORD, Vol. 139 (1993):

Oct. 27, considered and passed Senate.
Nov. 15, considered and passed House.

"...the logical consequences of this resolution would be independence."

- Senator Slade Gorton, US Senate Congressional Record
Wednesday, October 27, 1993, 103rd Cong. 1st Sess.
(Note that Sen. Gorton was speaking in opposition to the resolution, and this statement was part of his reason for opposing it.)

30th June 2014

To: His Majesty King, Edmund K. Silva, Jr.

Kingdom of Hawai'i

RE: Establishing Treaty Relations

I write this letter motivated with sincere and deepest sense of appreciation of Your Majesty King's profound interest and intent to enter into bilateral treaty relations with the Royal Borneo Nations.

I wish to take this opportunity to express and confirm my strongest and unwavering intent and desire to establish bilateral cooperative and friendship relations with Your Majesty King's kingdom of Hawai'i.

I also share your joy and honour for having appointed Chief Justice Naidu as your kingdom's new Royal Attorney General and Senior Judge. Kudos to his invaluable efforts in bringing our two sovereign nations together, with the common and ultimate goal of advancing and caring for the well-being of the Peoples of our two nations in all dimensions.

I am looking forward to paying a visit to Your Majesty King in the near future, during which in-depth face to face discussions can be held and better understanding between our nations can be reached. I shall inform Your Majesty King in due course if a suitable date is fixed up for the visitation. In the meantime, I will wait to receive Your Majesty King's proposed treaty as mentioned in your last letter.

Respectfully yours,

His Majesty King Allen Neoh Weng Wah

The Royal Borneo Nations

CC : Chief Justice Haidu ✓

HM Attorney General
Navin-Chandra Naidu

FROM THE OFFICE OF THE ATTORNEY GENERAL FOR THE KINGDOM OF HAWAII

ORDER TO SHOW CAUSE

Attention: Presiding Judge

District Court of Wailuku, Hawai'i

IN THE MATER OF JENNIFER EILEEN PAWLOWSKI, 21 N Laelua Pl., Paia, Hawai'i 96779

Case No: 14-023110

PLEASE BE ADVISED AND NOTIFIED that :

1. Jennifer Eileen Pawlowski ("Pawlowski") is a Native Hawaiian subject to ancient customary law of the Kingdom of Hawai'i, a sovereign autonomous nation-state contemplated under the 1933 Montevideo Convention;

2. Pawlowski invokes her traditional rights guaranteed under Hawaii Constitution, Article XII, § 7:

Member #01798766, American Bar Association – 2500 East Imperial Highway, Suite 201-371, Brea, California 92821.
truthnjustice1950@yahoo.com.

Traditional and Customary Rights

The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ***ahupua'a*** *tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.*

3. It would appear that charging her under laws of the State of Hawai'i is *ultra vires* the Hawaii State Constitution as her affidavit to this Office stipulates that she was traveling in *ahupua'a* territory where she, like other Native Hawaiians, perpetually enjoy a right of way. She was traveling for subsistence and religious purposes when she was cited for an alleged traffic violation resulting in an unlawful arrest where her *Escobedo* rights were also ignored and violated. Such acts by the arresting officer is an affront and a violation of Article II, § 7 of the Hawaii Constitution. Sanctions may apply.

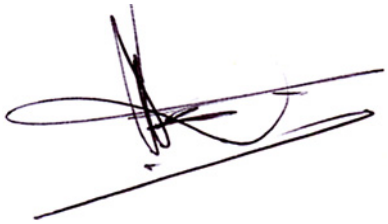
4. The proper jurisdiction and forum for Pawlowski's alleged charges contained in Case Number 14-023110 is the Tribal Court of the Kingdom of Hawai'i. No such application was made to a recognized sovereign under the Constitution of the State of Hawai'i. This Office was not apprised of the matter until Pawlowski made an appearance in the Tribal Court seeking a resolution to this matter.

5. The District Court of Wailuku, Hawai'i, must show cause as to why it has assumed jurisdiction of another sovereign. Ignorance of the facts may be excusable, but ignorance of the law by a court of law is no excuse. This Office assumes the judges of district courts in Hawai'i are aware of the Hawaii Constitution's treatment

of native Hawaiians while they swore to uphold the laws and constitutions of the State of Hawai'i, and the United States.

6. The District Court has **seven days** to respond to this Order to Show Cause. In the meantime, all threats of seeking Pawlowski's presence in the District Court of Wailuku shall be deemed *ultra vires* the Hawaii Constitution, and therefore this Office recommends that no bench warrant be issued until the constitutional ramifications of this matter are resolved once a meaningful dialogue is established between this Office and the District Court of Wailuku.

Given under my hand, this 18th day of June, 2014.



Attorney General, Kingdom of Hawai'i
Judge Navin-Chandra Naidu
Member #01798766, American Bar Association

Member # 1040751, International Bar Association
Member, National American Indian Court Judges Association

Cc: Office of the Governor

The Honorable Neil Abercrombie

Executive Chambers, State Capitol

Honolulu, HI 96813

Hawai'i Attorney General David M. Louie

Department of the Attorney General

425 Queen Street

Honolulu, HI 96813

Director,

U.S. Department of Justice

Office of Tribal Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

Chair,

Senate Indian Affairs Committee,

United States Senate

838 Hart Office Building

Washington, DC 20510

Assistant Secretary-Indian Affairs

Office of Federal Acknowledgment

Department of Interior

1849 C Street NW, Washington D.C.

Member #01798766, American Bar Association – 2500 East Imperial Highway, Suite 201-371, Brea, California 92821.
truthnjustice1950@yahoo.com.

His Royal Majesty

Edmund K. Silva, Jr.

An autonomous independent sovereign nation-state contemplated under Article 1 of the 1933 Montevideo Convention on Rights and Duties of States requiring the state as a person of international law possessing the four qualifications of (a) a permanent population, (b) a defined territory, c) government; and (d) capacity to enter into relations with the other states.

Legal Mention:

- *Considering the Constitution of the Kingdom of Hawai'i, which by its ratification the restoration of the Kingdom of Hawai'i is Forever Sealed Proclaiming that the Kingdom is a Constitutional Monarchial Government. Done this day of October 22, 2003*

- *Considering the Royal Proclamation that on November 23, 2002 the Kingdom is restored and that on June 21, 2003 a Declaration of Independence proclaiming the sovereignty of the independent Kingdom of Hawai'i was promulgated and signed into law.*

- *Considering the Royal Decree of November 7, 2000, That His Royal Majesty accepted the Royal Crown of the Kingdom of Hawai'i and that this decree was sealed by the original member's ancestors of the House of Nobles giving His Royal Majesty absolute Power and Authority over the entire archipelago of the Hawaiian Islands and his people.*

Ancestral Royal Pedigree:

Pursuant to Article 22 of the Kingdom of Hawai'i Constitution of 1893, the Crown is permanently confirmed to His Majesty – Ali'i Nui Mo'i Edmund Keli'i Silva, Jr., *Who's full Hawaiian Royal name: Nalikolauokalani-Ke'alohilanikikaupe'aokalani-kapahupinea-kaleikoa-keopuhiwa-Paki***,** was hidden from those who tried to destroy the royal lineage. His Royal Pedigree is indisputably connected to Kamehameha Nui 'Ai Lu'au. His Royal Lineage dates back to 387 AD. His Genealogical record exhibits an impeccable chain of custody. It is the original record of the Royal Courts and last chanted in the Royal Court in 1836.

Article 24 - The King shall have a Cabinet, which Cabinet shall consist of a Prime Minister, Minister of the Interior, Minister of Foreign Affairs, Minister of Finance, Minister of Human Services, Minister of Science and Technology, Minister of Agriculture, Minister of Maritime Affairs and Economics, Minister of State, Minister of Defense, Chief Justice of the Supreme Court and the Attorney General of the Kingdom.

The Cabinet Members shall be the King's special advisors in the Executive affairs of the Kingdom, and they shall also be ex officio members of the King's Privy Council of State.

Cabinet Members shall be appointed by the King and shall serve at His pleasure, except that they shall be subject to impeachment pursuant to Article 31 herein.

Royal Proclamation:

HM Attorney General of the Kingdom of Hawai'i

Mr. Navin-Chandra Naidu (Silver Cloud Musafir)

***HM Attorney General serves at the pleasure of the King*.**

On this day of our Lord November 11, 2009; I, Edmund K. Silva, Jr., Ali'i Nui Mo'i King and Constitutional Monarch, of and for the Sovereign (Archipelago) Kingdom of Hawai'i, hereby appoint**,** **Mr. Navin-Chandra Naidu (Silver Cloud Musafir)** into the Office of HM Attorney General of and for the Kingdom of Hawai'i, House of Nobles and Sr. Judge to my Privy Council Staff. He shall at all times exercise this power of authority with the highest honor and integrity.

HM Attorney General is the head of the Justice System of this government; whose principal duties of this office are to: Represent the Kingdom in legal matters.

- *Supervise and direct the administration and operation of the offices, boards, divisions, and bureaus that comprise the Department.*
- *Furnish advice and opinions, formal and informal, on legal matters to the King, his staff and his Ministers as provided by law.*
- *Make recommendations to the King concerning appointments to federal judicial positions and to positions within the Department, including Kingdom Attorneys and Kingdom Marshals.*
- *Represent or supervise the representation of the Kingdom Government in the Supreme Court of the Kingdom of Hawai'i and all other courts, foreign and domestic, in which the Kingdom is a party or has an interest as may be deemed appropriate.*
- *Perform or supervise the performance of other duties required by statute or royal degree.*

The Attorney General (A.G.) is the head of the Kingdom of Hawai'i Department of Justice and is concerned with legal affairs and is the chief law enforcement officer and chief lawyer of the Kingdom government. The attorney general serves as a member of the Kings cabinet and shall be referred too as, His Majesties Attorney General.

The attorney general is appointed by the King of the Kingdom of Hawai'i. He or she serves at the pleasure of the King and can be removed by the King at any time; the attorney general is also subject to impeachment by the House of Nobles and trial in the house for "treason, bribery, and other high crimes and misdemeanors."

This Royal Appointment is done this day of November 11, 2009, on the sacred and original ancient site of the First Capital Kamakahonu where the first king; King Kamehameha the Great governed.

Me ka aloha pumehana,

Edmund K. Silva Jr.

Edmund K. Silva, Jr.

cc: Na Kupuna Council O Hawai'i Nei
Ali'i Mana'o Nui Lanny Sinkin
Chief Justice Jennifer Pawlowski

NATIVE AMERICAN LAW & JUSTICE CENTER©

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Mailing Address: PO Box 1441, Maple Valley, WA 98038

Website: www.scripturalaw.org / scripturalaw@yahoo.co.uk

Tel: 206-409-7025 Tel: 206-384-9220 Tel: 509-984-7576

AN ANALYSIS OF THE OPINION OF THE TEXAS ATTORNEY GENERAL BY CHIEF JUDGE NC NAIDU

The Attorney-General of Texas, Greg Abbot, published an Opinion in July 18, 2005, cited as Opinion No. GA-0339, when he wrestled with the issue whether the Live Oak Treaty of 1838 between the Lipan Apache and the Republic of Texas is still a binding agreement.

The Grand Council of the Lipan Apache Band of Texas has requested me to analyze the Opinion to determine if there is merit, pith and substance to the Attorney-General's Opinion.

THE LIPAN APACHE BAND OF TEXAS OPINION

AA. ABROGATION OF TREATIES

The Attorney-General's Opinion on the abrogation of Indian Treaties is reproduced herein. Abrogation is the AG's first line of defense and justification to ignore, avoid and evade the power and authority of a Treaty with its inherent rights, obligations, duties, abilities, disabilities, and liabilities when seen through the constitutional lens, as it should be.

The word “abrogation “ means to “abolish a law or custom by formal or authoritative action; to annul or repeal,” according to Black’s Law Dictionary. These are heady words especially “authoritative” action. I think the word “authoritarian” was trying to gain utterance.

First, the Attorney General (hereinafter “AG”) quotes Sally J. Johnson’s work when he agrees and endorses her findings that these treaties remain in effect unless otherwise modified, to paraphrase the AG.

The AG does not say *all* treaties but that *these* treaties remain in effect.

The “unless modified” part of Sally J. Johnson’s findings is very different from abolish, annul or repeal for the purposes of abrogation. Modified, or amended or altered may mean the same thing where consensus is the key, whereas authoritative action is necessary for wanting to abolish, annul or repeal a law especially when the legislative imperative of consensus meets face to face with U.S. Const. Art.2, sec. 2, cl.2 which gives the President of the United States power (authoritative action) to make treaties with the Senate’s acquiescence.

Next, let’s be sure that we understand the import, impact, scope, scale and effect of U.S. Const. art. VI, cl. 2 of the federal Constitution which the AG asserts makes “Indian treaties the law of the land…..”.

My reading of U.S. Const. art. VI, cl. 2 says that the “Constitution and **all** treaties made shall be the **supreme** law of the land……..”

Therefore, all treaties would include the five Lipan Indian treaties, namely, Live Oak Treaty, 1838; Tehuacana Creek Treaty, 1844; Council Springs Treaty, 1846; Spring Creek Treaty, 1850; and the San Saba Treaty, 1851. All these treaties were made after 1789, the post-Constitutional adoption and ratification period in time.

In other words, **all** treaties made under the authority of the Constitution and the United States are not merely laws but **supreme** laws of our country. Abrogation is not a constitutional right or imperative to be loosely utilized for authoritative action accompanied with arbitrary intent.

We do not know whether this was an oversight on the part of the AG but my point is made.

Before we go further in analyzing the AG's Opinion, it is vital that understand the definition of "**treaty**' as defined in Black's Law Dictionary:

A formally signed and ratified agreement between two nations or ***sovereigns;***

An international agreement concluded between two or more states in written form and governed by international law.

I had a reason to bold the word "sovereign" because we need to define that too. A quick glance at Black's Law Dictionary offered this definition:

A person, body, or state vested with independent and **supreme** *authority*.

The Unabridged Twentieth Century Dictionary in my chambers offered this definition for "sovereign."

Supreme in power; possessing supreme power; independent of and ***unlimited*** *by any other*.

When you juxtapose the words in the context of treaty, supreme, unlimited and power, you will notice that a treaty is the end all and be all of unlimited power. A sovereign rules and reigns because of the inherent unlimited power a sovereign enjoys. As an illustration and an example, Queen Elizabeth II of the United Kingdom reigns although she does not rule.

Next, the AG opines that "Although Congress may not impair rights vested under Indian treaties, it may supersede or abrogate the treaties by legislation or subsequent treaty." This means that Congress has the power to annul, abolish or repeal the supreme law of the land, i.e. a treaty, by legislation or another treaty. What if the Lipan Apache Band of Texas refused to sign such a (subsequent) treaty ? Have they lost their inherent rights encompassed in the previous or earlier Treaty ?

To abolish, repeal or annul a **supreme** law of the land (treaty) takes more than an act of the legislature in passing a law to replace, abolish, repeal or annul a previous one especially if it is a **treaty**. It is tantamount to constitutional amendment which is the province of Article V of the U.S. Constitution which calls for two thirds of both Houses proposing such amendments, or, on the application of the legislatures of two thirds of the several states provided it is ratified by three fourths of the legislatures of the several states……

It makes no constitutional sense at all by merely referring to an act of abrogation outside constitutional moorings. The Constitution is a safe harbor where storms have no effect. When your reasoning is not tethered to the Constitution it automatically becomes adrift in an ocean of uncertainty violently buffeted by the currents of inconsistency, doubt and ambiguity. That is what has happened to ALL treaties concluded between the U.S. government and the Indian tribes, bands, clans and nations.

Next, the AG introduces the issue of intent to abrogate treaties which was declared in a decided case. Now, we have *stare decisis* staring at established principles of supremacy. One decided case, or several do not alter the fabric of the Constitution, One swallow does not a summer make. Congress does have the power and authority to repeal a law, but a supreme law like the Constitution and all treaties must follow the strictures of Article V of the U.S. Constitution.

The most vexatious part of the AG's Opinion is contained in this portion of his analysis when he says:

However, "when a subsequent inconsistent law cannot be reconciled with a prior treaty, the subsequent law is deemed to abrogate the treaty to the extent of the inconsistency, without specific words of abrogation.

In essence, the AG is saying that when the legislature makes a honest blunder as to intent, content, extent, scope, scale, effect, import or impact of a particular law vis-a-vis a previous one fraught with inconsistency, it is quite alright because that inconsistency is sufficient to abrogate (abolish,

repeal, annul) the supreme law (treaty) of the land even if specific and precise words were not employed !! This is an outrage worse than the Yazoo land fraud of the 1800's.

The AG's statement fails constitutional muster, derides true and time tested principles of law, violates equity, denigrates civilized behavior, and advances jurisprudential terrorism.

Indian treaty rights, especially those of the south-west corner of these United States were first held sacred with the arrival of the conquistador Coronado in 1540. As time progressed, in 1680 Indians had bona fide land rights called the *Recopilacion de leyes los Reynos de los Indias.* This was based on the ancient principle of *usucapio*, a Latin word meaning "ownership owing to lengthened possession."

The power, authority and supremacy of *usucapio* became embodied in a principle of law expressed in Latin as *usucapio constituta est ut aliquis litium finis esset* meaning usucapion was instituted that there might be an **end** of lawsuits – or to put it simply and plainly, the right of property conferred by lengthened possession was introduced or made law, in order that after a certain term no question should be possible concerning the ownership of property.

The introduction of land titles in the European tradition makes no sense to the Indian enjoying *usucapio* because English jurisprudence, recognizing primitive law, custom and usage as a principle of applicable law, declared that there ought to be no question of such rights.

Usufructuary rights of gathering, planting, harvesting, hunting and fishing accompany the right of *usucapio*. They can be abrogated ONLY if the usufructuary rights mysteriously assumed the character of a privilege without constitutional fiat in a legislative imperative.

We have found no case from the federal courts that engages in that task. However, utilizing the abrogation principles recited above, we endeavor to answer your question as we think the federal courts would answer it.

With those words the AG relegated and delegated the work of the federal courts to his very own imagination which found expression and utterance as an Opinion.

BB. THE MARSHALL COURT'S CONTRIBUTION TO DISTORTION OF INDIAN RIGHTS AND STANDING

The late "great Chief Justice" John Marshall singlehandedly decided the fate of the Indian nations as "wards and dependent nations" of the guardian U.S. government**.** Marshall began his career in law after studying for *six weeks* under George Wythe at William and Mary College in 1780. When he eventually practiced law he could cite no precedents or other legal authorities (see G. Edward White, *The American Judicial Tradition : Profiles of Leading American Judges*, pp.10, 11, 12).

But Marshall had developed a powerful facility and ability to condense and distill an argument down to its essence.

It is important to understand the man and his jurisprudential proclivities. This is the man who pronounced the new concept of judicial review in the celebrated case of Marbury v. Madison in 1803 by giving a new twist of interpretation to section 13 of the 1789 Judiciary Act. Judicial review is not alluded to or mentioned or mandated nor stipulated in the U.S. Constitution, yet it is an enduring, endearing and everlasting concept that survives till today.

This was the man who announced new interpretations to the Indian nations' standing in America as *coequal* sovereigns. The moment the Cherokee cases were decided in the 1830's, legislatures and courts looked at Indians as a dispensable lot fit only to be relegated to the ghettoes of rural reservations.

This was the man who entrenched and enshrined the contract clause of U.S. Const. Art. 1, cl.10 into the constitutional moorings in Fletcher v. Peck (1810), and Dartmouth College v. Woodward (1819), and yet chose to

ignore the ramifications of the Commerce Clause and the Indians in the U.S. Cons. Art. 1, sec. 6, cl. 3. – *Congress shall have power to regulate commerce with foreign nations, among the several states, and with the Indian Tribes*.

The contract between the U.S. government and the Indian tribes became subject to judicial review although freedom of contract and the mandate that no state shall impair the obligation of a contract became moot when it concerned contracts with Indian Tribes despite judicial review favoring the obligation of contracts in Fletcher and Dartmouth College.

Is this law or justice ?

In United States v. 43 Gallons of Whiskey, 93 U.S. 188 (1876), the Supreme Court declared that treaties with Indian Tribes are accorded the same dignity as that given to treaties with foreign nations as if the Commerce Clause in U.S. Const. Art. 1. Sec. 6., cl. 3 was given a new meaning and a new breath of life support as it lay writhing and gasping for air and life after suffering the "wards and dependents" status accorded by Chief Justice John Marshall in the 1830's.

The same dignity accorded to Indian Tribes, as that accorded to foreign nations, were also observed in cases like Washington v. Fishing Vessel Ass'n, 443 U.S. 658, 675 (1979); Holden v. Joy, 84 U.S. (17 Wall.) 211, 242-43 (1872); Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 559 (1832).

CC. FELIX COHEN'S *HANDBOOK OF FEDERAL INDIAN LAW*

Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith….

With that bold and true statement of 1953, the author of the Handbook of Federal Indian Law, Felix S. Cohen (1907-1953) explores Indian law in America. The Handbook is the result of a collection of forty-six volumes of federal laws and treaties compiled, structured as published in 1942 under

the auspices of the Department of the Interior.

By the mid-1960's the need for accurate, current and scholarly revision of Cohen's original Handbook had become apparent. Senator Sam Ervin, Chairman of the Senate Subcommittee on Constitutional Rights spearheaded a campaign to get the Handbook updated to be included in the Indian Civil Rights Act of 1968.

Cohen mentions in his handbook (pp.62, 63, 64) that abrogation has to be ***intended***, clearly and specifically, otherwise the courts would invalidate the legislature's subsequent treaties. This presents a difficult constitutional conundrum.

In *Indian Affairs and their Administration 86* (Philadelphia: University of Pennsylvania Press, 1932) A. Hoopes records the fact that some important treaties were negotiated but never ratified by the Senate, or ratified only after a long delay.

Treaties were sometimes consummated by methods amounting to bribery, according to studies conducted by J. Kinney in his *A Continent Lost – A Civilization Won 37-38, 44-45, 52. 71. 93-94,* (Baltimore: The Johns Hopkins Press, 1937).

In accordance with the general rule applicable to foreign treaties under the auspices and in the spirit of U.S. Const. Art. 1, sec. 6, cl. 3, however, the courts **will not inquire** into whether an Indian tribe was properly represented during negotiation of a ratified treaty or whether such a treaty was procured by **fraud or duress.** This was the findings in United States v New York Indians, 173 U.S. 464, 469-70 (1899); Fellows v. Blacksmith, 60 U.S. (19 How.) 366, 372 (1857); Lone Wolf v. Hitchcock, 187 U.S. 553, 567-68 (1903).

The deck is stacked against the Indian Tribes. What can it do except to vindicate its position in its own tribal courts outside the camel's nose syndrome of Title 25 United States Code.

Congress has made some weak attempts to help Indian Tribes recover

monetary damages for treaty abrogation's made by the United States to the Court of Claims. After 1946, the beginning of the end came in the persona of the Indian Claims Commission.

Until a decade before 1871 when no more treaties were made with Indian Tribes, some treaties with Indian Tribes enjoyed the same standards as those made with foreign nations. See Treaty with the Comanches and Wichetaws, August 24, 1885, art. 9. 7 Stat. 474, 475; Treaty with the Creek, August9, 1814, 7 Stat.120.

DD. CONCLUDING REMARKS AND OBSERVATIONS

Whether any of the treaties between the Lipan Apaches and the United States is binding ought to seen, viewed and contemplated through the imperatives of U.S. Const. Art. 1, sec. 6, cl. 3; Art. 2, sec. 2, cl.2; and Art.6, cl. 2., hereinafter the "**16322262 Imperative."**

The 16322262 Imperative brings federal Indian jurisprudence to the great confluence where the sovereignty of the Indian tribes, the treaty-making power of the U.S President, and the supremacy clause of the Constitution meet each other in uniformity, conformity and certainty. There is order in the chaotic relationship of checks and balances.

The three organs of state – the legislature, the executive and the judiciary – obtain, maintain, sustain and retain their separation of powers from the Constitution, the written law of our land. Each organ of the state has an in-built mechanism serving the functions of checks and balances through the Constitution.

We can only turn to the Constitution for guidance as to whether all the aforementioned treaties between the Lipan Apaches and the United States government are binding to the extent that they are **fair, equitable and just**. That is the yardstick. The Congress and the President are not permitted by the Constitution to create a subsequent treaty to abrogate a previous recognized right bestowed by the treaty. The inalienable right of *usucapio* needs no treaty proviso. The Indians' inalienable right is already

recognized, regarded, revered, reported and recorded in our Preamble to the Declaration of Independence.

The question of abrogation is moot because abrogation is not mentioned in the U.S. Constitution. Intent cannot be mentioned per se. Intent is not enumerated but may have subtle implications in our Constitution. That is the extent of the supposed power of abrogation.

But whither *usuacpio* and its express power ? The binding power of all treaties made with the Lipan Apaches must pass the *usucapio* test.

EE. SUGGESTED CLOSURE METHOD WITH THE PRESIDENT OF THE UNITED STATES

A safe and secure to determine the binding nature of the treaties concluded between the Lipan Apache and the U.S. Government would be to write the President of the United States and have him decide this issue as he is constitutionally mandated under Art.2, sec. 2, cl. 2 and vested with the power and authority to make treaties with the advice and consent of the Senate (not the House of Representatives).

It would augur well for Native American Nations, Tribes, Bands and Clans to demand a Permanent Representative to be attached to the White House to keep the President informed at all times regarding Native American issues. The Senate Indian Affairs Committee cannot perform this function. The treaty-making power of the President and the Commerce Clause of the U.S. Constitution offers the Native Americans the same dignity and respect offered foreign nations, so, why not have the Permanent Representative to the White House be an Ambassador-at-large for all Native American Nations, Tribes, Bands and Clans. Even the Vatican has its own Ambassador – the Apostolic Nuncio – in Washington D.C.

We have to do all things proper and necessary to give this Issue great and deep attention. We have missed many opportunities. We cannot afford to let this matter slip into oblivion because of frustration and righteous indignation.

We have to bring all the Native American Nations, Tribes, Bands and Clans to the table for the Permanent Representative position to gain credibility.

Submitted by Chief Judge NC Naidu for and in behalf of the Lipan Apache Band of Texas, San Antonio.

July 27, 2010

Seattle, Washington

I. Abrogation of Indian Treaties in the Opinion of Attorney General Greg Abbot

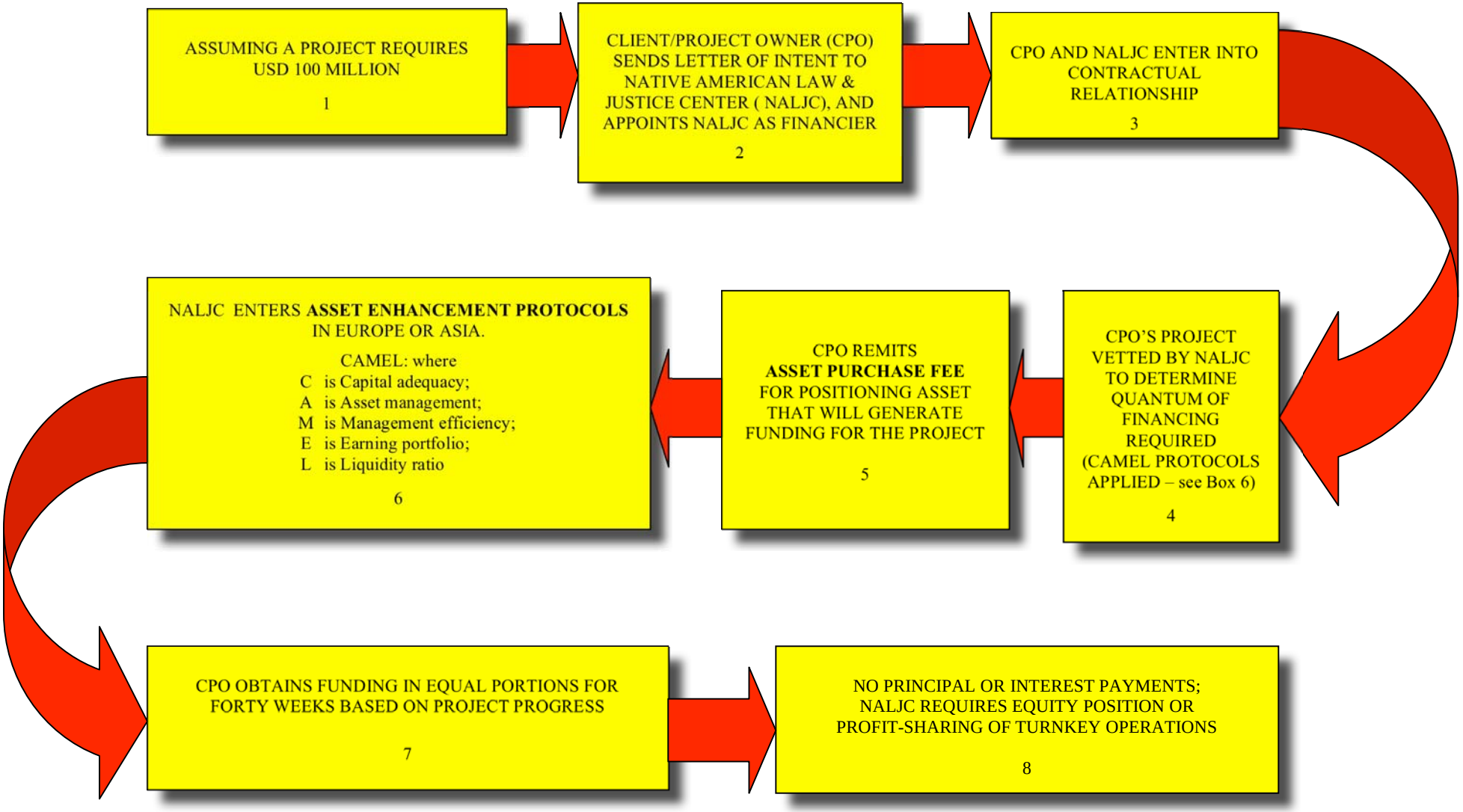
"Although all Indian treaties were executed over 100 years ago, unless otherwise modified, these treaties remain in effect." Sally J. Johnson, *Honoring Treaty Rights and Conserving Endangered Species after United States v. Dion* , 13 Pub. Land L.Rev. 179, 179 (1992) (citing *Tsosie v. United States*, 825 F.2d 393 (Fed. Cir. 1987)). Pursuant to the Supremacy Clause of the United States Constitution, *see* U.S. Const. art. VI, cl. 2, Indian treaties become the law of the land and supersede conflicting state laws or state constitutional provisions. *See*, *e.g.*, *Antoine v. Washington*, 420 U.S. 194, 204 (1975); *United States v. Forty-Three Gallons of Whiskey*, 93 U.S. 188, 196 (1876). Although Congress may not impair rights vested under Indian treaties, it may supersede or abrogate the treaties by legislation or subsequent treaty. *See South Dakota v. Bourland*, 508 U.S. 679, 687 (1993); *Reich v. Great Lakes Indian Fish & Wildlife Comm'n*, 4 F.3d 490, 493 (7th Cir. 1993); *United States v. Sohappy*, 770 F.2d 816, 818 (9th Cir. 1985); *Iwanowa v. Ford Motor Co.*, 67 F. Supp. 2d 424, 459-60 (D. N.J. 1999); *United States v. Michigan*, 471 F. Supp. 192, 253 (W. D. Mich. 1979).

An intent to abrogate treaty rights must be expressed clearly and unequivocally, but need not be explicit where it is clear. *See United States v. Dion*, 476 U.S. 734, 739-40 (1986). A later statute or treaty must be harmonized with existing treaties to the extent possible. *See Menominee Tribe v. United States*, 391 U.S. 404, 411 (1968). However, "when a subsequent inconsistent law cannot be reconciled with a prior treaty, the

subsequent law is deemed to abrogate the treaty to the extent of the inconsistency, without specific words of abrogation." *Iwanowa*, 67 F. Supp. 2d at 459 (citing *Breard v. Greene*, 523 U.S. 371, 376 (1998)). Similarly, where there is an irreconcilable conflict between a subsequent treaty and a prior treaty, the new treaty abrogates the prior inconsistent treaty or provision therein. *See id.*; *see also Whitney v. Robertson*, 124 U.S. 190, 194 (1888) ("When the two [treaties] relate to the same subject [and] . . . are inconsistent, the last one in date will control the other."); *Farrell v. United States* , 110 F. 942, 951 (8th Cir. 1901).

It is important to note here that the Live Oak Treaty is essentially a pledge of perpetual friendship between the Republic of Texas and the Lipan Indians. *See* Live Oak Treaty, *supra* note 4, at 30. While it does contain some specific provisions, the Live Oak Treaty and the four subsequent treaties we examine do not relate to or establish rights to any piece or tract of land, uses of land, or particular rights that stem from the land, such as the usufructuary rights of hunting and fishing. In most instances where a court considers a treaty, a particular right guaranteed or bestowed by the treaty is the issue. The question of whether a treaty has been abrogated in such instances, then, is whether a subsequent legislative act or treaty interfered with the right protected or bestowed in the prior treaty as to render the prior right void. If so, the particular right, not the whole treaty, is considered abrogated. You do not inquire about a particular aspect of, or right bestowed in, the Live Oak Treaty. *See generally* Request Letter, *supra* note 3. Instead, you ask us to opine on the wholesale validity of the entire treaty. *See id*. We have found no case from the federal courts that engages in that task. However, utilizing the abrogation principles recited above, we endeavor to answer your question as we think the federal courts would answer it.

PROJECT FINANCING PROTOCOLS



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States Forest Service,	)	AMICUS CURIAE BRIEF OF JUDGE
Plaintiff,	)	NAVIN-CHANDRA NAIDU OF THE
v.	)	NATIVE AMERICAN LAW AND
	)	JUSTICE CENTER, UTAH:
Chief Caleen Sisk of the	)	RESTORATION OF CUSTOMARY
Winnemem Wintu Tribe,	)	NATIVE TITLE PURSUANT TO THE
Defendants,	)	1790 NONINTERCOURSE ACT

INTRODUCTION

Defendants are facing two citations for using a boat to ferry elders attending a religious ceremony across the river in the closure area which has been, since antiquity, the traditional Winnemem Wintu (Defendant Tribe's) homelands.

The primary issue is whether Defendants have ancestral rights to the land at issue following the 1851 Cottonwood Treaty, and if so, whether the Plaintiff has any right to restrict, restrain or prohibit Defendants from making use of their ancestral land for their religious ceremonies.

FACTS, HISTORY, AND BACKGROUND

1. At the end of the Revolutionary War in 1781, tribes domiciled and living within the original thirteen colonies entered into treaties directly with the states that grew out of those colonies. These tribes had no treaty relationship with the federal government and they did not live on "federal" land. This classified them as "independent" or "state" tribes. In contrast, when President Jefferson completed the Louisiana Purchase in 1803, the tribes residing in the vast unsettled West began entering into treaties directly with the federal government. Tribes such as the Sioux, the Cheyenne, the Navajo, and countless others became recognized as federal tribes, with their reservations being established on federal territory that had yet to carved into states. The responsibility for these tribes' welfare fell to the federal government including that of the Defendant Tribe.

2. In 1790, the first Congress passed a law called the Nonintercourse Act based on the strictures of the 1763 Royal Proclamation and the 1787 Northwest Ordinance regarding the sanctity and sovereignty of native Indian lands. The 1790 Act provided that:

That no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state, whether having the right of preemption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States (emphasis added).

3. The 1851 Cottonwood Treaty called for a twenty-mile square reservation for Defendant Tribe like some sort of internment and containment was being established.

4. In 1875, President Grant set aside, without compensation, 280 acres of Defendant Tribe's land on the McCloud River for a government fish hatchery. An unconstitutional taking by every stretch of the imagination.

5. In 1893, President Cleveland authorized the issuance of land allotments to non-reservation Indians. The Defendant tribe received was allotted 160 acres on the McCloud River vicinity. A slightly advantageous political decision compared to the 1851 traty mandate.

6. In 1934, the Defendant tribe participated in the Indian Reorganization Act by vetoing the Act.

7. In 1941, the Central Valley Project Indian Land Acquisition Act created a trust land cemetery for the Defendant Tribe in Central Valley, now Shasta Lake City.

8. In 1943, the federal government removed the Defendant Tribe from their homelands on the lower McCloud River.

9. In 1944, seventeen million dollars was awarded by the United States Court of Claims to all California Native Americans as compensation for the eighteen *un-ratified* treaties amounting to a mere $1.25 per acre. The Defendant Tribe did not accept this award and received no compensation.

10. In 1978, some error by federal officials resulted in the Defendant Tribe being accidentally excluded from the established list of federally recognized tribes.

11. On April 5, 1983, President Ronald Reagan vetoed the Mashantucket Pequot Indian Claims Settlement Act in a stunning veto message to the Senate because the Tribe had not satisfied the requirements for federal recognition despite the fact that Congress had approved the bill unanimously. There were less than five members in the tribe's rolls. But they owned land. A two-thirds vote would be requited to override Reagan's veto. Reagan had never been overridden on a veto. Connecticut Republican senators Lowell Weicker and Chris Dodd strongly supported the legislation. To "save face", the Reagan administration offered to drop its insistence that the Pequots produce documentation establishing their legitimacy as a tribe. By October 18, President Reagan signed it into law. When Congress recognized the Pequots, it made joining an Indian tribe as easy as forming a corporation. Under Part 83 of the Code of federal regulations titled "Procedures for Establishing That an American Indian Group Exists as an Indian Tribe," the Bureau of Indian Affairs identified seven mandatory criteria for petitioners. First among them is that the "petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900." Had it checked, Congress would have discovered that Richard Arthur Hayward, the man representing himself as the chief of the Pequots, had never represented himself as an American Indian until it became expedient for filing a lawsuit with the aid and assistance of an attorney named Tom Tureen. The hidden agenda and hidden hands behind the entire saga was gaming.

12. In 1985, Defendant Caleen Sisk received federal permits from the United States Fish & Wildlife Service to hold and carry Eagle feathers, which by law, may only be issued to federally recognized tribes.

13. In 1928, 1954, and 1968, the Federal Court of Claims had recognized Defendant Tribe's federal status.

14. In August 2008, the California State Assembly passed Resolution AJR 39 urging the federal government to restore federal recognition status to the Defendant Tribe.

15. Federal policy has sometimes favored tribal autonomy and sometimes sought to destroy it. See *United States v. Washington*, 476 F.Supp. at 1103; G. Taylor, The New Deal and American Indian Tribalism 1-16 (1980). A degree of assimilation is inevitable under these circumstances and does not entail the abandonment of distinct Indian communities. See Note, 31 Maine L.Rev. at 164 n. 55. These pendulum swings are unexplainable except when seen through the prism of political motive and expediency.

LAW AND ARGUMENT

1. Supremacy of Treaty

The convoluted federal handling of the Defendant Tribe has been unjust, unfair, unconscionable and unconstitutional. A treaty is signed and then left un-ratified. If it is un-ratified, the federal taking of Defendant Tribe's ancestral lands is an affront to the 1790 Nonintercourse Act. The taking, or purchase thereof, has to be illegal, and the resultant title to that land

declared void with the resultant defeasibility of title. One could advance the argument that the treaty was signed to enable the federal government to purchase these lands for a few pennies on the dollar, and then cease to ratify the treaty as a non-entity. Article VI, section 2, of the U.S. Constitution is clear on the issue of treaties which are accorded the status of the supreme law, just like the Constitution itself, and all federal laws made pursuant to that sacred document.

2. Federal recognition of an Indian Tribe, Nation, Clan, or Band

A. *United States of America Et Al., Plaintiffs, and Samish, Snohomish, Snoqualmie and Steilacoom Indian Tribes, Plaintiffs-Intervenors/Appellants, and Duwamish Indian Tribe, Plaintiff-Intervenor/Appellant, v. State of Washington Et Al., Defendants*, 641 F.2d 1368 (9th Cir. 1981) advanced the proposition that federal recognition is not required to establish and exercise treaty rights. The Court may have been impelled by an understanding of the status quo regarding treaties – that it was observed more in its breach than with its compliance.

B. The Stillaguamish and Upper Skagit Tribes of Washington State were deemed to have fishing rights even though their membership rolls had not been federally approved and they do not live on reservations. See *United States v. Washington,* 384 F.Supp. at 327, 378-79. The law of the case, however, is that maintenance of tribal structure is a factual question. In this context and framework, the Defendant Tribe has maintained a tribal structure since antiquity.

C. Non-ratification of a treaty is quite unlike abrogation of same. While non-ratification could be viewed as a political ploy, abrogation can only be effectuated by Congress. Even the Department of the Interior cannot under any circumstances abrogate an Indian treaty directly or indirectly. Only Congress can abrogate a treaty, and only by making absolutely clear its intention to do so. See *Menominee Tribe v. United States*, 391 U.S. at 412-13, 88 S.Ct. at 1710-11.

D. It is clear that political expediency of 1875 and 1893 took its toll on the Defendant Tribe despite a treaty obligation. A constitutional mooring was severed and the fate of the Defendant Tribe cast adrift to weather the storms and misfortunes of doubt and uncertainty in the hope that a future legislature, or a future judiciary would afford comfort and solace through a legislative imperative or a judicial finding in a completely new and modern political framework.

E. That a nation, such as ours, which stands as a paragon and a symbol to the whole world for civil order, decency, human rights and fundamental liberties could unleash such unfair treatment upon its own citizens, especially its First Peoples, is abhorrent to the conscience. "The Passamaquoddy of Rhode island had fought under General George Washington in the Revolutionary War and played a crucial role in holding off the the British Navy along what is now the northern coast of Maine. General Washington personally signed a treaty with this tribe in 1777 that promised the federal government's "perpetual protection" of the tribe in exchange for the Passamaquoddy's help against the British." See Jeff Benedict, *Without Reservation*, p. 11.

Other tribes, bands and clans were also involved in helping the cause of the Revolutionary War in the eastern seaboard and hinterland. It was not as if the entire American Indians were savages bereft of civilized behavior with an established social and cultural structure, and a well organized system of self-governance.

3. Religious Freedom and constitutional rights

A. The Defendants were engaged in ferrying elders across a river for a *religious* ceremony that has been their religious sine non qua since antiquity. They were not ferrying terrorists, contraband goods, or otherwise engaged in commerce. When the Free Exercise Clause of the Bill of Rights commands that Congress shall make no law prohibiting the free exercise of religion, only Congress as a law-making body is so ordered, not an Indian Tribe, or a church organization. This honorable Court must take judicial notice of this very basic fact and fundamental constitutional guarantee. Freedom of religion has been a bedrock principle in our constitutional jurisprudence since the inception of our nation.

4. The doctrine of usucapio and first principles of law

A. *Usucapio* is defined as ownership due to lengthened possession in the context of aboriginal native titles. One of the legal Latin maxims is *usucapio constituta est ut aliquis litium finist esset*, a legal maxim which means *usucapio* was instituted that there might be an end to lawsuits; the right of property conferred by lengthened possession was introduced, or made law, in order that after a certain term no question should be possible concerning the *ownership* of property. Although lawsuits are viewed as powerful devices for shaking up the status quo and forcing changes in social

policy, these ancient first principles of law have a concise and definite purpose chief among them being to discourage and obviate the need for frivolous lawsuits. But, our legal fraternity has ignored these noble principles for obvious reasons.

B. Another Latin legal maxim is *Qui prior est tempore potior est jure* – he has better title who was **first in point of time**. Defendant Tribe qualifies under this provision, too.

C. *Adversus extraneous vitiosa possessio prodesse solet* – prior possession is a good title of ownership against all who cannot show a better one. These first principles were never consulted or contemplated in the thirst and greed for land acquisition since the 1803 Louisiana Purchase and the great westward territorial expansion that came in its wake to the detriment of the Native Americans.
The unfortunate aspect of American legislation obviously ignored these first principles. It wrought and brought land expansion for the settler by displacing the original owner.

D. *Definition of Indian title*: A right of occupancy that the federal government grants to an American Indian tribe based on the tribe's ***immemorial possession*** of the area (Black's Law Dictionary, 7th ed.). Note, that the term *usucapio* is avoided which is the English language translation for immemorial possession.

E. *Definition of Indian land*: Land owned by the United States but held in ***trust*** for and used by American Indians (Black's Law Dictionary, 7th ed.). Defendant Tribe never enjoyed this provision since 1875.

F. "*Property should have the power of referendum over hostile legislation*." (John C. Calhoun, 1782-1850, US Senator from South Carolina, 10th US Secretary of War). In other words, the voice of the People must be heard and deferred to instead of allowing the legislature to enact laws for indiscriminately passing laws under the guise of safeguarding private and corporate interests. The Defendant Tribe's voice and opinion were never invited, contemplated or entertained.

G. The Royal Proclamation of 1763 promised equity and fairness to the *taking* of aboriginal lands in America. Consent of the Indians was mandated as a necessity prior to purchasing or acquiring their customary lands for public purposes.

H. The 1787 Northwest Territory Ordinance, a law prior to the adoption and ratification of the United States Constitution, mandated that the land and property of the Indians "shall *never* be taken from them without their consent . . . and that their property, rights, and liberty, . . . *never* shall be invaded or disturbed, unless in just and lawful wars authorized by Congress . . ." 1 Stat. 50, 52.

I. Justice Patterson spoke about the "preservation of property as a primary object of the social compact from an otherwise despotic power that exists in every government," in the 1795 case of *Van Horne's Lessee.*

J. Speaking through the Chief Justice John Marshall, the U.S. Supreme Court denied the power of the power of an Indian tribe to pass their right of occupancy to another in *Johnson c. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823). The reason and justification: "Discovery of the continent gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or conquest. In *United States v. Percheman*, 32 U.S. (7 Pet.) 51, (1833), Chief Justice Marshall sustained the grant of the sovereign king of Spain in Florida. "Discovery and conquest," and "manifest destiny" became the romantic clarion call for expansion and acquisition of land by settlers while conveniently avoiding the fact that American Indians were originally destined to discover and conquer a wilderness in the Americas. They were already here when Columbus and others arrived.

K. The only difference between *Johnson* and *Percheman* is that the grant of a sovereign Indian tribe found no racial favor to that of a Spanish sovereign grant. The supremacy clause of the U.S. Constitution says: "The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all ***Treaties*** made, or which shall be made, under the Authority of the United States, shall be the supreme law of the land . . . Article VI, § 2.

L. The Fifth Amendment to the United States Constitution says: "No person shall be . . . deprived of life, liberty, or property without due process of law." Neither provision is cited in *Percheman,* nor is the occupation theory of property mentioned; yet all three lie behind the opinion. The Court's conclusion is not compelled by the language of the treaty or the statutes. The

Court believed the Constitution is what they say it is and means.

M. In 1941, the unanimous U.S. Supreme Court, concerning Indian title, wrote that "Extinguishment of Indian title based on aboriginal possession is of course a different matter. The power of Congress in that regard is supreme. The manner, method and time of such extinguishment raise *political*, not justiciable, issues." *United States v. Santa Fe Pacific Railroad Company*, 314 U.S. 339, 347. The U.S. Supreme Court granted certiorari to hear the case, and thereafter said it is a *political* decision especially if it is under congressional and executive purview. Again, the first principles enshrined in the doctrine of *usucapio* was never contemplated, mentioned or consulted.

N. In *Tee-Hit-Ton v. United States*, 348 U.S. 272 (1955), Alaskan Indians claimed compensation, under the Fifth Amendment of the U.S. Constitution, on the ground that the government had sold timber on land "belonging" to the tribe. The Supreme Court reasoned that their claim must be denied because "mere possession of customary (native) land is not specifically recognized by Congress." *Usucapio* was obviously immaterial and irrelevant. It was, instead, ignored. The Court tacitly relied on the English *right* to sovereign occupancy, title, right, ownership and possession because of Letters Patent and Orders in Council buttressed by the doctrine manifest destiny of conquest and cession. See Newton, *At the Whim of the Sovereign: Aboriginal Title Reconsidered*, 31 Hastings L.J. 1215 (1980), for a review of the notion that Indians have some sort of legal claim to their land as opposed to a claim simply on the Congress' conscience.

O. Surprisingly, a 1946 decision held that compensation for a taking under the Fifth Amendment is available for *unrecognized* Indian title. *United States v. Tillamooks*, 329 U.S. 40. In other words, the treaty language in the Supremacy Clause (Article VI, section 2) is sufficient. "Federal recognition" is an unnecessary political and administrative millstone around the Indians' necks.

P. Congress has recognized injustice where it has occurred, returning to the problem with later jurisdictional acts that allowed Natives to sue for the fair value of their lands – most notably, by the Indian Claims Commission Act of 1946, 60 Stat. 1049, 25 U.S.C. § 70 *et seq*. The standard applied in judicially-supervised settlements has always been that Natives shall receive the fair market value – at the time of taking – of the lands they have historically used and occupied. *Crow Tribe of Indians v. United States*, 284 F. 2d 361 (Ct. Cl. 1960). This value includes all rights to the land, surface and subsurface, not merely the value of the lands to the Natives for historic purposes. *United States v. Shoshone Tribe of Indians,* 304 U.S. 111 (1938); *Otoe and Missouria Tribe of Indians v. United States*, 131 F. Supp. 265 (Ct. Cl. 1955). Curiously, the Defendant Tribe was again sidelined, marginalized and ignored despite the historical record.

Q. For the last three years, the United States has been championing the rights of democracy in Algeria, Libya, Egypt, and is now embroiled in Syria, while Native Americans have to fight tooth, nail and claw to use their ancestral lands against a juggernaut government that is bent on helping rebels in distant lands claim democratic rights while treating its First People as pariahs in their own ancestral enclaves.

RELIEF SOUGHT

1. That Plaintiff be urged to waive the unnecessary fine and other sanctions, and for this honorable Court to recognize the 1851 Cottonwood Treaty as a constitutional command not to be swept aside by the winds of politics with an insatiable thirst and unbridled desire for land acquisition where some hidden hands and hidden agendas, yet to proved, have vested economic interests in waterways.

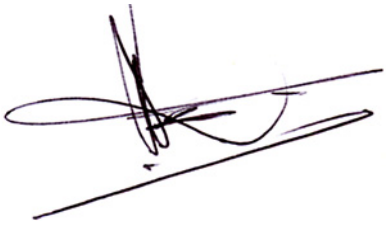
2. Defendant Tribe to be allowed use of its ancestral enclave for religious, social and cultural purposes without any form of federal harassment.

3. An Indian's land is very much sacrosanct as an Englishman's home is his castle which he will not lightly entertain in the wake of an attack, or a forced taking.

4. That this honorable Court not be influenced by the political question doctrine, but to award relief to the Defendant Tribe predicated upon the undeniable anthropological and constitutional standing that it rightfully enjoys.

5. That this honorable Court find an equitable relief that will not make one party worse off, or the other better off in order that a higher court will affirm this honorable Court's wise decision as the guardian of the U.S. Constitution.

6. That this honorable Court award a ruling and render a decision that comports with fairness by setting a precedent that would be as rock solid as *Marbury v. Madison*, 5 U.S. 137 (1803) before unresolved current disputes and prevailing relational controversies become a generational curse with no remedies or solutions offered to the American Indians, such as the Defendant Tribe, concerning legitimate rights to its ancestral homelands.



Judge Navin-Chandra Naidu
Member# 160325 American Judges Association
Member# 01798766, American Bar Association

WORD IN ACTION MINISTRY ECCLESIASTICAL COURT

~ nunquam res humane prospere succedunt ubi negliguntur divinae -
~ human things never prosper where divine things are neglected ~

1720 South Willow Avenue, West Covina, California 91790
Tel: 626-383-4601 (Pastor Ana Maria Mikhailidis) / Tel: 801-857-7823 (Judge NC Naidu) / Pastor Ron Fandrick (Tel: 253-203-5482)

Case Number: **FSB 1004502** Superior Court of California, County of San Bernardino, California

Presiding Judge: Hon. John N. Martin

PETITION FOR REMOVAL TO ECCLESIASTICAL JURISDICTION

The accused CARLOS ALVAREZ ("Alvarez") has sought ecclesiastical sanctuary and jurisdiction over an alleged domestic violence matter which has necessitated the intercession of the Church.

This Ministry operates an ecclesiastical tribunal under the aegis of the Free Exercise Clause of the Bill of Rights, U.S. Constitution; and pursuant to the Constitution of the State of California:

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this

Constitution.

Article I, section 4: Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion. A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.

In this context, "[n]o state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." *Per curiam, Cooper v. Aaron*, 358 U.S. 1, 18 (1958).

FACTS AND BACKGROUND

Alvarez co-habited with Adela Leiva. Some domestic issues escalated into outbursts of emotion with both parties contributing to these senseless, yet inevitable and ubiquitous, quarrels and fights sometimes involving physical abuse with the associated aggravation, provocation, and instigation as is the unfortunate but predictable wont between a man and a woman when living together - ***prior to counseling*** - whether married or otherwise. Alvarez approached the Church for assistance, but the State took control, and Alvarez now faces State sanctions. Alvarez has again come to the Church for assistance, and this has prompted this Motion by this ecclesiastical court *sua sponte.*

JUSTIFICATION

1. There is a mistaken notion in this country that Church tribunals are ordained and established solely for canon law to be applied for the

adjudication of misconduct, heresy, and other serious violations of clergy or laity; and those involving a dispute between laity and the clergy. This is not an accurate description or prescription of the Scriptures. The trial of Jesus Christ itself attests to jurisdictional issues where our Lord was tried first by the Sannhedrin (Ecclesiastical Tribunal), thereafter to Herod's court (Royal Court), and finally to the Roman authorities when Pontius Pilate decided to wash his hands off the case. The jurisdictional pendulum has started to swing for Alvarez who stands before these tribunals not as Christ did for the purposes of scriptural prophecy, but as one who is acutely aware of his constitutional rights germane to religious freedom. His lawyer failed to identify or raise these important constitutional issues although he was compensated. But, that is a separate issue. Alvarez tells this tribunal that defective counseling by his lawyer, not effective counseling, led to his having to plead guilty owing to being misled by that lawyer.

2. There is another misconception in this country that State and Church are separate. A metaphor used by our third President, Thomas Jefferson, in a letter to a church regarding the "*wall of separation*" between State and Church, has become a standard misunderstood and miscast feature in our religious freedom jurisprudence with support and advocacy for this belief advanced by legal scholars and commentators that are bereft of any constitutional moorings. In fact, our third president, Thomas Jefferson, was a strong advocate in securing the services of a Chaplain in our Congress, and for appropriating funds for the establishment of churches among the American Indians. The Congressional Records are very clear on this subject.

3. The Church has recently taken a strong position with the Internal Revenue

Service regarding a 1954 sanction proposed by Congressman Lyndon B Johnson that prohibits churches from preaching about politics, politicians or political issues with the attendant loss of their 501(c)(3) tax exemption status. The Church is demanding a constitutional resolution in the wake of this sword of Damocles threat vis-a-vis the freedom of religion and the freedom of speech guarantees in our supreme law – the United States Constitution. To say that the Church is awakening from its self-imposed Rip Van Winklean slumber is almost sustainable.

LAW AND ARGUMENT

1. A federal law known as Public Law 97-280, 96 Stat.1211 of 1982 declared the Holy Bible as the Word of God. The Word of God, as contained in the Holy Bible forbids Christians from seeking or participating in secular court jurisdiction. **1 Corinthians 6:1-8**. This is Alvarez's contention. The Church takes a very strong position on this issue. The Church believes that Christians should not be subjected to secular court jurisdiction especially when they invoke ecclesiastical intercession owing to their sincerely held religious beliefs. 77 Corpus Juris Secundum, §105.

2. In January 2012, a unanimous United States Supreme Court upheld the ministerial exception doctrine in *Hosanna-Tabor Evangelical Christian Church v. EEOC, et al*, involving a Church employee who sued her employer for employment discrimination. Alvarez asks this ecclesiastical court to invoke this ministerial exception doctrine because the union between a man and woman, although not as yet sanctified by Church decree

as a marriage union, involves a religious issue because Alvarez and Adela Leiva have discussed the possibility of marriage and the raising of a family. This Court believes a ministerial exception doctrine is triggered when a penitent seeks church intercession.

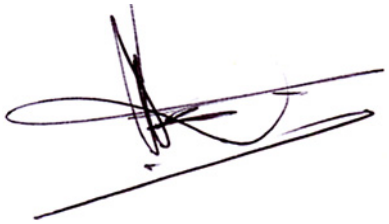
3. Islamic Ecclesiastical Law in *sharia* courts has been recognized under our jurisprudence as evidenced in The Circuit Court of The Thirteenth Judicial Circuit, Hillsborough County, Florida in Case No. 08003497. Exhibit 1. Further evidence that the Full Faith and Credit Clause of the United States Constitution is being actively pursued for a Muslim in the State of Florida. It is hoped that the courts of California would defer to a Christian's invocation of a church tribunal to aid and assist him when he is encountering spiritual warfare.

4. Alexander Hamilton in *Federalist #10* expounded that "the function of the judiciary is to patrol the constitutional boundaries of other branches and the states and to keep them within their prescribed limits." Therefore, this ecclesiastical tribunal submits that the Superior Court of California, San Bernardino County, will be wisely guided solely by constitutional discipline.

5. As to whether there are decided cases under the doctrine of stare decisis in support of Alvarez's prayer for ecclesiastical tribunal intercession and review, it is submitted that *Dobner v. Peters*, 133 N.E. 567 (1921) had no precedent to rely on, thereafter, the same court reversed itself and relied on *Dobner* as a precedent for *Woods v. Lancet*, 102 N.E. 2d 691 (1951) thirty years later.

FINDINGS

IT IS THEREFORE RECOMMENDED that this matter be heard and adjudicated at the Word In Action Ministry Ecclesiastical Court with the participation of the District Attorney representing the State of California. WORD IN ACTION MINISTRY ECCLESIASTCIAL COURT Clerk Xavier Huante, Tel. 310-200-0166, will contact the Superior Court of Bernardino County to confirm a mutually acceptable date for both parties.



Judge Navin-Chanda Naidu (Tel: 801-857-7823)
WORD IN ACTION MINISTRY ECCLESIASTICAL COURT
NATIVE AMERICAN LAW & JUSTICE CENTER
1720 S Willow Avenue, West Covina, CA 91790
Member#160325, American Judges Association

_____

Pastor Ana Maria Mikhailidis
WORD IN ACTION MINISTRY ECCLESIASTICAL COURT
1720 S Willow Avenue, West Covina, CA 91790
Tel: 626-383-4601

WORD IN ACTION MINISTRY ECCLESIASTICAL COURT OF JUSTICE
100 North 21 East, Suite 105, American Fork, Utah 84003
Tel: 310-200-0166 / Tel: 801-857-7823
Email: scripturalaw@yahoo.co.uk Website: www.scripturalaw.org

JUDGMENT AND ORDER OF THE ECCLESIASTCIAL COURT OF JUSTICE

Carol Lynn McMeel (fka Carol Lynn Engen), Plaintiff, vs. CITY OF BELLEVUE, a municipal corporation; Steve Sarkozy, City Manager, City of Bellevue, an official and an individual; KING COUNTY, a municipal corporation; Dow Constantine, King County Executive, an official and an individual; John Doe 1-100 Defendants.	)	**CLM-6-2012-ECJ** JUDGMENT AND ORDER

FACTS AND BACKGROUND

This case is all about a process server who enters a property to deliver documents with an intruder mentality, and when accosted by the property owner - the plaintiff in the instant case – decides to raise an alarm, and calls

in the entire police department of the City of Bellevue. The police, as usual, decide to use all necessary and unnecessary force to bring the plaintiff woman down as if she is a psychopathic killer. The plaintiff is tazed, and handcuffed, and arrested for being a danger to the community.

The actions of the defendant City of Bellevue is typical of police in any part of our country especially when a firearm is involved. In this case, a firearm was not involved, only the false allegation of the process server that the homeowner threatened to shoot him. The "intruder" process server could very well have knocked on the door or rang the doorbell rather than kick in the door. But process servers like to imitate Navy Seals. They think they are beyond the law because the law allows them the opportunity to serve court documents. The bank intending to serve court documents decides to use an un-uniformed process server instead of an uniformed police officer. The process server is the one who should have been charged and arrested for breaking and entering and filing a false complaint.

The Defendants in this case, the City of Bellevue and King County, were served Summonses and Complaints to defend an action initiated by the Plaintiff for violations of her constitutional rights.

Defendants chose to ignore these Summonses and Complaints. They probably entertain the notion that this Court is a powerless one with no enforcement authority and power.

LAW AND ARGUMENT

A misguided belief and a correspondingly miscast trend prevail in this country that Church and State are separate. Checking the Reports on the Continental Debates, and the Resolutions passed in the first Congress leading up to the ratification of the U.S. Constitution of the United States dispel such a misapplied belief that Church and State are separate. They are, instead, like oil and water contained in the same vessel. They cannot coagulate because their properties and characteristics differ, but they exist side by side. Each does not need the other to survive, but they compliment and complement one another because we are simply a Christian nation that presupposes a Supreme Being.

Ecclesiastical courts cannot be ordained and established by the Congress because of the constraints and restraints of the Free Exercise Clause, Bill of

Rights, U.S. Constitution, despite the language of Article 1, section 8, clause 9 of the U.S. Constitution that grants power to Congress to ordain and establish inferior tribunals to the United States Supreme Court.

Ecclesiastical courts are the *sine qua non* of the Church. There are some in this country that believe ecclesiastical courts handle only canon law involving disputes between clergy and the laity, or between clergy as an intra-corporate controversy. Nothing could be further from the truth. The Holy Bible declares in 1 Corinthians 6:1-8 that Christians are prohibited from defending or initiating lawsuits in secular courts. A federal law, PL 97-280, 96 Stat.1211 of 1982, declared that the Bible is the Word of God. I believe that settles the issue that ecclesiastical courts need no legislative or executive orders and edicts to exists and operate.

Plaintiff has asked for total damages amounting to $ 19,620,000.00. She has evidenced pain, suffering, humiliation, depression, odium, contempt, hatred and ridicule from her family, neighbors, friends, and associates as result of the defendants' high-handed and arbitrary actions. Destroying one's reputation and standing in the community is a serious matter. Our law contemplates defamation, libel and slander as veritable causes of action.

The financial institution that wanted Plaintiff evicted from her home failed to furnish the necessary documents to evidence ownership of the Note. Court clerks in our country are readily jump in favor of issuing a non-judicial foreclosure sale proceeding without performing the civilized act of due diligence. When a lender appears in court with a foreclosure request, due process and equal protection of the laws are quickly abandoned and ignored. The sequence of events that unfold is usually traumatic and painful for foreclosure victims which this country has failed to address and redress since the housing bubble burst. Instead more and more laws are created to bring the Wall Street financial juggernauts to heel. They get away with a slap on their wrists while the homeowners face enforceable writs usually to their detriment. Most are unable to hire attorneys. The result is the inexorable loss of their nest eggs.

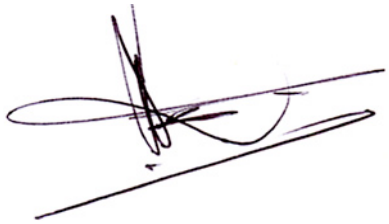
The contempt exhibited by the defendants in not defending the Plaintiff's Motion For Relief tells this Court that the defendants have no regard for the U.S. Constitution and federal laws guaranteeing and protecting religious rights.

Be that as it may, this Court has given latitude by extending time for the defendants to respond. They chose to ignore this Court's Notice.

Under the circumstances, Plaintiff is awarded total damages in the amount of $19,620,000.00; Defendant City of Bellevue is liable to the extent of $8,620,000.00 and Defendant King County to the extent of $11,000,000.00. There shall be no interest computed to this sum certain as the Bible frowns on usury pursuant to the edicts of Exodus 22:25; Deuteronomy 23:20 and Proverbs 28:8.

Defendants have (30) thirty days from the date of this judgment to satisfy this judgment debt.

SO ORDERED, this 5th day of September, 2012



Judge Navin-Chandra Naidu
Member #160325, American Judges Association

ECCLESIASTICAL COURT OF
THE CENTRAL LUTHERAN CHURCH OF TACOMA

409 North Tacoma Avenue, Tacoma, Washington 98403
Tel: 253-203-5482 ~ 253-670-2084 ~ 206-409-7025
Internet: www.scripturalaw.org ~ Email: scripturalaw@yahoo.co.uk

IN THE MATTER OF THE PETITION OF MR. ROBERT CHARLES AVINGTON, JR., AND MS. SABRINA T. HOWARD (Petitioners) REQUESTING ECCLESIASTICAL COURT JURISDICTION

Panel of Ecclesiastical Judges: Minister Ron Fandrick
Judge NC Naidu
Minister Holly Lionherd

Petitioners seek the intervention of this Court in a matter being heard in the Tacoma Municipal Court styled as Case No: D-00035145.

Petitioners claim ecclesiastical court jurisdiction because they are churchgoers who, thus, consider themselves Christians. As such, Petitioners claim that they are entitled to this Court's intercession over that of a secular court.

Petitioner Howard and Avington, according to testimony given to this Panel of Judges, have cohabited for thirteen years as common law husband and wife, and this union has produced two children They have been attending church in order to find solutions to their marriage vows and seek ecumenical tutelage and direction in their lives despite the fact that Howard called for non-ecclesiastical intervention during a family crisis which resulted in Avington's arrest and incarceration.

Petitioners have been attending church, counseling sessions, and classes in Biblical Law, and have arrived at a point in their lives where ethical and moral imperatives have genuinely and positively affected their consciences culminating in a strong wish and desire to seek ecclesiastical and ecumenical assistance for their future choices.

This Court has reviewed the Petitioners' request, and its Findings are as follows:

A. Jurisdiction of Ecclesiastical Courts

The power, authority, and obligations of an ecclesiastical court are vested in:

1. The Holy Bible as referenced in 1 Corinthians 6: 1-8, wherein ecclesiastical courts are mandated.

2. Public Law 97-280 (96 Stat. 1211) of October 4, 1982, recognized the authority of the Holy Bible as the Word of God, which made a unique contribution in shaping the United States as a distinctive and blessed nation.

3. The Religious Freedom Restoration Act of 1993, enacted to protect the free exercise of religion following the decision of the United States Supreme Court in Employment Division v. Smith, 494 U.S. 872 (1990) where the Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion.

4. Article 1, Section 11 of the Washington state Constitution that affords

   "*... absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion...*".

5. The Free Exercise Clause of the First Amendment to the Bill of Rights, as incorporated into the United States Constitution, which prohibits Congress from making any law that interferes with the free exercise of a person's religion.

6. Hundreds of legal precedents that support the proposition that civil courts have no jurisdiction over ecclesiastical property matters, neither can civil courts disturb, overrule, vacate or intercede in the judgments of church tribunals, not limited to cases like:

   Hoffman v. Tieton View Community M.E. Church, 207 P. 2d 699, 33 Wash. 2d 716 (1949)

   Presbytery of Seattle, Inc. v. Rohrbaugh, 485 P. 2d 615, 79 Wash. 367, cert. denied, 92 S.Ct. 1246, 405 U.S. 996, 31 L.Ed.2d 465, rehg. denied 92 S.Ct. 1762, 406 U.S. 939, 32 L.Ed. 2d 140 (1971)

   Church of Christ at Centerville v. Carder, 713 P.2d 101, 105 Wash. 2d 204 (1986)

   Paul v. Watchtower Bible and Tract Society of New York, Inc., 819 F.2d 875, cert. denied 108 S.Ct. 289, 98 L.Ed. 2d 249 (1989)

   James M. Bell v. Presbyterian Church (USA) No. 96-1297 (4th Circuit, 1997.

   Mangum v. Swearingen, 565 S.W. 2d 957, Tex. Civ. App. San Antonio, 1978

   Longmeyer v. Payne, 205 S.W. 2d 263,Mo. App., 1947

   Hughes v. Keeling, 198 S.W. 2d 779, Tex. Civ. App., Beaumont, 1946

   Briscoe v. Williams, 192 S.W. 2d 643, Mo. App., 1946

Kompier v. Thegza, 13 N.E. 2d 229, Ind., 1938

State *ex rel*. Watson v. Farris, 45 Mo. 183, Mo., 1869

Watson v Jones, 13 Wall 679, 20 L.Ed 666

Elston v. Wilborn, 208 Ark. 377, 186 SW 2d 662, 158 ALR 179

7. In the State of Washington v. Herman Glenn Jr., No. 99-1-02415-1, Superior Court, Washington, in and for the County of Pierce, Judge Marywave Van Deren observed that

   "This case has caused the Court to venture into ecclesiastical matters, where courts rarely go… This case has of necessity blurred the roles and the rules which are normally brightly separated between church and state, and which separation is a foundational principle of our nation…."

   The learned Judge in this case lamented about the fact that civil law was encroaching into the province of the church. Nevertheless, the learned judge heard the merits of the case because the church did not invoke its ecclesiastical jurisdiction.

   In the cases mentioned thus far, the key question has always pivoted on the whether the government practice at issue imposed a substantial burden on the religious entity's religious conduct.

8. "Civil courts have no jurisdiction over, and no concern with, purely ecclesiastical questions and controversies" is the dictum from 77 Corpus Juris Secundum §85.

B. Facts germane to the Petitioners' request for Ecclesiastical Intervention:

Petitioner Howard regrets having called the Police because she had no other recourse as the church does not have an enforcement dynamic. She regrets that the situation escalated into a domestic violence issue instead of becoming defused with efficient and adequate counseling at that material time.

Petitioners have roots in the community evidenced by the fact that they have extended families within Tacoma and Pierce County; and jointly own three homes since they have been gainfully employed. Ability accompanied by responsibility and accountability to socio-economic imperatives are decidedly manifest in Petitioners' motives as homeowners and taxpayers.

This Court is satisfied that the Petitioners intend to cohabit as husband and wife through the institution of marriage and to accept the associated vows of holy matrimony as sanctified by the Church.

The Court finds no reason to doubt the veracity of Petitioner Avington's claim that although he has stopped the consumption of alcoholic beverages, church counseling to control his temper -

which became the sole and primary cause of the domestic violence incident – is positively and genuinely helping him take control of himself.

C. <u>Relief Sought from the Tacoma Municipal Court:</u>

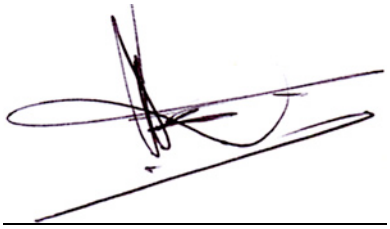
This Ecclesiastical Court respectfully requests the Tacoma Municipal Court to grant Petitioners their wish and desire to invoke their constitutionally protected and guaranteed right to religious courts' jurisdiction because Petitioners have expressed a very strong desire to participate in church-regulated activities germane to familial ties and counseling sessions with constant and regular oversight by church Elders and Ministers.

This Court has also advised Petitioner Avington, in no uncertain terms, that any violation of his promise and assurance to repent and change his ways will result in this Court per se calling the Police to intervene and return him to a secular court's punishment.

This Court also implores the Tacoma Municipal Court to reconsider its decision to order Petitioner Avington's return to jail on August 29, 2009 as his two children, aged eight and five years old respectively, need a father who is able to support them emotionally and financially since their mother, Petitioner Howard, was laid off from her employment with a local bank following a merger and acquisition by a larger bank from the east coast.

For the foregoing reasons this Court trusts the Tacoma Municipal Court will exercise its constitutional and judicial discretion in granting the relief sought.

Dated this 25th day of August 2009.



Judge NC Naidu
~ American Judges Association Membership # 48499
~ Chief Judge, Lipan Apache, Texas (Chairman Dan Romero Tel: 509-430-4003)
~ Chief Judge, Pembina Chippewa, N. Dakota (Chief Delorme, Tel: 701-550-0988)

Ron Fandrick. Ecclesiastical Judge
Tel: 253-203-5482

Holly Lionherd, Ecclesiastical Judge
Tel: 253-670-2084

ECCLESIASTICAL MINISTRY OF TRUTH - EMIT

By Order of the Interim Court of EMIT
Dated October 28th, 2008
Pursuant to Article 16 of EMIT's Code of Conduct

In the Matter of Presiding Council member, Daniel B. Merritt

CHARGES

1. **Violations of EMIT's Code of Conduct, Article 11 & Article 13.**

Daniel B Merritt, you were given an opportunity to answer 16 Questions as an Interrogatory. You failed to answer specifically. You, notwithstanding the seriousness of the Charges, resorted to writing frivolous emails to various members of EMIT claiming your innocence instead of adhering to the EMIT's Code of Conduct, specifically Article 16 regarding an Inquiry for causing disaffection and disharmony for which the 16 Questions were addressed to you.

Daniel B. Merritt, you are hereby charged with the offence of willful misappropriation of funds belonging to EMIT. Proof and evidence adduced towards this charge substantiate our Findings and Conclusions of Fact which shall be conclusive and binding.

KNOW ALL YE MEN BY THESE PRESENTS, to wit, EMIT membership, Presiding Council, and the Southern Cherokee Nation of Kentucky that the Interim Court on this day Oct 28th, 2008, Orders and Commands Daniel B. Merritt to take cognizance of the following :

[1] All monies held in an account or accounts, or by you personally, whose origin is that of EMIT's membership, constituting AEP funds, Believers' lawsuit donations, membership dues paid in advance together with proof and evidence of such monies received, shall be sent to: EMIT c/o 1761 George Washington Way #129, Richland, Washington 99354. **NO LATER THAN Tuesday, November 4, 2008.**

You are further commanded to return the monies that were not sent to the Southern Cherokee Nation of Kentucky from the day you were instructed to do so at a rate of twenty percent of the total funds that were received for the Legal Defense Fund as soon as EMIT was established after several Members disassociated themselves from the Temple of Truth and Justice (TOTAJ).

Failure to adhere to this Order shall result in Police action in that the Police Department in Radclif, Kentucky, will be summoned to arrest you on charges of criminal breach of trust, grand larceny and theft.

[2] EMIT's monthly stipend paid to Daniel B. Merritt, is to cease with immediate effect.

[3] All monies being paid to Emit employees or independent contractors, by, Daniel B. Merritt, will cease with immediate effect.

[4] All, salaries, stipends, or contractual agreements, needing to be paid by EMIT, will be reviewed by Judge Naidu or his Agent, who then will pay, if the work is shown to have been needed by EMIT, and in the matter of contract, shown to be complete as agreed upon.

[5] Daniel B. Merritt shall have no duties in and on behalf of EMIT, that call for financial distributions, decisions, obligations, agreements, or any such matter relating to the financial imperatives associated with EMIT, its members, assigns, representatives, heirs and beneficiaries. Any monies received for EMIT after today's date shall be sent to Kirk Welsch at the address aforementioned. **Failure to do will result in immediate Police notification**.

[6] Daniel B. Merritt is ordered to step out of the Presiding Council, and resume standing as a regular donation paying EMIT member, failure to do so will invoke order [7] of the Court with immediate effect.

[7] Daniel B. Merritt will resign from EMIT, and forfeit any benefit of having been an EMIT member, and to be considered by EMIT and the membership, as disassociated and expelled without recourse. Failure to do so shall invoke order [8] of the Court with immediate effect.

[8] Daniel B Merritt shall discontinue maintaining the website currently operated in and on behalf of EMIT. All proprietary interests to the website, all software and hardware purchased for the operations of the website **with EMIT's funds** are to handed over to Mr. Kirk Welsch by appropriate arrangement.

You are further ORDERED to cease and desist from making any contact with any member of EMIT regarding **official EMIT business**.

[9] Daniel B. Merritt, failure to obey the Courts orders and directives will compel the Court to file a Police Report with the appropriate agency and cooperate with any Tribal Court of the Southern Cherokee Nation of Kentucky. Further, your status with EMIT will be as directed in order [7] of the Court.

BY ORDER OF THE INTERIM COURT OF EMIT:

Judge NC Naidu
Presiding Council Member Daniel P. Dwyer
Presiding Council Member Wilbur "Bill" Pittwood
Presiding Council Member Lloyd Hamilton
Presiding Council Member Dorothy Martin
Presiding Council Member Kirk Welsch

Absent, Presiding Council Member Kirk Galbraith, [*in absentia*, hospitalized]

THIS COURT ORDER SHALL BE POSTED ON WEBSITES MAINTAINED BY EMIT, THE WORD IN ACTION MINISTRY, AND THAT MAINTAINED FOR THE SOUTHERN CHEROKEE NATION OF KENTUCKY.

Native American Law and Justice Center

Joint Venture Agreement

This Joint Venture Agreement ("Agreement") is entered into by and between **NATIVE AMERICAN ECONOMIC ENTERPRISES, INC.** ("NAEE"), a company incorporated under the authority of the Blackfeet Indian Nation and having a registered address at P.O. Box 2210, Browning, Montana 59417, and **ECCLESIASTICAL COURT OF JUSTICE AND LAW**, a company organized under the laws of the State of Washington, having its principal place of business at 75th Floor - Columbia Tower, Seattle, Washington 98178 hereinafter parties.

Recitals

Whereas, NAEE is in the business of pursuing tribal economic development opportunities in the United States and Canada, primarily, but not limited to Native Reservations of both countries ("Reservations"); and

Whereas, ECCLESIASTICAL COURT OF JUSTICE AND LAW is in the business of providing capital and expertise to contribute to the success of both ECCLESIASTICAL COURT OF JUSTICE AND LAW and NAEE's efforts to develop the management and infrastructure within the both the United States, Canada and Reservations, and maximize the capital put forth by both; and

Whereas, NAEE and ECCLESIASTICAL COURT OF JUSTICE AND LAW wish to work together to identify, develop and implement high priority investment projects within the U.S., Canada, and Reservations and for that purpose have met in Montana various times since February 2003; and

Whereas, NAEE and ECCLESIASTICAL COURT OF JUSTICE AND LAW now wish to enter into this Agreement to create a joint venture and establish a framework for their joint efforts in developing various opportunities and creating an overall strategy for development by their joint venture within the United States and Canada.

THEREFORE, NAEE and ECCLESIASTICAL COURT OF JUSTICE AND LAW hereby agree as follows:

Food For Thought

But he who looks into the perfect law of liberty and continues in it, and is not a forgetful hearer but a doer of the work, this one will be blessed in what he does. James 1:25, Bible, NKJV

In The News

Judge Naidu writes to U.S. Supreme Court Justices en banc regarding immigration visas for Christian religious workers. Read the letter here

Law Links

- The Constitution
- The Bill of Rights
- Laws of the Bible
- A Memorial and Remonstrance
- FindLaw.Com
- Law Dictionalries - Pt. 1
- United States Code
- Historic Documents
- Legal Research Sources

Financial Links

On site links

- Project Financing Protocols
- ECJ Financing Status Report

Links of Value

1. DEFINITIONS

1.1 "**Confidential Information**" shall mean all information produced by or obtained by or from any Party concerning this Agreement, including without limitation the terms and conditions hereof, all information produced by or obtained by or from any Party in the course of carrying out activities contemplated by this Agreement, including without limitation any Project or Opportunity, and any information identified by the furnishing Party as confidential.

1.2 "**Development Budget**" shall mean the budget for Internal Development Expenses and Third Party Development Expenses, broken down into anticipated monthly expenditures, prepared and modified from time to time by the Management Committee and approved by the Parties and subject to a separate covenant between the Parties.

1.3 "**Development Expenses**" shall mean the sum of Internal Development Expenses and Third Party Development Expenses.

1.4 "**Development Schedule**" shall mean, with respect to each Project and Opportunity, the detailed time schedule for all Milestones for such Project or Opportunity, including a deadline for the initial viability determination under Section 5.2, and as modified and supplemented from time to time by the Management Committee and approved by the Parties.

1.5 "**Effective Date**" shall mean the latest date of execution for this Agreement by the original Parties hereto.

1.6 "**Future Projects**" shall have the meaning specified in Section 2.7.4.

1.7 "**Internal Development Expenses**" shall mean all internal costs of a Party (including a reasonable imputed cost of personnel time) and out-of-pocket expenses incurred with respect to development of the Projects, the O&M Business, and achievement of any other purpose, objective, or principle of the Joint Venture.

1.8 "**Management Committee**" shall have the meaning specified, and perform the functions described in Article 4.

1.9 "**Material Breach**" shall mean a breach of the terms or conditions of this Agreement that precludes continued pursuit of the Joint Venture by all Parties, including without limitation an unretracted unilateral decision by any Party to cease participation in the Joint Venture.

1.10 "**Member**" shall mean a member of the Management Committee, as specified in Section 4.1.

1.11 "**Milestone**" shall mean, with respect to each Project, each milestone item and date identified in the Development Schedule for such Project.

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- Native American Issues

1.12 "**O&M Business**" shall have the meaning specified in Section 2.8.3.

1.13 "**Officer**" shall mean an officer of the Joint Venture and the Management Committee, as specified in Section 2.6.

1.14 "**Opportunity**" shall mean any particular business enterprise undertaken by or pursuant to the O&M Business.

1.15 "**Party**" shall mean NAEE or ECCLLESTICAL COURT OF JUSTICE AND LAW, or any other person that becomes a party to this Agreement pursuant to Section 2.5; "Parties" shall mean all such parties to this Agreement.

1.16 "**Person**" shall mean any individual, association, company, corporation, partnership, or trust, or any agency of division of federal, tribal, or state government, or any other legal entity.

1.17 "**Project**" shall mean any project undertaken pursuant to this Agreement, and each Future Project after the date that the Parties decide to pursue it, provided that such term shall not include either the O&M Business or any Opportunity; "Projects" shall mean all such projects undertaken pursuant to this Agreement.

1.18 "**Pro Rata Share**" shall mean a sharing fraction proportional to the Party's interest in the Joint Venture which on the effective date shall be as follows: NAEE 51% and ECCLESIASTICAL COURT OF JUSTICE AND LAW 49%.

1.19 "**Reservations**" shall mean the Native American Reservations in the United States and Native Reserves in Canada.

1.20 "**Third Party**" shall mean a person that is not a Party.

1.21 "**Third Party Development Expenses**" shall mean all third party costs, fees, and expenses reasonably and properly incurred concerning development of the Projects, the O&M Business, and the achievement of any other purpose, objective, or principle of the Joint Venture, including without limitation costs and fees for legal representation, technical studies, environmental research, financial management, and/or government relations.

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2. THE JOINT VENTURE

2.1 Formation. The Parties hereby create a joint venture ("Joint Venture") and agree to work as general partners in this joint venture pursuant to the terms and conditions set forth in this Agreement.

2.2 Name. The Joint Venture shall be known and identified and shall operate under the name "NATIVE AMERICAN TRIBAL LAW AND JUSTICE CENTER", provided that the Management Committee shall designate an alternative name if the U.S. Patent and Trademark Office does not issue a

trademark for the above name.

2.3 Contact Information. Until otherwise provided by the Management Committee, the Joint Venture shall use as its business address and telephone and facsimile numbers such information of and for each Party as specified in Section 9.9.

2.4 Business Status. The Joint Venture shall be treated as a general partnership for all purposes, including without limitation accounting, taxes, and liability.

2.5 Revenue Sharing. All revenue generated in the United States and Canada and Reservations for the project shall be shared between partners (NAEE 50%, ECCLESIASTICAL COURT OF JUSTICE AND LAW 50%).

2.6 Additional Parties. Any third party may become a Party only after the third party accedes to the terms of this Agreement, the Management Committee provides written consent for the addition, and all Parties jointly consult and agree in writing on the terms of the addition, including without limitation an appropriate change in the respective Pro Rata Shares for the Joint Venture.

2.7 Purpose. The overall purpose of the Joint Venture is to create and implement a strategy for development by the Joint Venture business within both the Reservation and other areas in the United States and Canada that will be structured for the following purposes:

2.7.1 attract equity and debt investment for economic development and other industries;

2.7.2 improve the quality of life within Indian country by increasing the availability and reliability of various products and services at the lowest possible cost;

2.7.3 promote economic development within the Reservations and other Indian country areas through expansion of existing areas and creation of infrastructure that attracts new industries; and

2.7.4 provide satisfactory economic investment opportunity for each Party.

2.8 Objectives. Pursuant to the above purposes, the Joint Venture shall seek to achieve, without limitation, each of the following objectives:

2.8.1 formulate a plan for development and including further assessment of its economic feasibility, preparation of any environmental assessments, and establishment of a Development Schedule;

2.8.2 develop a plan for privatizing each project, under which the Joint Venture will develop, finance, and own the business after commencement of operations;

2.8.3 form a special purpose entity to offer services for the operations, maintenance, and management of projects ("O&M Business") within both the Reservation and the U.S. and Canada;

2.8.4 identify and explore the feasibility of the Joint Venture's development and implementation of projects within Indian country areas outside the Reservation that the Management Committee may from time to time recommend and the Parties approve (each a "Future Project"); and

2.8.5 achieve such other objectives, as the Parties may from time to time deem beneficial to pursue.

2.9 Principles. The Joint Venture will pursue the above purposes and objectives in a manner that will help promote the following principles:

2.9.1 promote conditions and policy changes necessary for private capital investment within the power sector;

2.9.2 formulate policies that will enable private recovery of justifiable start-up and operating costs for power sector investments;

2.9.3 mobilize financing from domestic and international sources with possible federal, tribal, or state guarantees to undertake development of projects and services in the various industries;

2.9.4 obtain all taxes and federal, tribal, and state concessions and exemptions available to ensure the economic viability of the Projects.

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3. ROLES OF THE PARTIES

3.1 Special Expertise. The Parties agree that each of them brings special expertise to the Joint Venture, and that they desire that each Party play a leading role in the development of the Projects and the O&M Business in each Party's respective areas of special expertise. In particular, the Parties will jointly provide overall development and strategy, and ECCLESIASTICAL COURT OF JUSTICE AND LAW will also provide business experience and provide the initial start up capital to adequately fund this Joint Venture Agreement.

3.2 Dedication of Resources. Each Party shall dedicate qualified personnel and other resources to the Joint Venture as necessary to achieve the Milestones for each Project and Opportunity and the purposes, objectives, and principles of the Joint Venture as specified in Article 2. Personnel committed by each Party shall remain employees of and shall continue to be on the payroll of such Party. All Parties' dedicated personnel shall work together as one cohesive team in developing the Projects and Opportunities and achieving the purposes, objectives, and principles of the Joint Venture.

3.3 Cooperation and Assistance. Each Party that does not take the lead role in a particular activity shall assist the Party that takes the lead role in that activity if so requested by the latter Party or the Management Committee. Each Party providing such assistance will cooperate with, and work in accordance with guidelines set by the Party leading the particular activity. If a Party has expertise in any particular function or task and such Party is not taking the relevant lead role, that Party may volunteer assistance to the Party taking the relevant lead role. Each Party shall keep all Parties regularly informed of the progress of tasks under its responsibility.

3.4 Sharing of Information. The Parties agree that each Party shall promptly provide the other with access to information concerning the Party, the Projects, and the Opportunities as reasonably requested by any other Party.

3.5 Use of Third Parties. The Parties acknowledge that it may be necessary to hire and/or enter into agreements with third parties to achieve the purposes, objectives, and principles of the Joint Venture. Development Budgets shall provide for such hiring and/or agreements, which may be arranged for either by the Joint Venture as an entity or by a Party. Expenses for any third party hiring or agreement, which is not approved or ratified by the Management Committee, shall be borne solely by the Party, which arranges for such hiring or agreement.

3.6 Liability Limitation. Notwithstanding anything to the contrary in this Agreement, no Party shall incur liability to any other Party as a result of its performance of the lead role for any development task except in the case of willful misconduct or gross negligence, and no Party shall be liable to any other Party for special, indirect, or consequential damages or loss howsoever arising even if the relevant Party or Parties were aware of the possibility of such damages or loss occurring.

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4. MANAGEMENT COMMITTEE

4.1 Establishment; Members. Within 7 days after the effective date of this Agreement, the Parties shall establish a Management Committee. Each Party shall appoint three separate Members of the Management Committee and may appoint temporary designees or proxies or permanent replacements for those Members upon written notice to the other Parties, provided that such designees, proxies, or replacements shall not already be Members.

4.2 Officers. At its first meeting and thereafter as necessary to fill vacancies, the Management Committee may assign additional duties and/or authorities to any Officer:

4.2.1 Chairman. The Chairman shall preside over all Management Committee meetings, and shall execute on behalf of the Joint Venture all legally binding documents authorized to be executed by the Management Committee.

4.2.2 Vice-Chairman. The Vice-Chairman shall fulfill the duties and authorities of the Chairman in the absence or incapacity of the Chairman as determined beforehand by the Chairman or the Management Committee.

4.2.3 Secretary. The Secretary shall make and retain all non-financial records of and for the Joint Venture, including without limitation written minutes for each Management Committee meeting, all formal decisions of the Management Committee, and copies of all agreements entered into by and for the Joint Venture, and as necessary shall attest to legally binding documents executed on behalf of the Joint Venture.

4.2.4 Treasurer. The Treasurer shall make and retain all financial records of and for the Joint Venture, shall manage any bank accounts established or controlled by the Joint Venture, and shall make such reports in the time and manner as directed by the Management Committee.

4.3 Meetings. Management Committee meetings shall be governed as follows:

4.3.1 Timing and Conduct. The Management Committee shall meet as frequently as required as determined by it or upon request of any Member. The Chairman shall preside over all meetings.

4.3.2 Notice. Except as otherwise agreed by a majority of the Management Committee, 120 hours advance notice by receipt verifiable means shall be given for each meeting.

4.3.3 Location; Attendance. The Members shall select locations for meetings that minimize and alternate inconveniences to the Members, having due regard for topics for discussion and other appropriate considerations, provided that meetings may be held by telephone conference call permitting each attending Member simultaneously to hear and speak to all other attending Members.

4.3.4 Quorum. The quorum for meetings shall be two Members appointed by each Party, whether present in person or by telephone, and no business of the Management Committee shall take place at a meeting without a quorum.

4.3.5 Minutes. The Secretary shall make and retain written minutes for each meeting, which shall include without limitation a record of matters discussed and decisions made, and which shall be approved as the first order of business at the next meeting.

4.4 Decisions. The Management Committee shall make all decisions by votes of four or more Members in favor of such decisions at meetings after appropriate discussions, provided that each Member attending a meeting shall have one vote in all decisions made at that meeting.

4.5 Authority. The Management Committee shall have authority to make decisions regarding implementation of this Agreement, development of the

Projects and the O&M Business, and achievement of the purposes, objectives, and principles of the Joint Venture, including without limitation the following:

4.5.1 set the name and contact information for the Joint Venture and consent to additional parties to the Joint Venture;

4.5.2 set the strategy for achieving the purposes, objectives, and principles of the Joint Venture;

4.5.3 assign, modify, or reassign the role(s) of each Party for Projects, Opportunities, and any development tasks therefore, and resolve any conflicts of interest;

4.5.4 elect the Officers and authorize the Chairman to execute legally binding documents on behalf of the Joint Venture;

4.5.5 establish, buy, sell, use, invest, apportion, and dispose of any assets of an for the Joint Venture, including without limitation the housing plant, and the bank accounts;

4.5.6 approve or ratify Third Party Development Expenses and agreements with or hiring of third parties;

4.5.7 prepare Development Budgets and Development Schedules, including any modifications and supplements thereto;

4.5.8 develop and approve the overall technological approach and general equipment configuration to be used for each Project, and make viability determinations;

4.5.9 develop proposals to pursue any Future Projects; and 4.5.10 develop proposals that the Joint Venture pursue any objective other than those set forth in Sec. 2.7.

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5. PROJECT AND BUSINESS DEVELOPMENT

5.1 Project Development Budgets and Schedules.

5.5.1 Presentation. The Management Committee shall present to the Parties a Development Budget and a Development Schedule for each Project within 30 days after the Management Committee decides to pursue that Project, provided that such Budget and Schedule for the housing plant shall be presented to the Parties within 30 days after the effective date of this Agreement.

5.5.2 Approval. The Parties shall approve each Development Budget and each Development Schedule within 30 days after its presentation to the Parties by

the Management Committee, provided that approval of a Development Budget and/or Development Schedule shall constitute the agreement of the Parties to commence and pursue the development of such Project pursuant to that Budget and/or the Milestones specified in that Development Schedule.

5.2 Initial Development. The Parties agree that each Project shall be de veloped pursuant to this Agreement until such time as the Management Committee determines the viability of the Project consistent with the purposes, objectives, and principles identified in Article 2 which are relevant to that Project, provided that where the Management Committee determines that a Project is not viable, then the obligation to continue development of that Project shall cease.

5.3 Additional Agreements. If the Management Committee determines that a Project is viable under the preceding provision, the Parties will prepare and execute a separate agreement governing completion of the development and implementation of that Project by the Joint Venture, provided that each such separate agreement shall include without limitation provisions concerning implementation of the relevant Development Budget and Development Schedule and the relevant respective responsibilities of the Parties.

5.4 O&M Business Development. The Management Committee shall prepare and the Parties shall approve a detailed term sheet for the structure and objectives of the O&M Business, provided that if the Management Committee deems appropriate, the Management Committee shall prepare and the Parties shall approve a Development Budget and/or a Development Schedule governing the development and implementation of any Opportunity.

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5.5 Expenses.

5.5.1 Internal and Third Party. For each Project and Opportunity, each Party shall agree/bear Internal Development Expenses, and shall be responsible for paying of all Third Party Development Expenses that have been approved or ratified by the Management Committee.

5.5.2 Pre-Approval. The Management Committee shall have the authority incur or approve Third Party Development Expenses before approval of a Development Budget if the Management Committee deems it necessary for continued development of a Project.

5.5.3 Payments. All payments to goods or services providers pursuant to this Agreement will be made solely by check or bank transfers.

5.6 Equity and Income. All equity and income of the Joint Venture shall be apportioned among the Parties according to the revenue sharing breakdown outlined in Sec 2.5.

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6. DISPUTE RESOLUTION

6.1 Informal Resolution. If a Party asserts a dispute about performance of any obligation arising under or relating to this Agreement, the Parties shall meet and seek in good faith to resolve that dispute.

6.2 Notice and Arbitrator Selection. If a dispute cannot be resolved by the Parties informally, the first asserting Party shall chose an Arbitrator and give prompt written notice of the dispute and the Arbitrator selection to the second Party. Within 5 business days after receipt of that notice, the second Party may notify the first Party and the first Arbitrator of the second Party's selection of a second Arbitrator for resolution of the dispute, and of any additional dispute(s) to be addressed in the dispute resolution process. If the second Party chooses a second Arbitrator, the two Arbitrators themselves shall choose a third Arbitrator within 10 business days after receipt of the initial notice by the second Party, and all of the Arbitrators shall collectively facilitate resolution of the dispute(s).

6.3 Mediation. No later than 20 business days after receipt of the initial notice of dispute and Arbitrator selection, the Arbitrators) shall hold an informal meeting with the Parties in an attempt to mediate the dispute. The Arbitrators) may hold additional meetings with the Parties to continue attempts to mediate the dispute solely with the concurrence of all Parties.

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6.4 Arbitration

6.4.1 Setting. If a dispute arising under this Agreement is not resolved through mediation, the Arbitrator(s) at the conclusion of the mediation shall establish a date, not less than 10 or more than 30 days thereafter for a hearing to resolve the dispute. The hearing shall be held at a location agreed to by the Parties, or otherwise selected by the Arbitrator(s) with preference given to Browning, Montana.

6.4.2 Preparation. The Parties shall cooperate with each other in promptly exchanging information regarding any dispute, but neither party shall have the right to compel discovery from the other. The Arbitrator(s) may visit any site at issue in a dispute at their own option but accompanied by representatives of both parties. The Parties shall all have the right to make one written submission to the Arbitrator(s) before the hearing no later than 3 business days before it.

6.4.3 Procedure. The hearing shall be conducted by the Arbitrators) in an informal and expeditious manner without transcript or recording. At the hearing, each Party may make a brief statement and present documentary and other evidence to support its position, including but not limited to testimony of not more than 4 individuals, 2 of whom may be outside experts. There shall be no presumption in favor of any Party's position.

6.4.4 Decision. Not later than 10 days after conclusion of the hearing, the Arbitrator(s) shall render a decision in writing for the dispute, which shall briefly state the basis for the decision. If there is not more than one Arbitrator for a dispute, the decision must be supported by at least two Arbitrator(s). The decision of the Arbitrator(s) shall be final and binding on the Parties for all purposes.

6.5 Costs. Costs of dispute resolution under this Agreement shall be paid equally by the Parties, or otherwise apportioned between the parties as determined by the Arbitrator(s).

6.6 Enforcement and Confirmation. Any court of competent jurisdiction may enforce these dispute resolution provisions or confirm an award made hereunder.

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7. TERM AND TERMINATION

7.1 Timing. This Agreement shall enter into force in the effective date and shall terminate on the earliest of the following:

7.1.1 Completion, namely, the date when the Management Committee determines that all Projects, the O&M Business, and all other purposes *and* objectives of the Joint Venture have been achieved;

7.1.2 Abandonment, namely, the date when the Management Committee decides to abandon permanently the Projects, the O&M Business, and the other purposes and objectives of the Joint Venture; or

7.1.3 Material Breach, namely, either of the following: (a) the date 90 days after the date when one Party notifies the other Parties of its intent to cease participation in the Joint Venture, provided that the Party does not retract that notice in writing within that period; or (b) the date 30 days after the date when one Party notifies the other Parties specifying in reasonably sufficient detail a Material Breach of this Agreement committed by another Party, provided that the breach continues unremedied within that period.

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7.2 Winding Up of Affairs.

7.2.1 Survival of Terms. Except as otherwise provided in this Agreement, the terms of this Agreement shall remain in force after termination of this Agreement so long as necessary to provide for and govern the winding up of the affairs of the Joint Venture.

7.2.2 Dispute Resolution. If this Agreement terminates due to a Material Breach, the non-breaching parties shall be entitled to awarded damages

therefore if any, in accordance with the terms and dispute resolution provisions of this Agreement.

7.2.3 Account Settlement. Upon termination of this Agreement, and concurrently with any dispute resolution proceedings instituted pursuant to the preceding provision, each Party shall remain responsible for, and immediately pay, all costs and expenses contemplated to be paid by it pursuant to this Agreement, and each Party shall be entitled to and be promptly paid and/or distribu ted its Pro Rata Share of the equity, assets, and income of the Joint Venture.

7.2.4 Supervision; Compensation. Upon termination of this Agreement, the Chairman shall supervise the winding up of the affairs of the Joint Venture, provided that all expenses of the winding up, including without limitation the reasonable imputed cost of personal rime for any Officer, Member, or Party involved therein, shall be borne by the Parties according to their respective Pro Rata Shares.

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8. REPRESENATATIONS AND WARRANTIES

8.1 Due Organization. Each Party hereby represents and warrants that it is a corporation duly organized, validly existing, and in good standing under the laws of the country, tribe, or state of its origination as stated in the preamble of this Agreement and that it has all requisite corporate power and authority to own, lease, and operate its assets, properties, and business, and to carry on its business.

8.2 Corporate Action. Each Party hereby represents and warrants that its execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all requisite corporate actions and will, as at the date of performance, comply with all applicable legal and regulatory requirements, and that this Agreement constitutes a valid and binding obligation enforceable against it in accordance with its terms, except for laws of general applicability affecting the rights of creditors.

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9. MISCELLANEOUS

9.1 Assignment. This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns. Any Party may assign its interests, rights, and obligations under this Agreement to any third party, provided that the Management Committee shall approve of any such assignment in advance in writing.

9.2 Exclusivity. Each Party acknowledges that other public and private persons may presently or in the future be involved with one or more of the Projects. Each Party may initiate, solicit, and negotiate any offer from any

such person to develop or implement, or participate in the development or implementation of one or more Projects, but only in its capacity as a member and representative of the Joint Venture and subject to the terms and conditions of this Agreement. Notwithstanding the foregoing, if the Management Committee determines under this Agreement that a Project is not viable, any Party may proceed with the development of that Project either on its own or with other persons provided that the other Parties shall be reimbursed by that Party on the financial closing of such Project for any previously unreimbursed Development Expenses incurred by such Party in connection therewith.

9.3 Confidentiality. A Party shall not disclose or reveal any Confidential Information to any third party (other than any Affiliated Company of a Party) without the prior written consent of the other Parties, unless; (a) the information has ceased to be confidential by virtue of entering the public domain other than through breach of the confidentiality obligation undertaken herein, or (b) mandatory provisions of applicable law or regulation require disclosure, in which even the relevant Party shall immediately inform the other Parties and take measures to protect the confidentiality of the relevant information. This provision shall remain in full force and effect for a period of 5 years after termination of this Agreement.

9.4 Announcements. Except as required by any applicable law or regulation, no Party shall cause to be made or issued any public announcement or press release about this Agreement, the Joint Venture, or any other Party without the prior written consent of the other Parties or relevant Party, as the case may be. This provision shall remain in full force and effect for a period of 5 years after termination of this Agreement.

9.5 Legal Relationship. No Party may undertake any legal obligation on behalf of any other Party or legally bind any other Party without such Party's express prior written consent. This Agreement creates no legal relationship between the parties except as expressly set forth herein, and no Party shall be held responsible for any other Party's wages, taxes, insurance, fringes, overhead or profit.

9.6 Governing Law. This Agreement shall be governed by and construed in accordance with the law of the Blackfeet Indian Nation where applicable, and secondly, the law of the State of Montana, United States and Canada.

9.7 Amendments. No amendment of this Agreement shall be valid or binding unless set forth in writing and duly executed by all Parties. If any restructuring or reorganization of a Party affects in any way Project, the O&M Business, or any other purpose or objective of the Joint Venture, the Parties shall negotiate in good faith any amendments to this Agreement and/or additional agreements, in each case acceptable to all Parties, necessary to accomplish the intent of this Agreement.

9.8 Waivers. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed the Party

purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

9.9 Notices. Any notice or other writing required or permitted to be given to any Party under or pursuant to this Agreement shall be sufficiently given and effective as follows: (a) via personal delivery, immediately upon receipt, (b) via prepaid registered mail, 5 days after the date of mailing, or (c) via facsimile, immediately upon receipt by the sender of a successful transmission report in respect of all pages sent. Any such notice or writing shall be given to the following or at such other address or fax number as the Party to whom such notice or writing is to be given has provided to the Party giving the same in the manner provided herein.

If to NAEE:

Native American Economic Enterprises, Inc.
101 East Main St., P.O. Box 2210
Browning, Montana 59417
Telephone: (406) 338-2607
Facsimile: (406) 338-2570

If to E.CJ.L.

ECCLESIASTICAL COURT OF JUSTICE AND LAW
Tel: (206) 384-9220 ~ (206) 409-7025 ~ (206) 260-7199
Fax: (206) 274-4816
75th Floor - Columbia Tower, Seattle, Washington 98178
scripturalaw@yahoo.co.uk

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9.10 Compliance with Laws. The Parties agree to comply with all laws and regulations applicable to them, the Projects, the O&M Business and any other purpose, objective, or principle of the Joint Venture, including without limitation, requirements for payments of income, social security, unemployment, and other taxes that Joint Venture activities may generate.

9.11 Indemnification. Each Party shall, at its sole cost and expense, indemnify, protect, defend, and hold harmless each of the other Parties, and their respective agents, employees, officers, directors, and affiliates ("Indemnified Parties") from and against any claims, demands, losses, costs, expenses, obligations, litigation, judgments, disembursements, causes of action, liabilities and damages of any kind or nature whatsoever, including without limitation interest, penalties, and attorney's fees, which may at any time be imposed upon, incurred by, or asserted or awarded against the Indemnified Parties and which arise from or out of the Party's breach of any provision, representation, or warranty made in this Agreement. This provision shall survive termination of this Agreement.

9.12 References. In this Agreement, unless otherwise indicated, the singular

includes the plural and the plural the singular; references to Sections and Annexes are to this Agreement; references to any agreement shall be deemed to include all subsequent amendments, extensions and other modifications thereto; and references to any person or Party shall include their respective successors and assigns.

9.13 Legal Representation. The Parties agree to retain the law firm of Ecclesiastical Court of Justice at 4344 South 104th place, Seattle, Washington 98178, as legal counsel for the Joint Venture with the understanding that said law firm has and does otherwise represent NAEE and the owners of NAEE on special projects. The Parties hereby consent to this engagement and waive any relevant conflict of interest.

14. **Integration.** This Agreement constitutes the entire agreement of the parties concerning the subject matter of this Agreement and cancels and supercedes any prior, oral or written, understandings and agreements of the Parties concerning such subject matter, including without limitation the Letter of Intent. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express or implied, between the Parties other than those expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement on the dates below:

Ecclesiastical Court of Justice and Law	**Native American Economic Enterprises, Inc.**
Signed: Judge Aidun N. C. Naidu	Signed: Robert "Smokey" Doore
Dated: Dec. 28, 2005	Dated: Dec. 21, 2005

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> *"What lies behind us and what lies before us are small matters compared with what lies within us."* - Ralph Waldo Emerson

"Why do you call me 'Lord, Lord' and do not do what I say?" - Jesus, Luke 6:46

THE ONGOING SLUR & SMEAR CAMPAIGNS AGAINST NATIVE AMERICAN TRIBES

By White Cloud Jay, Yamassee Muscogee Nation

~ There is no cure for the bite or sting of a false accuser ~

There are ghost writers whose livelihood depends on penning slur and smear campaigns, ostensibly hired by hidden hands and covert agendas, often writing damning articles without furnishing any proof or evidence knowing that lies have speed and not knowing that truth has endurance. They take great relief from the fact that a factually unsubstantiated printed article has a Delphic oracular effect resonating with screams of "doing the right thing by exposing those fakes and scammers" claiming to be tribal chiefs or tribal members with "fake" ID cards, "fake" license plates for their vehicles, and engaging in "fraudulent" insurance schemes.

The usual line of attack is to malign someone's educational credentials, attack their credibility, assassinate their character, pour scorn, contempt or hatred upon that hapless person, deem the tribe a fake, and nonchalantly walk away with the false sense of solace and comfort that they fell upon a minefield of truth and damning evidence. These unfortunate writers have done zero homework on the rights of the Native Americans often mischaracterized as American Indians, Redskins, Injuns, and other epithets.

These irreverent writers know nothing about what it is to be an Aboriginal with inherent rights predating the U.S. Constitution. These unsophisticated and cowardly writers of filthy falsehoods have no clue of what they writing about as long as they use words and phrases that run into six or seven pages of printable rubbish readily accepted by the publishers of both print and electronic ilk.

Native American tribes, clans, bands, and nations, and their leaders, that have had no treaty arrangement with the U.S. government, or secured "federal recognition" status, are usually the victims of such dastardly acts of yellow journalism. The truth of the matter is that most Native American tribes have chosen to do their own thing *by denying themselves* federal intrusion, intercession, aid and assistance requests. These tribes do not relish the federal government's insistence that they tow the line if they are to receive federal funds. It is not in the tribal communities' interests to be told

how to live and where to hunt, gather or fish now that these enclaves have become national parks and forests. The Reservations where they have been forced into breeds no enthusiasm, encouragement, empowerment, or other enabling elements of education.

One wonders what sort of visas or passports Columbus and his men carried when they wandered into the territorial waters of the Americas and landed on these shores. How about Cortez and Coronado? How about the Pilgrims when they arrived on the *Mayflower*? Did they have visas and valid travel documents? Yet, their ancestors have made laws, rules and regulations as to who qualifies for a visa, permanent residence, or naturalized citizen status. Politics and artificial borders make the difference with guns and prisons aplenty to house lawbreakers who decide to return to their ancient homelands (read: Texas, New Mexico and California) and seek meaningful employment un-enumerated under the Ninth Amendment of the U. S. Constitution. Such is the way of the paleface who speaks with forked-tongue.

The one great oft-repeated fact is that tribes that signed treaties of friendship and goodwill with the U.S. government in the early 1800s until 1871 had vast land resources greedily sought after by the U.S. government which laboriously ignored other tribes who were perpetually nomadic in their lifestyles, and who were thus labeled "landless." Even today, treaty tribes are only recognized as a distinct political body if they are "federally recognized." The treaty-making power in Article VI, section II, of the U.S. Constitution stipulates that Treaties are the supreme law of the land, as well, together with laws made pursuant to the U.S. Constitution. So, what's the love affair with "federal recognition" when a Treaty will do?

There is always a price to pay in this land of the fee and the home of the brief when it comes to filing a claim and ultimately getting compensated. It is all about the almighty dollar in every issue. Even when a Tribe wins an award, like Eloise Cobell of the Blackfeet Nation, they will have to wait for an inexorable period of time while Congress passes a law to pay the court awarded compensation.

The great expansion westward in the 1800s was driven by greed and motivated by the need to want more and more land at the expense of tribal communities whose nomadic lifestyles justified the compulsory taking of these tribal lands egged on and encouraged by the Takings Clause (Fifth

Amendment) of the U.S. Constitution which was inserted in place to prevent government abuse. The Tribes move on to hunt buffalo, the homesteader moves in with an ubiquitous Congress making all the necessary and proper laws to protect the land-grabber-land-taker. No laws were made to protect the unfortunate tribal communities that protected and preserved the land without resorting to carbon emissions, tin cans, paper, rubber, and plastic trash.

To make the American Indian matter gain popular or reputable political traction, government administrators, judges, lawyers and scholars constantly rely on history. Not on anthropology or paleontology, or ethnography. History is usually rife with inaccuracies and outright lies because it is almost always written by the victor. The American Indian history is a sad one considering the destiny of the tribal communities when the first European adventurers and settlers arrived. Armed with greed, the concept of "manifest destiny," and the doctrine of discovery, the newcomers swiftly made plans to occupy this continent, introduce European ides, concepts and doctrines generally aimed at displacing the "savage" Indians by domesticating them first.

The 1763 Royal Proclamation and the 1787 Northwest Ordinance specifically frowned upon the random taking of Indian lands. The 1790 Indian Trade & Non-Intercourse Act literally said the same thing. The War of 1812 changed the dynamics of Indian and U.S. government relations because of British support and endorsement of Indian tribal claims. With the rising political fortunes of Andrew Jackson, the Trail of Tears became the *sine qua non* of American expansionist policies at the terrible expense of tribal communities. As the Tribes became unwillingly acculturated and acclimated to European ideals with a big dose of Christian values, their vast homeland became smaller and cramped as Reservations became the norm.

Issues like tribal sovereignty have been reluctantly accepted by congressional fiat, executive action, and judicial pronouncements often exhibiting doublespeak, double standards and twisted logic.

Tribes are not represented in Congress. Article 1, section 8 of the U.S. Constitution mentions them expressly by giving Congress the power to regulate commerce with them *not* among them. The definition of "commerce" does not contemplate politics, manufacture or agriculture. The word "commerce" is a Latin derivate meaning "*com*" – together, and

"*mercium*" – merchandize to mean buying and selling. The U.S. Supreme Court played pucks with its own rendition and interpretation of the Commerce Clause to the utter detriment of Tribes.

Until the Civil Rights Act of 1968, Indian rights were spasmodic and ad hoc when and if they reached the United States Supreme Court where politicians in black robes throw the dice depending on the economic scoreboard and the political temperature at a material point in time.

Another variety of attack against Native American tribes begins with a "Report" that the Federal Bureau of Investigation (FBI) is investigating this or that tribe for issuing ID cards, driver licenses, license plates, fishing licenses, thinking licenses, or some such "terrible crimes." These are the psychos who have no idea what **18 U.S.C. Section 115**1 (Indian country) means, or what the **1924 Indian Citizenship Act** (43 U.S. Stats. At Large, Ch. 233, p. 253 (1924) "Snyder Act")) means.

Even if the FBI is investigating us FBI (Full-Blooded Indians), it does not mean anything. That's what the FBI does for a living. An investigation by the FBI does not imply someone or some tribe has gone bad or rancid in the public estimation.

Another load of rubbish unloaded in our front yards is the "federally recognized tribes" spin doctoring now in the form of a statute. The fact that a tribe had a valid and lasting treaty with the federal government in the 19th century is conveniently avoided for the sake of a political question. The fact that a particular treaty has not been voided, annulled, vacated or repealed till today is not taken into account.

Legislation is almost ALWAYS egged, encouraged and expedited into existence by special interests. The Federally Recognized Indian Tribes List Act is very much one such piece of legislation aimed at discrediting treaty tribes. Treaty-making powers emanates from the Supremacy Clause of the U.S. Constitution. But who is listening – not lawyers and judges, for sure. When you cite or raise a constitutional question, federal courts rely on the judge-made "constitutional-avoidance doctrine" where the plain language of an unambiguous statute renders the constitutional question or concern moot. When it comes to American Indian issues, any statute that favors special interests reigns and rules over the U.S. Constitution, supposedly the supreme law of the land.

It is high time these ghost writers graduated to peddlers of plausible, probable, possible propaganda, and wrote such articles dealing with the unpalatable truth of Indian genocide during the Trail of Tears, or about the wanton destruction of tribal communities who were forced to cede, surrender, give, barter, trade and sell their lands for pennies, whiskey, guns and fraudulent treaties.

WHO CRIES FOR THE TRIBES, AND WHO WILL MAKE MEANINGFUL REPARATIONS TO THEM?

November 2013.

A friend of mine sent me this link from the Southern Poverty Law Center (SPLC), headquartered at Montgomery, Alabama:

Intelligence Report, Spring 1999, Issue Number: 94: "Washitaw Nation Comes Under Investigation - The Washitaw Nation, a Louisiana separatist group led by an eccentric 'empress,' has come under the microscope of multiple investigations."

I am not sure if it's a 1999 "Investigation" or whether it suggests a recent one. However, I sent them an email rebuking, and repudiating, their claims.

I have nothing against the LGBT, but a group with tax-exempt status that supports people against the order of Nature is altogether a different matter.

In that article regarding the Washitaw Nation, the SPLC spews out some caustic attacks as if it is a mouthpiece for the cabalist, cultist, oligarch government we have voted for with regular tenacity every four years. The SPLC building in Montgomery, Alabama, is in "*Indian country*" if the SPLC cared to read up on **18 United States Code § 1151**. Maybe, our Washitaw Marshals ought to rain on their building, and reclaim their Washitaw land and soil upon which their building is illegally erected. Why should the SPLC know this federal law when every first-year law student is aware of it.

The SPLC denounces the Washitaw Nation's issuance of driver permits, work permits, ID cards, license plates, and a whole lot of other permits that a sovereign tribal government has a right to issue.

The U.S. Supreme Court has even ruled that tribal governments can collect taxes: *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982) – The U.S. Supreme Court declared that Indian nations have the power to tax non-Indians because of their power as a sovereign through dependent nation with treaty rights. The Court said that "*sovereign power, even when unexercised, is an enduring presence that governs all contracts subject to the sovereign's jurisdiction, and will remain intact unless surrendered in unmistakable terms."*

I am beginning to wonder if the SPLC operates a law firm, a law clinic, or is another scheme to obtain tax-exemption from the government in exchange for "whistle-blowing" in qui tam actions? **Our Investigators are checking**

up on the SPLC's supporters, its financiers and patrons, and hidden hands who finance its activities including the smear campaigns.

Then the SPLC Report refers to a fellow called Gary Clyman (yes, that's his last name), reportedly a "special investigator" for the Colorado Attorney-General from the legalized pot-smoking State of Colorado, who made a childish comment that the Empress Verdiacee is "goofy." That from man with a name like "Clyman" and he is a "special investigator" whose investigations revealed that the Empress is goofy. Well, we all know where this investigation is headed.

The SPLC denounces the Washitaw Nation's claim that the 1803 Louisiana Purchase was illegal. Every first-year law student knows, or ought to know, that the purchase of Louisiana from France was unconstitutional because the U.S. Constitution forbids the acquisition of foreign territory. Thomas Jefferson, as the then sitting president, did not await congressional approval, but the sale was consummated by presidential decree because Napoleon Bonaparte needed money to fight America's arch enemy – England.

America was scared witless that the Oregon and Washngton territories may be claimed by British-controlled Canada. The Polk Administration (1845-1849) moved to claim, annex, conquer, invade, and forcibly acquire California from the Mexican government, just as Texas and New Mexico fell. Arizona was in the way, so America just grabbed it as well. Their mantra was "Manifest Destiny."

The SPLC is also totally unaware that the Washitaw, Muscogee, Osage, Comanche and other tribes extracted a treaty with the U.S. government on 24 August 1835 – The Treaty of Camp Holmes, 7 Stat. 474. A Treaty tribe has the supreme law of the land behind it because, as any first year law student knows, or ought to know, treaties and federal laws are the supreme law of the land.

Therefore, the Washitaw Nation, and the other 568 tribes, bands, alliances, nations and clans have EVERY right to do what any sovereign government decides to do within the seven corners of the rule of law.

The SPLC must get a refresher course in federal Indian law, and I highly recommend they start reading and understanding The Handbook of Federal Indian Law, by Felix S. Cohen.

For these unsolicited libelous and slanderous remarks, The Washitaw Nation demands, and awaits, an Apology from the SPLC to the Empress Verdiacee and to the Washitaw Nation for casting aspersions and unleashing unprofessional and unsubstantiated attacks upon a legitimate sovereign tribal government. Failure to do so with the written Apology, to be posted at their blogsite or website will entail appropriate sanctions under the rule of law. The Washitaw Nation will not tolerate such disrespect from any one.

Sgd/Judge Navin-Chandra naidu

THE INFLUENCE OF EUROPEAN POLITICAL WRITINGS IN THE DEVELOPMENT AND EMERGENCE OF FEDERAL INDIAN LAW©

Judge Silver Cloud Musafir, November 21, 2013, Los Angeles.

The accolade *The Marshall Trilogy* was bestowed upon Chief Justice John Marshall's first three major United States Supreme Court decisions concerning Native Americans in *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 543 (1823); *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); and *Worcester v. Georgia,* 31 U.S. (6 Pet.) 515, (1832). Marshall cleverly and cunningly developed some innovative jurisprudence (judicial activism) in these three seminal cases.

The reasons behind Marshall's thinking impelled me to go into history to see what motivated this "great chief justice," who had six weeks of legal training under the legendary George Wyeth, to seek and apply international law principles upon indigenous peoples that became settled federal Indian law immune from judicial overruling or legislation. Marshall did not refer to the U.S. Constitution because the inalienable rights of indigenous peoples are inherent in their being and existence reposed somewhere between cosmic truth, natural rights and God's Law. His only guide was The Commerce Clause (Article 1, section 8, clause 3, U.S. Constitution) with which he spun, weaved, innovated and discovered new patterns of interpretation from which emerged a principle of law well suited to American expansionist policies involving land and soil. Judicial activism was already born with Marshall's *Marbury v. Madison* ruling when judicial review became a settled doctrine, a sound principle. Article III of the U.S. Constitution does not even hint at the need or justification for judicial review.

The atrocities unleashed upon indigenous peoples of the New World soon after Christopher Columbus arrived with his "call of discovery laced with manifest destiny" is well documented by two Dominican clerics, **Bartolome de las Casas** (1474-1566), and **Francisco de Vitorio** (1486-1547). These two clerics criticized the Spanish *encomienda* system which granted Spanish conquerors and colonists great parcels of lands and the right to the labor of indigenous peoples living on them. Punishment for disobedience was severe and lethal by those Christian masters of discovery and destiny.

Pope Alexander VI purported to grant the Spanish monarchs all territories discovered as if it established legal title to the New World lands. Vitorio

held that neither emperor nor pope possessed lordship over the whole world probably because he believed that God's Word in **Psalms 24:1** was being perverted by pope and emperor alike ("*The earth is the Lord's, and the fullness thereof; the world, and they that dwell therein*.) Pope and emperor, as if allied in conspiracy, probably justified their ecclesiastical and royal edicts taking comfort in **Psalms 24:4-5** which mentions equity and fair dealings.

Vitorio further elaborated and explained that discovery of Indian lands alone could not confer title in the Spaniards "*anymore than if it had been they who had discovered us."* Meanwhile King Ferdinand, relying on papal edict (*Inter caetera*) declared indigenous peoples' loyalty to Christianity **without their consent** even it meant the invocation of force, coercion and punishment. Vitorio wrote in his 1532 Treatise, "*On the Indians Lately Discovered*," that indigenous people were not of unsound mind; that they used reason; they believed in the laws of marriage; they had magistrates, overlords; laws; a system of exchange; and a kind of religion. Not savages as others made them out to be. Nobody took notice. There is no cure for the bite of a false accuser. Savages are savages if the written untrue word says so.

Niccolo Machiavelli's (1469-1527) *Prince* (1523) set the stage for a modern political theory with the encouragement of Pope Leo X in 1519. Church and State seemed inseparable during these tumultuous times in post-Dark Ages Europe. "If the State's policies, programs, and procedures accuse us, let the reasons and rationale excuse us," was the call sign of the *Prince*. Might is right. Police power makes all the difference.

Vitorio's writings and lectures inspired **Hugo Grotius** (1583-1645), a 17th century Dutch political philosopher often called the "father of international law" who realized the concept of "dictate of right reason." Reason can be subjective guised as objective depending on who is in power. Reason, however, is the most naïve of all superstitions, but reason begat justification; and reason is taught and accepted to be far more superior than faith. People fall for it. Grotius, too, rejected the concept of title by discovery as to all lands inhabited by humans in his 1625 Treatise "*On the Law of War and Peace*." Unfortunately, sadly, and unwittingly, Grotius too subscribed to "just war." Another nail in the coffin of indigenous peoples. The written word, it would appear, as if written in stone, was enough to set outrageous results in motion to marginalize these original tenders, tillers, workers,

farmers, occupiers, possessors and owners of the land and soil in the New World who needed no theodolites, no charts, no titles, no liens, no taxes except the **right to be left alone**. The "right to be let alone is the most comprehensive of rights, and the right most valued by civilized men." *Olmstead v. United States*, 277 U.S. 438 (1928), Justice Louis Brandeis in dissent. Maybe the Christian adventurers of 1492 had a different take on what "civilized men" meant. The Hebrew Old Testament and the Greek New Testament of 1492 is still, very much, the same with no additions, corrections, amendments or interpretations in 2013.

Other writers who came on the pro-State scene included **Francisco Suarez** (1548-1617), **Domingo de Soto** (1494-1560), **Balthasar Ayala** (1548-1584), and **Alberico Gentilis** (1552-1608). These theorists and trendsetters supported the theory of "just war" in the event the indigenous peoples revolted or challenged Spanish authority. Just war was predicated upon the European need (read: greed) for *defense, recovery of property and punishment*. It were these early writers, *agent provocateurs* and theorists who influenced the development of policies in politics, and legal prescriptions handed down by European sovereigns which significantly affected the future treaty making patterns with Native Americans by the United States government.

The turning point of western thought and civilization was spawned with the **1648 Treaty of Westphalia** when Church and State went their separate ways. 1648 created a bifurcated regime of natural rights of individuals and natural rights of States (read: government). The Church went on to solidify and galvanize ecclesiastical functions, duties, obligations, privileges, immunities, and rights in tandem with canonical law while ignoring its police powers. The infant State quickly realized that sovereignty meant enforcement through a police power (read: militia, army, police and security forces) which the Church strangely abrogated.

Thomas Hobbes (1588-1679) took up the slack with his monumental *Leviathan* (1651) firmly establishing the State as an entity possessing natural rights. Hobbes influenced others like **Samuel Pufendorf** (1632-1694), and **Christian Wolff** (1679-1754) who accepted Hobbes's vision of humanity as a dichotomy of individuals and States with the former in a weaker bargaining position. These thinkers and writers, impelled by subjective reason, developed the Law of Nations. The Englishman **John Locke** (1632-1704) soon published his *Second Treatise on Government*, which formed the

leading edge of European legal philosophy and political concepts and doctrines of government and governance.

Christian Wolff influenced **Emmerich de Vattel** (1714-1769) who further elaborated the idea of a body of law concerned exclusively with States with his "*Law of Nations, or the Principles of Natural Law*, (1758). Vattel, the archetypal European, concluded than "*once a people . . . has passed under the rule of another it is no longer a State, and does not come directly under the Law of Nations. Of this character were the Nations and the Kingdoms which the Romans subjected to their Empire.*

Whether European thinking would have developed in another direction if the indigenous peoples of the New World discovered Europe to colonize it is a different adventure in conjecture and hazardous thinking. The works and writings of **Jean-Jacques Roussea** (1712-1778) influenced the French Revolution of 1789 that petrified the power of the majority in the minds of **James Madison, Alexander Hamilton** and **Thomas Jefferson** who were busily compiling their *Federalist Papers* under nom de plumes. **Voltaire** (1694-1778) burst on the scene attacking the Catholic Church with this take on freedom of religion, freedom of speech and the separation of Church and State.

It seems that American founders and framers were not able to think for themselves while allowing European concepts to infiltrate their minds, and influence their political thinking. Alarmingly, nothing original emanated from their minds. Everything that was thought, uttered and written had a European slant. These founders and framers claimed to be well-versed with Christian Scriptures, yet they seldom found refuge in scriptural wisdom.

Legal writings, scholarly articles and archival records indicate that Chief Justice Marshall was ***influenced*** by Emmerich de Vattel's take, version, and practical philosophy of international law. In *Johnson v. McIntosh*, Marshall developed the theory that discovery bestowed superior title on the discoverer/colonizer. No reference to *usucapion* (Latin: ownership of any commodity due to lengthened possession) based on ancient law that did not quite fit with the European concept of amassing other peoples' lands, but just a Vattelian impeller.

In *Cherokee Nation v. Georgia*, Marshall developed the theory that Indians were "domestic dependant nations with qualified nationhood status." Ironing out a wrinkle in the fabric, or creating new cloth?

Subsequently in *Worcester v. Georgia*, Marshall nailed home the point when he compared Indian tribes to European "tributary and feudatory states." He grudgingly accepts the fact that the U.S. Constitution contains no Bill of Rights for indigenous peoples who are to considered, pursuant to The Commerce Clause, as **foreign nations**. That absent Bill of Rights would come in 1968 with the passage of the Indian Civil Rights Act.

In the Trilogy, Marshall may have looked at, read, examined, analyzed, pondered, wondered and gathered from Article 1, Section, 8, clause 3 (The Commerce Clause) that Congress had the power to regulate commerce ***with*** Indian Tribes just as it would ***with*** foreign nations while regulating commerce ***among*** the several states. The preposition "***with***" did it in for all time. But, Marshall regulated and articulated the dubious law for the Trilogy.

The frustration, if not flirtation, with settled law, albeit wrongly decided and carelessly carved in stone as *res judicata*, based on a **principle**, often one that is uncertainly evolving, is a constitutional circumcision by a butcher. What if a wrong principle was used and applied to a particular case influenced by political persuasion? What if the legislature played along and decided not to overrule that decision with newer legislation knowing the decision was wrong, yet politically correct, in the totality of circumstances and facts? What if the executive also tagged along and refused an executive order or presidential veto? Machiavelli is probably having a whale of a time in his grave!

Since our law was imported from England when the Pilgrims arrived with copies of Blackstone's *Commentaries On the Laws of England* (1765-1769), I explored some English cases as my manifest destiny to find the source of thinking of our judges' decisions and the mystery called the "rule of law." Here are some enlightening cases:

"The **principle** is the thing we are to extract from cases and to apply it in the decision of other cases," said Lord Kenyon, C.J. in *Lord Walpole v. Earl of Cholmondeley* (**1797**), 7 T.R. 138, at p.148. But what if that **principle**

extracted from that case did not fit other cases because of different facts which then required a different **principle** to be extracted?

In *Merry v. Nickalls* (**1872**), L.R. 7 Ch. 733, at pp.750, 751; 41 L.J. Ch. 767, at p.771, Sir W.M. James, L.J. declared that:

"It is the **principle** of the decision by which we are bound, not a mere rule that in exactly the same circumstances we are to arrive at the same conclusions. Therefore to say that the decisions are wrong in point of **principle**, if that **principle** was clearly laid down, does not relieve us from the obligation of following the **principle** of the decision." This judge got it right. The only thing in a decision binding as an authority is the right **principle** upon which the case was decided, and not the application of the **principle**. Once this not so subtle distinction is understood, law can become a bastion of consistency and certainty.

In *Osborne v. Rowlett* (**1880**), 13 Ch. D. 774, at p. 785; 49 L.J. Ch.310, at p.313, Jessel, M.R. (Master of the Rolls) declared that:

"The only thing in a judge's decision binding as authority upon a subsequent judge is the **principle** upon which the case was decided; but it is not sufficient that the case should have been decided on a **principle** if that **principle** is not itself a right **principle** or one not applicable to the case." The Master of the Rolls did some dna analysis here !!

In *Henty v. Wrey* (**1882**), 21 Ch.D. 332, at p. 340, Jessel M.R. again enunciated that:

"Now, when a rule of law which is against **principle** is alleged to be established, there are two points to be considered; the first, was any such rule of law ever laid down by any judge? Second, if it was so laid down, has it passed into a binding rule of law? That is, has it been so recognized and dealt with by subsequent judges as to prevent a judge from saying that the decision is contrary to the course of law, and is not binding upon him?" If the principle was accepted, albeit wrong, as a rule of law, Heaven forbid we have not encouraged and developed a jurisprudence of doubt and uncertainty. Common law had its pitfalls without the consent of the citizenry in the sense that statutory law was drafted and enacted by peoples' representatives sitting as a voice of the people in a legislature.

It is a fact that Chief Justice Marshall looked toward international law to find justification for circumventing and circumscribing inherent indigenous sovereignty and associated rights. Truth and history could never hide the fact that when the first explorers, adventurers, fortune-seekers, discoverers and settlers arrived in the Americas, it was not *terra nullius* (nobody's land) that they could lay a claim to because somebody had already occupied these lands.

There was no reference point locally (in the United States Constitution, federal laws, state laws, or decided cases) for Marshall to find and extract a principle, a rule of law, a statute or a constitutional provision that encompassed Indigenous Peoples' rights. He had to innovate and develop one based on his rendition of judicial review after *Marbury v. Madison*. But, while he was busy inventing rights for Indigenous Peoples, the **War of 1812** settled the score to the detriment of Indigenous Peoples because they had sided with the British against the American colonists. General Andrew Jackson (later President Andrew Jackson) had witnessed first-hand where these Indians loyalty lay. In time to come Jackson would unleash the Trail of Tears when the infamous forced diaspora of Indians began.

Johnson, *Cherokee Nation* and *Worcester* represented a skewered and twisted logic of, in, under, at, and by, law because the underlying attraction was **indigenous lands**. Marshall must have fretted and sweated knowing that ancestral customary land title can only be extinguished by express legislation. But Marshall unabashedly legislated from the Bench. Judicial restraint and judicial activism were both sides of the same coin.

Marshall's Trilogy decisions had an obviously very strong affinity to the **Yazoo land scandal** - a massive fraud perpetrated in the mid-1790s by several Georgia governors and the state legislature. They sold large tracts of indigenous lands (Yazoo lands), what is now portions of Alabama and Mississippi, to political insiders at very low prices in 1794. Although the law enabling the sales was overturned by reformers the following year, its ability to do so was challenged in the courts, eventually reaching the US Supreme Court. In the landmark decision in *Fletcher v. Peck* (1810), the Court ruled that the contracts were **binding** (read: no sovereign tribal courts to overturn ancestral aboriginal land fraud under the "rule of law") and the state could not retroactively invalidate the earlier land sales. They relied on the convenient constitutional provision that "no State shall impair the obligation of a contract," conveniently found in Article 1, section 10 of the U.S.

Constitution which is permanently silent about fraudulent acts, actions, commissions or omissions. It was one of the first times the Court had overturned state law, and it justified many claims for the land. It is said that Marshall's family had vested interests in the Yazoo lands. He did not, however, recuse himself in *Fletcher.*

Some of the lands sold by the state in 1794 had been shortly thereafter resold to innocent third parties, greatly complicating the litigation. In 1802, because of the ongoing controversy, Georgia ceded all of its claims to lands west of its modern border to the federal government, in exchange for which the federal government paid cash and assumed the legal liabilities. Claims involving these purchasers were not fully resolved by the U.S. government until legislation passed in 1814 established a fund for resolving them.

One of the first **principles** of law enshrined in the Latin maxim *usucapio constituta est ut aliquis litium finist esset* - *usucapio* **was instituted that there might be an end to lawsuits**; the right of property conferred by lengthened possession was introduced, or made law, in order that after a certain term no question should be possible concerning the *ownership* of property. This squares with *boni judicis est lites dirimere* – the duty of a good judge is to prevent litigation (4 Coke 15).

So, in the context of Indigenous Peoples' ancient law and the Code of Conduct, what good is Anglo-American law and jurisprudence when principles of law weaved within the fabric of the rule of law is often wrinkled and unsightly when courts with politically motivated judges refuse to iron out the wrinkles, and instead insist on replacing the fabric itself.

The future for Indian rights, and Indians' standing as separate sovereigns, is somewhat uncertain and bleak in light of the reality of the farce called "federal recognition" of Indian tribes although most of the tribes, clans and bands have concluded treaties with the U.S. government.

Treaties are also very much the supreme law of the land under Article VI, section 2 of the U.S. Constitution. The power and authority of treaties are very clear, and free of ambiguity. There is no constitutional doubt as to its claim that treaties are to be treated as the supreme law of the land. So, what's with the constitutional-doubt canon that Justice Antonin Scalia mentions in his *Reading Law* at page 247? The canon is captioned " A statute should be **interpreted** in a way that avoids placing its constitutionality in doubt." I believe the legislature ought to plan, strategize

and subsequently **write** a statute in a way that places or presents its constitutionality in doubt. Why *write* a statute if it does not sit squarely with the Constitution to avoid, encourage or entertain a broad or narrow *interpretation* by the judiciary? The constitutional-doubt canon was assailed as "noxious" and "wholly illegitimate" by Frank H. Easterbrook in *Do Liberals and Conservatives Differ in Judicial Activism*? 73 U. Colo. Rev. 1401, 1405-06 (2002).

A 1909 decision *United States ex rel. Attorney Gen. v. Delaware & Hudson Co*., 213 U.S. 366 was distinguished and vacated in *Edward J. DeBartolo Corp. v. Florida Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (19888) using the constitutional-doubt canon described by the high court as "beyond debate." But, surely not beyond constitutional amendment, overruling legislation, or judicial overruling.

Unless and until Indian tribes have enforcement powers with their very own police powers, Indians will have limited sovereignty, tainted autonomy, and half-cocked authority. When tribes look askance to the federal government for funding, understandably and regrettably the giver takes advantage of the receiver by imposing limitations, caveats, restrictions and unnecessary conditions. The federal government, as *usufructuary*, gave no rent to the rightful owners of ancestral aboriginal customary lands, and yet they impose their will on Indians. That is the sad, inexorable truth of the matter. The constitutional standoff is real. The supreme law of the land is always placed in doubt when the legislator's will carved in stony legislation, as representative of the peoples' will, is challenged by the judiciary when statutory interpretation takes a wrong turn at an awkward bend. The legislators know and understand that writing and passing new legislation is less cumbersome than bringing constitutional amendment to fruition. It appears they pass new laws without exacting or extracting constitutional limitations and strictures. This forces the judiciary to shed and shun judicial restraint in favor of judicial activism.

Our Constitution is, sadly, still evolving as a living Constitution in the minds of scholars, lawyers, legislators and judges. It should not be so because the Constitution is a reference point, a template, a blueprint, a fountainhead from which principles, doctrines and maxims may spring forth to tackle the numerous vagaries of our times, trends and patterns of sociological flux. The Necessary and Proper Clause (Article 1, Section 8, Clause 18, U.S. Constitution) gives Congress sweeping powers to make laws necessary and

proper for the changing trends, vagaries and patterns of modern life PROVIDED they do not crowd the Bill of Rights to affect and influence fundamental human rights, privileges and immunities.

We are still growing. Political maturity may end in a utopian scheme of things where peace, tranquility, comfort and safety may once again reign supreme. Maybe we ought to hit the reset button and arrive, again, back in the Garden of Eden minus the snake, minus the contact dialogue.

ECCLESIASTICAL COURTS NOW AVAILABLE to resolve your legal issues as recognized and validated by the U.S. Constitution (Free Exercise Clause, Bill of Rights), and federal laws (Public Law 97-280, 96 Stat.1211 which declared the Holy Bible as the Word of God; the Religious Freedom Restoration Act of 2012; the ministerial exception doctrine as enunciated by an unanimous U.S. Supreme Court in January 2012, *Hosanna-Tabor Lutheran Church v. EEOC, et al*).

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WORD IN ACTION MINISTRY ECCLESIASTICAL COURT OF JUSTICE
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JUDGMENT AND ORDER OF THE ECCLESIASTCIAL COURT OF JUSTICE

Carol Lynn McMeel (fka Carol Lynn Engen), Plaintiff, vs. CITY OF BELLEVUE, a municipal corporation; Steve Sarkozy, City Manager, City of Bellevue, an official and an individual; KING COUNTY, a municipal corporation; Dow Constantine, King County Executive, an official and an individual; John Doe 1-100 Defendants.	)	**CLM-6-2012-ECJ** JUDGMENT AND ORDER

FACTS AND BACKGROUND

This case is all about a process server who enters a property to deliver documents with an intruder mentality, and when accosted by the property owner - the plaintiff in the instant case – decides to raise an alarm, and calls

in the entire police department of the City of Bellevue. The police, as usual, decide to use all necessary and unnecessary force to bring the plaintiff woman down as if she is a psychopathic killer. The plaintiff is tazed, and handcuffed, and arrested for being a danger to the community.

The actions of the defendant City of Bellevue is typical of police in any part of our country especially when a firearm is involved. In this case, a firearm was not involved, only the false allegation of the process server that the homeowner threatened to shoot him. The "intruder" process server could very well have knocked on the door or rang the doorbell rather than kick in the door. But process servers like to imitate Navy Seals. They think they are beyond the law because the law allows them the opportunity to serve court documents. The bank intending to serve court documents decides to use an un-uniformed process server instead of an uniformed police officer. The process server is the one who should have been charged and arrested for breaking and entering and filing a false complaint.

The Defendants in this case, the City of Bellevue and the City of Seattle, were served Summonses and Complaints to defend an action initiated by the Plaintiff for violations of her constitutional rights.

Defendants chose to ignore these Summonses and Complaints. They probably entertain the notion that this Court is a powerless one with no enforcement authority and power.

LAW AND ARGUMENT

A misguided belief and a correspondingly miscast trend prevail in this country that Church and State are separate. Checking the Reports on the Continental Debates, and the Resolutions passed in the first Congress leading up to the ratification of the U.S. Constitution of the United States dispel such a misapplied belief that Church and State are separate. They are, instead, like oil and water contained in the same vessel. They cannot coagulate because their properties and characteristics differ, but they exist side by side. Each does not need the other to survive, but they compliment and complement one another because we are simply a Christian nation that presupposes a Supreme Being.

Ecclesiastical courts cannot be ordained and established by the Congress because of the constraints and restraints of the Free Exercise Clause, Bill of

Rights, U.S. Constitution, despite the language of Article 1, section 8, clause 9 of the U.S. Constitution that grants power to Congress to ordain and establish inferior tribunals to the United States Supreme Court.

Ecclesiastical courts are the *sine qua non* of the Church. There are some in this country that believe ecclesiastical courts handle only canon law involving disputes between clergy and the laity, or between clergy as an intra-corporate controversy. Nothing could be further from the truth. The Holy Bible declares in 1 Corinthians 6:1-8 that Christians are prohibited from defending or initiating lawsuits in secular courts. A federal law, PL 97-280, 96 Stat.1211 of 1982, declared that the Bible is the Word of God. I believe that settles the issue that ecclesiastical courts need no legislative or executive orders and edicts to exists and operate.

Plaintiff has asked for total damages amounting to $ 19,620,000.00. She has evidenced pain, suffering, humiliation, depression, odium, contempt, hatred and ridicule from her family, neighbors, friends, and associates as result of the defendants' high-handed and arbitrary actions. Destroying one's reputation and standing in the community is a serious matter. Our law contemplates defamation, libel and slander as veritable causes of action.

The financial institution that wanted Plaintiff evicted from her home failed to furnish the necessary documents to evidence ownership of the Note. Court clerks in our country are readily jump in favor of issuing a non-judicial foreclosure sale proceeding without performing the civilized act of due diligence. When a lender appears in court with a foreclosure request, due process and equal protection of the laws are quickly abandoned and ignored. The sequence of events that unfold is usually traumatic and painful for foreclosure victims which this country has failed to address and redress since the housing bubble burst. Instead more and more laws are created to bring the Wall Street financial juggernauts to heel. They get away with a slap on their wrists while the homeowners face enforceable writs usually to their detriment. Most are unable to hire attorneys. The result is the inexorable loss of their nest eggs.

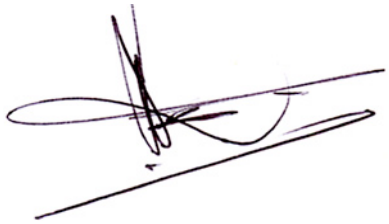
The contempt exhibited by the defendants in not defending the Plaintiff's Motion For Relief tells this Court that the defendants have no regard for the U.S. Constitution and federal laws guaranteeing and protecting religious rights.

Be that as it may, this Court has given latitude by extending time for the defendants to respond. They chose to ignore this Court's Notice.

Under the circumstances, Plaintiff is awarded total damages in the amount of $19,620,000.00; Defendant City of Bellevue is liable to the extent of $8,620,000.00 and Defendant City of Seattle to the extent of $11,000,000.00. There shall be no interest computed to this sum certain as the Bible frowns on usury pursuant to the edicts of Exodus 22:25; Deuteronomy 23:20 and Proverbs 28:8.

Defendants have (30) thirty days from the date of this judgment to satisfy this judgment debt.

SO ORDERED, this 5th day of September, 2012



Judge Navin-Chandra Naidu
Member #160325, American Judges Association