EXHIBIT A

CERTIFIED LAND PATENT
Declaration of Assignees Update of Patent

ENT 52870:2020 PG 1 of 11
JEFFERY SMITH
UTAH COUNTY RECORDER
2020 Apr 22 11:22 am FEE 40.00 BY MA
RECORDED FOR CROMER, PAUL-KENNETH

Assignee's Update of Patent (to bring patent current)
RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO)

Paul & Barbara Cromar)
and Barbara Ann Cromar)
c/o 9870 N. Meadow Drive)
Cedar Hills, Utah [84062])

RECORDER'S USE

DECLARATION OF ASSIGNEES UPDATE OF PATENT

LAND PATENT NUMBER #392

KNOW ALL MEN BY THESE PRESENTS:

THAT Paul-Kenneth. Cromar.
AND Barbara-Ann. Cromar. DO SEVERALLY CERTIFY AND DECLARE THAT We (WE/I) BRING UP THIS LAND PATENT IN our (OUR/MY) NAME(S).

(1) THE CHARACTER OF SAID PROPERTY SO SOUGHT TO BE PATENTED, AND LEGALLY DESCRIBED AND REFERENCED UNDER PATENT NUMBER LISTED ABOVE, WITH TWENTY-ONE DOLLARS SILVER COIN AS DUE CONSIDERATION, IS:

Based on the original United States Land Patent #392 / Homestead Certificate 1136 / Application 1864 of May 20, 1882 as secured by Edward Meredith[see attached BLM 4-10-2020 Certified copy]; from which a part and parcel of the last lawful description of August 29, 1882 / Edward Meredith to Joseph Halliday [Bk S - pg 489], lawfully described as follows:

"This indenture, made the twenty ninth day of August in the year of our Lord One thousand eighteen hundred and eighty two Between Edward Meredith of the County of Utah and Territory of Utah-party of the first part, and Joseph Halliday of the same place the party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of three hundred and fifty (350) dollars lawful money of the United States of America to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and forever quit clamed, and by these presents does remise, release and forever quit-claim unto the

said party of the second part , and to his heirs and assigns forever, all that certain? piece or parcel of land known and described as follows to wit: Beginning at the South East corner of Section six (6) Township five (5) South of Range 2, East Salt Lake City Meridian, Thence North one hundred and sixty rods. Thence West forty rods. Thence South one hundred and sixty rods. Thence East forty rods, to the place of beginning-continuing forty acres. –Together with all and singular the tenements and appurtenances thereunto belonging, or in anywise appertaining and the reversure [?] and reversion [?], remainder[?] and remainders [?], rents [?], issues, and profits thereof: and also all the estate right, title, interest, property, possessum, claim and demand whatever, as well in law [?] as in equity of the said property of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances. To Have and to Hold all in singular and said premises, together with the appurtenances the said party of the second part, and to his heirs and assigns forever. In Witness Whereof, the said party of the first part, has hereunto set his hand and seal the day and year first above written. Signed and sealed. Edward Meredith."

With a lawful 1997 description of the specific part and parcel thereof, as filed within coordinates as:

North boundary:	**S 89'45'59" W (165.061')**
South boundary:	**S 89'59'43" W (149.205')**
West boundary:	**N 00'13'59" W (80.494')**
East boundary:	**N 00'18'49" W (96.094')**

[see Surveyor's Certificate of 5/3/97, containing the above metes and bounds as filed by Victor E. Hansen, filed in Utah County Records office under 97-222 on a survey to "RESET PRPERTY CORNERS FOR LOT 3 NORTH MEADOW ESTATES, PLAT C, AND LOT 32 NORTH MEADOW ESTATES PLAT B, INCLUDING ADDITIONAL PROPERTY NORTH OF LOT 32. THE BASIS OF BEARING IS THE SUBDIVISION SURVEY CONTROL MONUMENTS."]

[AND as Previously referenced in the Utah County land records as: Subdivision Map Filing "Legal description: LOT 3, Plat C, AMENDED NORTH MEADOW EST. SUB. / Serial Number: 47:059:0003 / Serial Life 1981. / Property Address: 9870 MEADOW – CEDAR HILLS / Last documentation: 121145-2008 .]

(2) NOTICE OF PRE-EMPTIVE RIGHT. PURSUANT TO THE DECLARATION OF INDEPENDENCE [1776], THE TREATY OF PEACE WITH GREAT BRITAIN (8 STAT. 80) KNOWN AS THE TREATY OF PARIS [1793, AN ACT OF CONGRESS [3 STAT. 566, APRIL 24,1824], THE OREGON TREATY [9 STAT. 869 , JUNE 15, 1846], THE

HOMESTEAD ACT [12 STAT. 392,1862] AND 43 USC SECTIONS 57, 59, AND 83; THE RECIPIENT HEREOF IS MANDATED BY ART. VI SECTIONS 1, 2, AND 3; ART. IV SECTIONS I CL. 1, &. 2; SECTION 2 CL. 1 8t 2 ; SECTION 4; THE 4TH, 7TH, 9TH, AND 10TH AMENDMENTS [U.S. CONSTITUTION, 1781-91J TO ACKNOWLEDGE ASSIGNEE'S UPDATE OF PATENT PROSECUTED BY AUTHORITY OF ART. III SECTION 2 CL. 1 &2 AND ENFORCED BY ORIGINAL/EXCLUSIVE JURISDICTION THEREUNDER AND IT IS THE ONLY WAY A PERFECT TITLE CAN BE HAD IN OUR NAMES, WILCOX vs. JACKSON, 13 PET. (U.S.) 498, 101. ED. 264; ALL QUESTIONS OF FACT DECIDED BY THE GENERAL LAND OFFICE ARE BINDING EVERYWHERE. AND INJUNCTIONS AND MANDAMUS PROCEEDINGS WILL NOT LIE AGAINST IT, LITCHFIELD vs. THE REGISTER, 9 WALL. (U.S.) 575, 19 L. ED. 681. THIS DOCUMENT IS INSTRUCTED TO BE ATTACHED TO ALL DEEDS AND/OR CONVEYANCES IN THE NAMES) OF THE ABOVE PARTY(IES) AS REQUIRING RECORDING OF THIS DOCUMENT, IN A MANNER KNOWN AS NUNC PRO TUNC {AS IT SHOULD HAVE BEEN DONE IN THE BEGINNING], BY ORDER OF UNITED STATES SUPREME LAW MANDATE AS ENDORSED BY CASE HISTORY CITED.

(3) NOTICE AND EFFECT OF A LAND PATENT. A GRANT OF LAND IS A PUBLIC LAW STANDING ON THE STATUTE BOOKS OF THE UTAH STATE, AND IS NOTICE TO EVERY SUBSEQUENT PURCHASER UNDER ANY CONFLICTING SALE MADE AFTERWARD; WINEMAN vs. GASTRELL, 54 FED 819, 4 CCA 596, 2 US APP 581. A PATENT ALONE PASSES TITLE TO THE GRANTEE; WILCOX vs. JACKSON, 13 PET (U.S.) 498, 10. L. ED. 264. WHEN THE UNITED STATES HAS PARTED WITH TITLE BY A PATENT LEGALLY ISSUED, AND UPON SURVEYS LEGALLY MADE BY ITSELF AND APPROVED BY THE PROPER DEPARTMENT, THE TITLE SO GRANTED CANNOT BE IMPAIRED BY ANY SUBSEQUENT SURVEY MADE BY THE GOVERNMENT FOR ITS OWN PURPOSES; CAGE vs. DANKS, 13, LA.ANN. 128. IN THE CASE OF EJECTMENT, WHERE THE QUESTION IS WHO HAS THE LEGAL TITLE. TILE PATENT OF THE GOVERNMENT IS UNASSAILABLE, SANFORD vs. SANFORD, 139 US 642. THE TRANSFER OF LEGAL TITLE (PATENT) TO PUBLIC DOMAIN GIVES THE TRANSFEREE THE RIGHT TO POSSESS AND ENJOY THE LAND TRANSFERRED, GIBSON vs. CHOUTEAU, 80 US 92. A PATENT FOR LAND IS THE HIGHEST EVIDENCE OF TITLE AND IS CONCLUSIVE AS EVIDENCE AGAINST THE GOVERNMENT AND ALL CLAIMING UNDER JUNIOR PATENTS OR TITLES, UNITED STATES vs. STONE, 2 US 525. ESTOPPEL HAS BEEN MAINTAINED AS AGAINST A MUNICIPAL CORPORATION (COUNTY). BEADLE vs. SMYSER, 209 US 393. UNTIL IT ISSUES, THE FEE IS IN THE GOVERNMENT, WHICH BY THE PATENT PASSES TO THE GRANTEE, AND HE IS ENTITLED TO ENFORCE POSSESSION IN EJECTMENT, BAGNELL vs. BRODERICK, 13 PETER (US) 436. STATE STATUTES THAT GIVE LESSER AUTHORITATIVE OWNERSHIP OF TITLE THAN THE PATENT CAN NOT EVEN BE BROUGHT INTO FEDERAL COURT, LANGDON vs. SHERWOOD, 124 U.S. 74, 80. THE POWER OF CONGRESS TO DISPOSE OF ITS LAND CANNOT BE INTERED WITH, OR ITS EXERCISE EMBARRASSED BY ANY STATE LEGISLATION; NOR CAN SUCH LEGISLATION DEPRIVE THE GRANTEES OF THE UNITED STATES OF THE POSSESSION AND ENJOYMENT OF THE PROPERTY GRANTED BY REASON OF ANY DELAY IN THE TRANSFER OF THE TITLE AFTER THE INITIATION OF

PROCEEDINGS FOR ITS ACQUISITION. [GIBSON vs. CHOUTEAU.13 WAL. (U.S.) 92, 93.

(4) LAND TITLE AND TRANSFER THE EXISTING SYSTEM OF LAND TRANSFER IS A LONG AND TEDIOUS PROCESS INVOLVING THE OBSERVANCE OF MANY FORMALITIES AND TECHNICALITIES, A FAILURE TO OBSERVE ANY ONE OF WHICH MAY DEFEAT THE TITLE. EVEN WHERE THESE HAVE BEEN MOST CAREFULLY COMPLIED WITH. AND WHERE THE TITLE HAS BEEN TRACED TO ITS SOURCE, THE PURCHASER MUST BE AT HIS PERIL, THERE ALWAYS BEING IN SPITE OF THE UTMOST CARE AND EXPENDITURE- THE POSSIBILITY THAT HIS TITLE MAY TURN OUT BAD: YEAKLE, TORRENCE SYSTEM. 209. PATENTS ARE ISSUED (AND THEORETICALLY PASSED) BETWEEN SOVEREIGNS LEADING FIGHTER vs COUNTY OF GREGORY, 230 N. W.2d 114, 116.

THE PATENT IS PRIMA FACIE CONCLUSIVE EVIDENCE OF TITLE, MARSH vs BROOKS, 49 U.S. 223,233.

AN ESTATE IN INHERITANCE WITHOUT CONDITION. BELONGING TO THE OWNER AND ALIENABLE BY HIM, TRANSMISSIBLE TO HIS HEIRS ABSOLUTELY AND SIMPLY, IS AN ABSOLUTE ESTATE IN PERPETUITY AND THE LARGEST POSSIBLE ESTATE A MAN CAN HAVE. BEING IN FACT ALLODIAL IN ITS NATURE, STANTON vs SULLIVAN, 63 R.I. 216 7 A. 696. THE ORIGINAL MEANING OF A PERPETUITY IS AN INALIENABLE, INDESTRUCTIBLE INTEREST. BOUVIER'S LAW DICTIONARY, VOLUME III P. 2570, (1914).

IF THIS LAND PATENT IS NOT CHALLENGED, AS STATED ABOVE, WITHIN 60 DAYS IT THEN BECOMES OUR/MY PROPERTY, AS NO ONE ELSE HAS FOLLOWED THE PROPER STEPS TO GET LEGAL TITLE, THE FINAL CERTIFICATE OR RECEIPT ACKNOWLEDGING THE PAYMENT IN FULL BY A HOMESTEADER OR PREEMPTOR IS NOT LEGAL EFFECT A CONVEYANCE OF LAND. U.S. vs STEENERSON. 50 FED 504,1 CCA 552,4 U.S. APP. 332.

A LAND PATENT IS A CONCLUSIVE EVIDENCE THAT THE PATENT HAS COMPLIED WITH THE ACT OF CONGRESS AS CONCERNS IMPROVEMENTS ON THE LAND, ETC JANKINS vs GIBSON, 3 LA ANN 203.

(5) LAW ON RIGHTS, PRIVILEGES, AND IMMUNITIES; TRANSFER BY PATENTEE ....."TITLE AND RIGHTS OF BONA FIDE PURCHASER FROM PATENTEE.....WILL BE PROTECTED". UNITED STATES vs DEBELL, 227 F 760 (C8 SD 1915), UNITED STATES vs. BEAMON, 242 F 876, (CA8 COLO. 1917): STATE vs HEWITT LAND CO., 74 WASH 573, 134 P 474. FROM 43 USC & 15 n 44. AS AN ASSIGNEE, WHETHER HE BE THE FIRST, SECOND OR THIRD PARTY TO WHOM TITLE IS CONVEYED SHALL LOSE NONE OF THE ORIGINAL RIGHTS, PRIVILEGES OR IMMUNITIES OF THE ORIGINAL GRANTEE OF LAND PATENT. "NO STATE SHALL IMPAIR THE OBLIGATIONS OF CONTRACTS". UNTIED STATES CONSTITUTION ARTICLE I SECTION 10.

(6) EQUAL RIGHTS: PRIVILEGES AND IMMUNITIES ARE FURTHER PROTECTED UNDER THE I4TH AMENDMENT TO THE U.S. CONSTITUTION, " NO STATE.... SHALL DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS".

IN CASES OF EJECTMENT, WHERE THE QUESTION IS WHO HAS THE LEGAL TITLE THE PATENT OF THE GOVERNMENT IS UNASSAILABLE. SANFORD vs. SANFORD, 139 U.S. 642, 35 L ED 290 IN FEDERAL COURTS THE PATENT IS HELD TO BE THE FOUNDATION OF TITLE AT LAW. FENN vs. HOLMES, 21 HOWARD 481.

IMMUNITY FROM COLLATERAL ATTACK: COLLINS vs. BARTLETT, 44 CAL 371; WEBER vs. PERE MARQUETTE BOOM CO.,62 MICH 626, 30 N. W. 469; SURGET vs. DOE, 24 MISS 118; PITTSMONT COPPER CO. vs. VANINA, 71 MONT. 44, 227 PAC 45; GREEN vs. BARKER 47 NEB 934 66 NW 1032

(7) DISCLAIMER; ASSIGNEE'S SEIZEN IN DEED, AND LAWFUL ENTRY IS INCLUSIVE OF SPECIFICALLY THAT A CERTAIN LAWFULLY DESCRIBED PART AND PARCEL PORTION OF THE ORIGINAL LAND GRANT OR PATENT NO. **#392** AND NOT THE WHOLE THEREOF, INCLUDING HEREDITAMENT, TEMEMENTS, PRE-EMPTION RIGHTS APPURTENANT THERETO. THE RECORDING OF THIS INSTRUMENT SHALL NOT BE CONSTRUED TO DENY OR INFRINGE UPON ANY OTHERS RIGHT TO CLAIM THE REMAINING PORTION THEREOF. ANY CHALLENGES TO THE VALIDITY OF THIS DECLARATION & NOTICE ARE SUBJECT TO THE LIMITATIONS REFERENCED HEREIN. ADDITIONALLY; A COMMON COURTESY OF SIXTY (60) DAYS IS STIPULATED FOR ANY CHALLENGES HEERETO. OTHERWISE. LACHES/ESTOPPEL SHALL FOREVER BAR THE SAME AGAINST ALLODIAL FREEHOLD ESTATE; ASSESSMENT LIEN THEORY TO THE CONTRARY (ORS 275.130), INCLUDED.

THE FOLLOWING DOCUMENTS ARE ATTACHED TO THIS DECLARATION, CERTIFIED COPY OF ORIGINAL LAND GRANT OR PATENT, DECLARATION OF HOMESTEAD CERTIFICATE **1136** / APPLICATION **1864**, LAWFUL DESCRIPTION OF A PART AND PARCEL OF SAID GRANTOR PATENT.

x by: Paul-Kenneth: Cromar .

x by: Barbara-Ann: Cromar .

ASSIGNEE(S)

ACKNOWLEDGMENT

[CONTINUED...]

NOTARY WITNESS

Utah State)

Utah County)

On 22nd April, 2020 before me, K. Usher personally appeared Paul Kenneth Cromar and Barbara Ann Cromar personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his and her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

K. USHER
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

Signature of Notary

When Recorded, Return To:

Paul Kenneth: Cromar
and Barbara Ann Cromar
c/o 9870 N. Meadow Drive
Cedar Hills, Utah [84062]

United States of America
Territory of Utah } S.S.
County of Utah }

On this twenty ninth day of August A.D. One thousand eight hundred and eighty two personally appeared before me Elijah Maughan a Notary Public in and for said County Edward Meredith whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the same person described in, and who executed the said annexed instrument as a party thereto, and duly acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned. In Witness Whereof, I have hereunto set my hand and affixed my official seal, at my office in said County the day and year in this certificate first above written.

Seal

Elijah Maughan
Notary Public

(4-405)

The United States of America,

To all to whom these presents shall come, Greeting: Whereas, There has been deposited in the General Land Office of the United States a certificate of the Register of the Land Office at Salt Lake City, Utah Territory whereby it appears, that pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John F. Bellows has been established and duly consummated, in conformity to law, for the South East quarter of Section eight in Township eight South of Range Two East of Salt Lake Meridian, in Utah Territory containing One hundred and twenty Acres, according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General.

Homestead Certificate No. 2630
Application 4292

Now Know Ye, That there is therefore, granted by the United States unto the said John F. Bellows the tract of Land above described: To have and to Hold the said tract of land, with the appurtenances thereof, unto the said John F. Bellows and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. In Testimony Whereof, I, Chester A. Arthur, President of the United States of America, have caused these Letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed. Given under my hand, at the City of Washington, the seventh day of January, in the year of our Lord One thousand eight hundred and eighty four, and of the Independence of the United States the one hundred and eighth

By the President

Seal

Chester A. Arthur
By M. McKean Secretary

S. H. Clark, Recorder of the General Land Office

Recorded Vol. 4, page 7

BK S
Pg 489

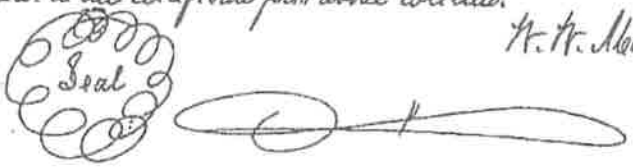
Whereof I have hereunto set my hand at my office in Goshen Precinct, Utah County Territory of Utah the day and year in this certificate first above written

Elezero Edwards
Justice of the Peace for Goshen Precinct Utah County

United States of America
Territory of Utah } S.S.
County of Cache } On this 3rd the day of April A.D. One thousand eight hundred and eighty four, personally appeared before me W. W. Maughn a Notary Public in and for said County William Higginson proven to me by the oath of James Henderson, a competent witness by me duly sworn for that purpose to be the same person described in and who executed the said annexed instrument as a party thereto and the said William Higginson duly acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned. In Witness whereof I have hereunto set my hand and affixed my Official Seal at my office in Logan City Utah the day and year in this certificate first above written.

W. W. Maughn
Notary Public

Seal



This Indenture, Made the twenty ninth day of August in the year of our Lord one thousand eight hundred and eighty two Between Edward Meredith of the County Utah and Territory of Utah. party of the first part; and Joseph Halliday of the same place the party of the second part. Witnesseth. That the said party of the first part, for and in consideration of the sum of three hundred and fifty (350) Dollars lawful money of the United States of America to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and forever quit claimed, and by these presents does remise, release and forever quit-claim unto the said party of the second part, and to his heirs and assigns forever, all that certain piece or parcel of land herein and described as follows to Wit: Beginning at the South East corner of Section Six (6) Township four (5) South of Range 2. East Salt Lake City Meridian. Thence North One hundred and sixty rods. Thence West forty rods. Thence South One hundred and sixty rods. Thence East forty rods, to the place of beginning. Containing Forty Acres. Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate right, title interest, property, possession, claim and demand whatsoever, as well as law as in equity of the said party of the first part of, in or to the said premises, and every part and parcel thereof, with the appurtenances. To have and to Hold all and singular the said premises, together with all the appurtenances the said party of the second part, and to his heirs, and assigns forever. In Witness Whereof, the said party of the first part, has hereunto set his hand and seal the day and year first above written.

Signed Sealed and delivered in the presence of
E. Magleen
Mamie P. Anderson

Edward Meredith (Seal)

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The United States of America,

To all to whom these Presents shall come, Greeting:

Homestead Certificate No. 453

Application 586

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Salt Lake City, Utah Territory, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Edward Meredith has been established and duly consummated, in conformity to law, for the South east quarter of section twenty six in Township One South of range two east of Salt Lake Meridian in Utah Territory containing One hundred and sixty acres

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor-General.

Now know ye that there is, therefore, granted by the United States unto the said Edward Meredith the tract of Land above described: **To have and to hold** the said tract of Land, with the appurtenances thereof, unto the said Edward Meredith and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, I, Grover Cleveland, PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

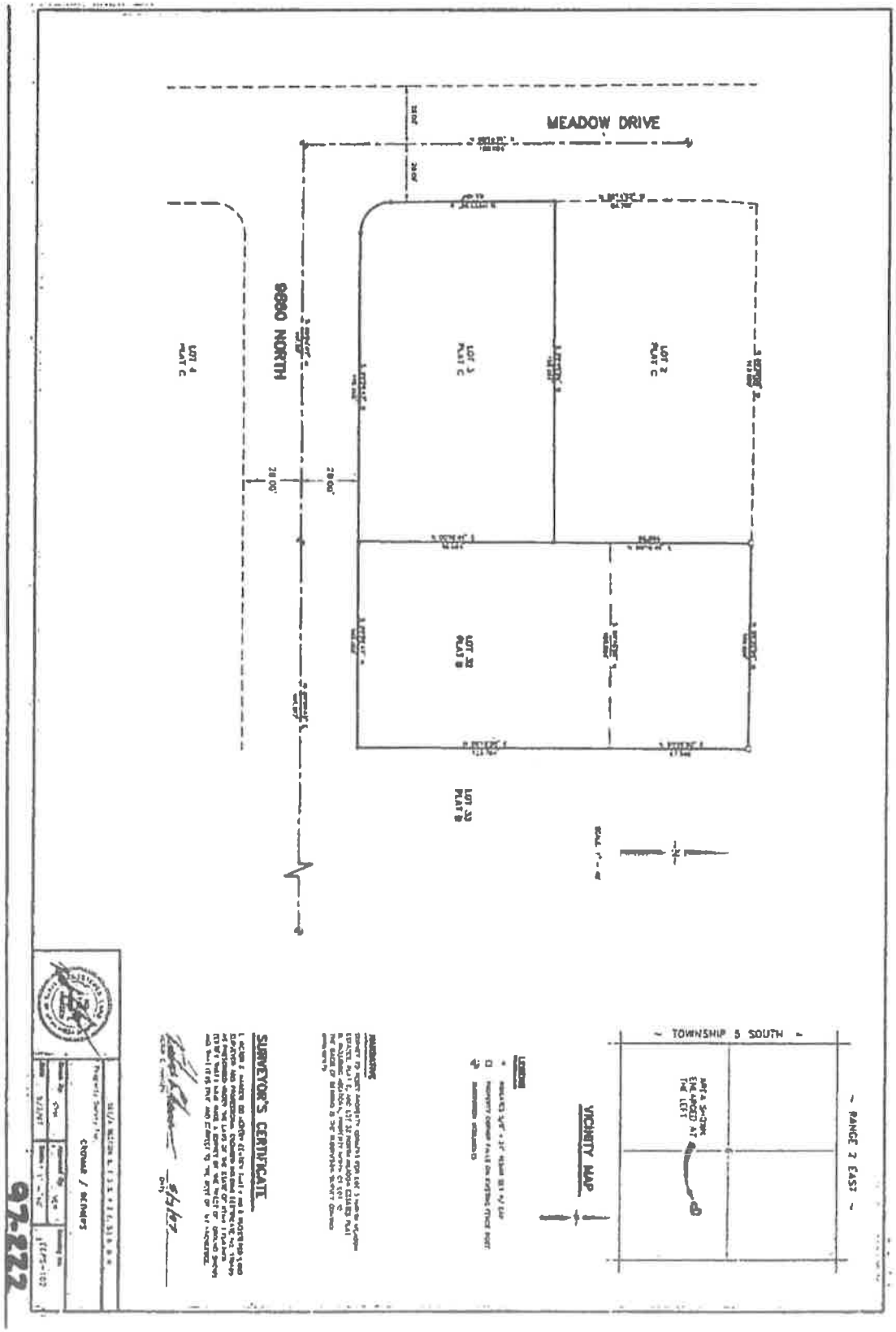
Given under my hand, at the City of Washington, the twenty sixth day of February, in the year of our Lord one thousand eight hundred and eighty seven and of the Independence of the United States the one hundred and eleventh

L.S.

By the President: Grover Cleveland

By M McLean, Secretary.

Robt M Russ, Recorder of the General Land Office.

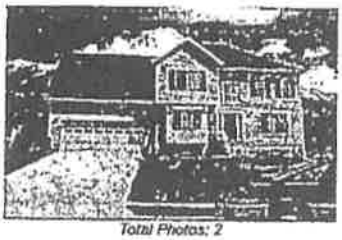

MEADOW DRIVE
9880 NORTH
LOT 4 PLAT C
LOT 3 PLAT C
LOT 2 PLAT C
LOT 1 PLAT B
LOT 2 PLAT B
VICINITY MAP
TOWNSHIP 5 SOUTH
RANGE 2 EAST
SURVEYOR'S CERTIFICATE
92222

Utah County
HEART of UTAH

PROPERTY INFORMATION

mobile view

Serial Number: 47:059:0003 **Serial Life:** 1981...


Total Photos: 2

Property Address: 9870 MEADOW - CEDAR HILLS
Mailing Address: 886 E 490 N LINDON, UT 84042-1595
Acreage: 0.36
Last Document: 121145-2008
Subdivision Map Filing
Legal Description: LOT 3, PLAT C, AMEMDED NORTH MEADOW EST. SUB.

Owner Names | Value History | Tax History | Location | Photos | Documents | Aerial Image

2009...	CROMAR, BARBARA ANN
2009...	CROMAR, PAUL KENNETH
2000-2008	STRATEGY HOLDINGS
2000-2008	WHITE, LANNY
1999	STRATEGY HOLDINGS
1999	WHITE, LANNY
1996-1998	ARAN ISLANDS HOLDINGS
1992-1995	CROMAR, BARBARA A
1992-1995	CROMAR, KEN
1992NV	TAYLOR HOMES
1988-1991	NORTH MEADOW INCORPORATED
1984-1987	NORTH MEADOW INCORPORATED
1981-1983	NORTH MEADOW INC

Abstract

Main Menu

Comments or Concerns on Value/Appraisal - Assessor's Office
Documents/Owner/Parcel Information - Recorder's Office
Address Change for Tax Notice

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This page was created on 4/17/2020 4:58:50 PM

STATE OF UTAH
COUNTY OF UTAH
I THE UNDERSIGNED RECORDER OF UTAH COUNTY UTAH DO HEREBY CERTIFY THAT THE AMENDED AND FOREGOING IS A TRUE COPY OF THE ORIGINAL RECORDED DOCUMENT IN THE OFFICE RECORD IN MY OFFICE AS THE SAME APPEARS IN
ENTRY 52870-2020 PAGES 11
BOOK _____ AT PAGE _____
WITNESS MY HAND AND SEAL OF SAID OFFICE THIS 7th
DAY OF April 20 21
ANDREA ALLEN RECORDER
_____ DEPUTY

EXHIBIT B

MEMORANDUM OF LAW - History, Force & Effect of the Land Patent

MEMORANDUM OF LAW

HISTORY, FORCE & EFFECT OF THE LAND PATENT

By Ron Gibson / Constitutional Lawyer / Medford, Oregon

SECTION I

ALLODIAL v. FEUDAL TITLES

This memorandum will be construed to comply with provisions necessary to establish presumed fact (Rule 301, Federal Rules of Evidence, and attending State rules) should interested parties fail to rebut any given allegation or matter of law addressed herein. The position will be construed as adequate to meet requirements of judicial notice, thus preserving fundamental law. Matters addressed herein, if not rebutted, will be construed to have general application.

In America today, there is a phenomenon occurring that has not been experienced since the mid-1930's. That phenomenon is increasingly, rising number of foreclosures, both in the rural sector and in the cities. This phenomenon is occurring because of the inability of the debtor to pay the creditor the necessary interest and principle on a rising debt load that is expanding across the country. As a defense, the land patent or fee simple title to the land and the congressional intent that accompanies the patent is hereby being presented. In order to properly evaluate the patent, in any given situation, it is necessary to understand what a patent is, why it was created, what existed before the patent, particularly in common-law England. These questions must be answered in order to effectively understand the association between the government, the land, and the people.

First, what existed before land patents? Since it is imperative to understand what the land patent is and why it was created, the best method is a study of the converse, or the common-law English land titles.

This method thus allows us to fully understand what we are presently supposed to have by way of actual ownership of land.

In England, at least until the mid-1600's, and arguably until William Blackstone's time in the mid-1700's, property was exclusively owned by the King. In arbitrary governments; the title is held by and springs from the supreme head, be he the emperor, king, potentate; or by whatever name he is known. McConnell v. Wilcox, I Seam (111.) 344, 367 (1837) The king was the true and complete owner, giving him the authority to take and grant the land from the people in his kingdom who either lost or gained his favor. The authority to take the land may have required a

justifiable reason, but the king, leaving the disseised former holder of the land wondering what it was that had brought the King's wrath to bear upon him could conceivably have fabricated such a reason. At the same time the beneficiary of such a gift, while undoubtedly knowing the circumstances behind such a gift, may still not have known how the facts were discovered and not knowing how such facts occurred, may have been left to wonder if the same fate awaited him if ever he fell into disfavor with the king.

The King's gifts were called fiefs, a fief being the same as a feud, which is described as an estate in land held of a superior on condition of rendering him services. {2 Blackstone's Commentaries, p. 105.} It is also described as an inheritable right to the use and occupation of lands, held on condition of rendering services to the lord or proprietor, who himself retains the ownership in the lands, {Black's Law Dictionary, 4th Edition p. 748 (1968).} Thus, the people had land they occupied, devised, inherited, alienated, or disposed of as they saw fit, so long as they remained in favor with the King. {F. L. Ganshof, Feudalism, p. 113 (1964)}. "This holding of lands under another was called a tenure, and was not limited to the relation of the first or paramount lord and vassal. It extended to those to whom such vassal, within the rules of feudal law, may have parted out his own feud to his own vassals, whereby he became the mesne lord between his vassals and his own or lord paramount. Those who held directly to the king were called his "tenants in ... chief. " {I E. Washburn, Treatise on the American Law of Real Property, Ch. 11, Section 58, P. 42 (6th Ed. 1902).} In this manner, the lands, which had been granted to the barons principal lands were again subdivided, and granted by them to sub-feudatories to be held of themselves.

{Id., Section 65, p.44.} The size of the gift of the land could vary from a few acres to thousands of acres depending on the power and prestige of the lord. {See supra Ganshof at 113.} The fiefs were built in the same manner as a pyramid, with the King, the true owner of the land, being at the top, and from the bottom up there existed a system of small to medium sized to large to large sized estates on which the persons directly beneath one estate owed homage to the lord of that estate as well as to the King. {Id. At 114}

At the lowest level of this pyramid through at least the 14th and 15th centuries existed to serfs or villains, the class of people that had no rights and were recognized as nothing more than real property.

{F. Goodwin, Treatise on The Law of Real Property, Ch. 1, p. 10 (1905)} This system of hierarchical land holdings required an elaborate system of payment. These fiefs to the land might be recompenses in any number of ways.

One of the more common types of fiefs, or the payment of a rent or obligation to perform rural labor upon the lord's lands known as socage, was the crops field. {Id. at 8} Under this type of fief a certain portion of the grain harvested each year would immediately be turned over to the lord above that particular fief even before the shares from the lower lords and then serfs of the fief would be distributed.

A more interesting type of fief for purposes of this memorandum was the money fief. In most cases, the source of money was not specified, and the payment was simply made from the fief holder's treasury, but the fief might also consist of a fixed revenue to be paid from a definite

source in annual payments in order for the tenant owner of the fief to be able to remain on the property. {Gilsebert of Mons, Chronique, cc. 69 and 1 15, pp. 109, 175 ed. Vanderkindere)}

The title held by such tenant-owners over their land was described as a fee simple absolute. "Fee simple, Fee commeth of the French fief, i.e., praedium beneficiarium, and legally signifieth inheritance as our author himself hereafter expoundeth it and simple is added, for that it is descendible to his heirs generally, that is, simply, without restraint to the heirs of his body, or the like, *Feodum est quod quis tenet ex quacunque causa sive sit tenementum sive redditus*, etc. In Domesday it is called feudom."

{Littleton, Tenures, Sec. Ib, Fee Simple} In Section 11,fee simple is described as the largest form of inheritance. Id. In modern English tenures, the term fee signifies an inheritable estate, being the highest and most extensive interest the common man or noble, other than the King, could have in the feudal system. {2 Blackstone's Commentaries, p. 106}

Thus, the term fee simple absolute in common-law England denotes the most and best title a person could have as long as the King allowed him to retain possession of (own) the land. It has been commented that the basis of English land law is the ownership of all reality by the sovereign. From the crown, all titles flow. The original and true meaning of the word "fee" and therefore fee simple absolute is the same as fief or feud, this being in contradiction to the term "allodium" which means or is defined as a man's own land, which he possesses merely in his own right, without owing any rent or service to any superior. **Wendell v Crandall, 1 N. Y. 491 (1848)** Therefore on common-law England practically everybody who was allowed to retain land, had the type of fee simple absolute often used or defined by courts, a fee simple that grants or gives the occupier as much of a title as the "sovereign" allows such occupier to have at that time.

The term became a synonym with the supposed ownership of land under the feudal system of England at common law. Thus, even though the word absolute was attached to the fee simple, it merely denoted the entire estate that could be assigned or passed to heirs, and the fee being the operative word; fee simple absolute dealt with the entire fief and its divisibility, alienability and inheritability. **Friedman v Steiner, 107 Ill. 131 (1883)**. If a fee simple absolute in common-law England denoted or was synonymous with only as much title as the King allowed his barons to possess, then what did the King have by way of a title?

The King of England held ownership of land under a different title and with far greater powers than any of his subjects. Though the people of England held fee simple titles to their land, the King actually owned all the land in England through his allodial title, and though all the land was in the feudal system, none of the fee simple titles were of equal weight and dignity with the King's title, the land always remaining allodial in favor of the King. {Gilsbert of Mons, Chronique, Ch. 43, p. 75 (ed. Vanderkindere)}

Thus, it is relatively easy to deduce that allodial lands and titles are the highest form of lands and titles known to Common-Law. An estate of inheritance without condition, belonging to the owner, and alienable by him, transmissible to his heirs absolutely and simply, is an absolute estate in perpetuity and the largest possible estate a man can have, being in fact allodial in its

nature. **Stanton v Sullivan, 63 R.I. 216, 7 A. 696 (1839)** "The original meaning of a perpetuity is an inalienable, indestructible interest." Bovier's Law Dictionary, Volume 111, p. 2570 (1914)

The King had such a title in land. As such, during the classical feudalistic period of common-law England, the King answered to no one concerning the land. Allodial titles, being held by sovereigns, and being full and complete titles, allowed the King of England to own and control the entire country in the form of one large estate belonging to the Crown. Allodial estates owned by individuals exercising full and complete ownership, on the other hand, existed only to a limited extent in the County of Kent.

In summary of Common-Law England: the King was the only person (sovereign) to hold complete and full title to a land (allodial title); (2) the people who maintained estates of land, (either called manors or fiefs) held title by fee simple absolute; (3) this fee simple absolute provided the means by which the "supposed owner could devise, alienate, or pass by inheritance the estates of land (manors or fiefs); (4) this fee simple absolute in feudal England, being not the full title, did not protect the "owner" if the King found disfavor with the "owner", (5) the "owner" therefore had to pay a type of homage to the King or a higher baron each year to discharge the obligation of his fief, (6) this homage of his fief could take the form of a revenue or tax, an amount of grain, or a set and permanent amount of money, (7) and therefore as long as the "owner" of the fief in fee simple absolute paid homage to the king or sovereign, who held the entire country under an allodial title, then the "owner" could remain on the property with full rights to sell, devise or pass it by inheritance as if the property was really his.

SECTION II

LAND OWNERSHIP IN AMERICA TODAY
THE AMERICAN FEUDALISTIC SOCIETY

The private ownership of land in America is one of those rights people have proclaimed to be fundamental and essential in maintaining this republic. The necessary question in discussing this topic however is whether ownership of land in America today really is a true and complete ownership of land under an allodial concept, or is it something much different. In other words, are we living in an actual allodial freehold or are we living in an updated version of feudalistic Common Law.

The answer is crucial in determining what rights we have in the protection of our reality against improper seizures and encumbrances by our government and creditors. The answer appears to be extremely clear upon proper reflection of our rights when payments are missed on mortgages, or taxes, for whatever reason, are not paid. If mortgage payments are missed or taxes are not paid, we actually fall into disfavor with the parties who have the power, and these powers, through court proceedings or otherwise, take our land as a penalty. When one understands, when he is unable to perform as the government or his creditors request, and for such failures of performance his land can be forfeited, then he can begin to understand exactly what type of land-

ownership system controls his life, and he should recognize the inherent unjustness of such constitutional violations.

The American-based system of land ownership today consists of three key requirements. These three are the warranty deed or some other type of deed purporting to convey ownership of land, title abstracts to chronologically follow the development of these different types of deeds to a piece of property, and title insurance to protect the ownership of that land. These three ingredients must work together to ensure a systematic and orderly conveyance of a piece of property; none of these three by itself can act to completely convey possession of the land from one person to another. At least two of the three are always deemed necessary to adequately satisfy the legal system and real estate agents that the titles to the property had been placed in the hands of the purchaser. Often-times, all three are necessary to properly pass the ownership of the land to the purchaser. Yet does the absolute title and therefore the ownership of the land really pass from the seller to purchaser with the use of any one of these three instruments or in any combination thereof? None of the three by itself passes the absolute or allodial title to the land, the system of land ownership America originally operated under, and even combined all three cannot convey this absolute type of ownership.

What then is the function of these three instruments that are used in land-conveyances and what type of title the three conveys? Since the abstract only traces the title and the title insurance only insures the title, the most important and therefore first group examined are the deeds that purportedly convey the fee from seller to purchaser. These deeds include the ones as follows: warranty deed, quit claim deed, sheriffs deed, trustee's deed, judicial deed, tax deed, wig or any other instrument that purportedly conveys the title. All of these documents state that it conveys the ownership to the land. Each of these, however, is actually a color of title.

(G. Thompson, Title to Real Property, Preparation and Examination of Abstracts, Ch. 3, Section 73, p.93 (1919)

A color of title is that which in appearance is title, but which in reality is not title**. Wright v. Mattison, 18 How. (U.S.) 50 (1855)** In fact, any instrument may constitute color of title when it purports to convey the title of the land, as well the land itself, although it is void as a muniment of title. **Joplin Brewing Co. v. Payne, 197 No. 422, 94 S.W. 896 (1906)**

The Supreme Court of Missouri has stated, "¼that [when we say a person has a color of title, whatever may be the meaning of the phrase, we express the idea, at least, that some act has been previously done... by which some title, good or bad, to a parcel of land of definite extent had been conveyed to him." **St. Louis v. German, 29 Mo. 593 (1860)** In other words, a color of title is an appearance or apparent title, and "image' of the true title, hence the phrase 'color of" which, when coupled with possession purports to convey the ownership of the land to the purchaser. This however does not say that the color of title is the actual and true title itself nor does it say that the color of title itself actually conveys ownership. In fact, the claimant or holder of a color of title is not even required to trace the title through the chain down to his instrument. **Rawson v. Fox, 65 111. 200 (1872)**

Rather it may be said that a color of title is prima facie evidence of ownership of and rights to possession of land until such time as that presumption of ownership is disproved by a better title or the actual title itself. If such cannot he proven to the contrary, then ownership of the land is assumed to have passed to occupier of the land. To further strengthen a color title-holder's position, courts have held that the good faith of the holder to a color of title is presumed in the absence of evidence to the contrary. **David v. Hall, 92 R. 1. 85 (1879)**; see also **Morrison v. Norman, 47 Ill. 477 (1868)**; and **McConnell v. Street, 17 Ill. 253 (1855)** With such knowledge of what a color of title is, it is interesting what constitutes colors of title. A warranty deed is like any other deed of conveyance.

Mahrenholz v. County Board of School Trustees of Lawrence County, et. al., 93 Ill. app. 3d 366 (1981) A warranty deed or deed of conveyance is a color of title, as stated in **Dempsey v. Bums, 281 Ill. 644, 650 (1917)** (Deeds constitute colors of title); see also **Dryden v. Newman, 116 Ill. 186 (1886)** (A deed that purports to convey interest in the land is a color of title) **Hinckley v. Green 52 Ill. 223 (1869)** (A deed which, on its face, purports to convey a title, constitutes a claim and color of title); **Busch v. Huston, 75 Ill. 343 (1874); Chicking v. Failes, 26 Ill. 508 (1861)** A quit claim deed is a color of title as stated in **Safford v. Stubbs, 1 17 Ill. 389 [1886);** see also **Hooway v. Clark, 27 Ill. 483 (1861)** and **McCellan v. Kellogg, 17 Ill. 498 (1855)** Quit claim deeds can pass the title as effectively as a warrant with full covenants. **Grant v. Bennett, 96 Ill. 513, 525 (1880)** See also **Morgan v. Clayton, 61 Ill. 35 (1871); Brady v. Spurck, 27 Ill. 478 (1861)**; **Butterfield v. Smith, Ill. 11 1. 485 (1849)** Sheriffs deeds also are colors of title. **Kendrick v. Latham, 25 Fla. 819 (1889)**; as is a judicial deed, **Huls v. Buntin, 47 Ill. 396 (1865)**. The Illinois Supreme Court went into detail in its determination that a tax deed is only color of title. There the complainant seem to have relied upon the tax deed as conveying to him the fee, and to sustain such a bill, it was incumbent of him to show that all the requirements of the law had been complied with."

A simple tax deed by itself is only a color of title. Fee simple can only be acquired though adverse possession via payment of taxes; claim and color of title, plus seven years of payment of taxes. Thus any tax deed purports, on its face, to convey title is a good color of title. **Walker v. Converse, 148 Ill. 622, 629 (1894)**; see also **Peadro v. Carriker, 168 Ill. 570 (1897); Chicago v. Middlebrooke, 143 Ill. 265 (1892)**; **Piatt County v. Gooden, 97 Ill. 84 (1880); Stubblefield v. Borders, 92 Ill. 570 (1897)**; **Coleman v. Billings, 89 Ill. 183 (1878); Whitney v. Stevens, 89 Ill. 53 (1878)**; **Holloway v. Clarke, 27 Ill. 483 (1861),** color of title. **Baldwin v. Ratcliff, 125 Ill. 376 (1888)**; **Bradley v. Rees, 113 Ill. 327 (1885)** (A wig can pass only so much as the testator owns, though it may attempt to pass more). A trustee's deed, a mortgages and strict foreclosure, **Chickering v. Failes, 26 Ill. 508, 519 (1861),** or any document defining the extent of a disseisor's claim or purported claim, **Cook v. Norton, 43 Ill. 391 (1867),** all have been held to be colors of title. In fact, If there is nothing here requiring a deed, to establish a color of title, and under the former decisions of this court, color or title may exist without a deed." **Baldwin v. Ratcliff, 125 Ill. 376, 383 (1882); County of Piatt v. Goodell, 97 Ill. 84 (1880); Smith v. Ferguson, 91 Ill. 304 (1878); Hassett v. Ridgely, 49 Ill. 197 (1868); Brooks v. Bruyn, 35 Ill. 392 (1864); McCagg v. Heacock, 34 Ill. 476 (1864); Bride v. Watt, 23 Ill. 507 (1860);** and **Woodward v. Blanchard, 16 Ill. 424 (1855)** All of these cases being still valid and none being overruled, in effect, the statements in these cases are well established law. All of the documents

described in these cases are the main avenues of claimed land ownership in America today, yet none actually conveys the true and allodial title. They in fact convey something quite different.

When it is stated that a color of title conveys only an appearance of or apparent title, such a statement is correct but perhaps too vague to be properly understood in its correct legal context.

What are useful are the more pragmatic statements concerning titles. A title or color of title, in order to be effective in transferring the ownership or purported ownership of the land, must be a marketable or merchantable title. A marketable or merchantable title is one that is reasonably free from doubt. **Austin v. Bamum, 52 Minn. 136 (1892)**. This title must be as reasonably free from doubts as necessary to not affect the marketability or salability of the property, and must be a title a reasonably prudent person would be willing to accept. **Robert v. McFadden, 32 Tex-Civ.App. 471 74 S.W. 105 (1903)**. Such a title is often described as one, which would ensure to the purchaser a peaceful enjoyment of the property, **Barnard v. Brown, 112 Mich. 452, 70 N.W. 1038 (1897)**, and it is stated that such a title must be obvious, evident, apparent, certain, sure or indubitable. **Ormsby v. Graham, 123 La. 202, 98 N.W. 724 (1904)**. Marketable Title Acts, which have been adopted in several of the states, generally do not lend themselves to an interpretation that they might operate to provide a new foundation of title based upon a stray, accidental, or interloping conveyance. Their object is to provide, for the recorded fee simple ownership, an exemption from the burdens of old conditions which at each transfer of the property interferes with its marketability. **Wichelman v. Messner, 83 N.W. 2d 800 (1957)** What each of these legal statements in the various factual situations says is that the color of title is never described as the absolute or actual title, rather each says that it is one of the types of titles necessary to convey ownership or apparent ownership.

A marketable title, what a color of title must be in order to be effective, must be a title which is good of recent record, even if it may not be the actual title in fact. **Close v. Stuyvesant, 132 Ill. 607, 24 N.E. 868 (1890)** "Authorities hold that to render a title marketable it is only necessary that it shall be free from reasonable doubt; in other words, that a purchaser is not entitled to demand a title absolutely free from every possible suspicion." **Cummings v. Dolan, 52 Wash. 496, 100 P. 989 (1909)** The record being spoken of here is the title abstract and all documentary evidence pertaining to it. "It is an axiom of hornbook law that a purchaser has notice only of recorded instruments that are within his 'chain of title'."

I R. Patton & C. Patton, Patton on Land Title, Section 69, at 230-233. (2nd ed. 1957); **Sabo v. Horvath, 559 P. 2d 1038, 1043 (Ak.1976)**. Title insurance then guarantees that a title is marketable, not absolutely free from doubt.

Thus, under the color or title system used most often in this country today, no individual operating under this type of title system has the absolute or allodial title. All that is really necessary to have a valid title is to have a relatively clean abstract with a recognizable color of title as the operative marketable title within the chain of title. It therefore becomes necessarily difficult, if not impossible after a number of years, considering the inevitable contingencies that must arise and the title disputes that will occur, to ever properly guarantee an absolute title. This is not necessarily the fault of the seller, but it is the fault of the legal and real estate systems for allowing such a diluted form of title to be controlling in an area where it is imperative to have the

absolute title. In order to correct this problem, it is important to return to those documents the early leaders or the nation created to properly ensure that property remained one of the inalienable rights that the newly established sovereign freeholders could rely on to always exist.

This correction must be in the form of restricting or perhaps eliminating the widespread use of a marketable title and returning to the absolute title.

Other problems have developed because of the use of a color of title system for the conveyance of land.

These problems arise in the area of terminology that succeed in only confusing and clouding the title to an even greater extent than merely using terms like marketability, salability or merchantability. When a person must also determine whether a title is complete, perfect, good and clear, or whether it Is a bad, defective, imperfect and doubtful, there is any obvious possibility of destroying a chain of title because of an inability to recognize what is acceptable to a reasonable purchaser.

A complete title means that a person has the possession, right of possession and the right of property. **Dingey v. Paxton, 60 Miss. 1038 (1883)** and **Ehle v. Quackenboss, 6 Hill (N.Y.) 537 (1844)** A perfect title is exactly the same as a complete title, **Donovan v. Pitcher, 53 Ala. 411 (1875)** and **Converse v. Kellogg, 7 Barb. (N. Y.) 590 (1850);** and each simply means the type of title a well-informed, reasonable and prudent person would be willing to accept when paying full value for the property. **Birge v. Beck, 44 Mo. App. 69 (1890)**. In other words, a complete or perfect title is in reality a marketable or merchantable title, and is usually represented by a color of title.

A good title does not necessarily mean one perfect of record but consists of one which is both of rightful ownership and rightful possession of the property **Bloch v. Ryan, 4 App. Cas 283 (1894)**. It means a title free from litigation, palpable defects and grave doubts consisting of both legal and equitable titles and fairly deducible of record. **Reynolds v. Borel, 86 Cal. 538, 25 P. 67 (1890)**. "A good title means not merely a title valid in fact, but a marketable title, which can again be sold to a reasonable purchaser or mortgaged to a person of reasonable prudence as security for a loan of money." **Moore v. Williams, 115 N.Y. 586, 22 N.E. 253 (1889)** A clear title means there are no encumbrances on the land, **Roberts v. Bassett, 105 Mass. 409 (1870)** Thus, when contracting to convey land, the use of the phrase "good and clear title" is surplusage, since the terms good title and clear title are in fact synonymous. **Oakley v. Cook, 41 N.J. Eq. 350, 7 A.2d 495 (1886)** Therefore, the words good title and clear title, just like the words complete title and perfect title, describe nothing more than a marketable title or merchantable title, and as stated above, each can and almost always is represented in a transaction by a color of title. None of these types of title purports to be the absolute, or allodial title, and none of them are that type of title. None of these actually claims to be a fee simple absolute, and since these types of titles are almost always represented by a color of title, none represents that it passes the actual title. Each one does state that it passes what can be described as a title good enough to avoid the necessity of litigation to determine who actually has the title. If such litigation to determine titles is necessary, then the title has crossed the boundaries of usefulness and entered a different category of title descriptions and names.

This new category consists of titles, which are bad, defective, imperfect or doubtful. A bad title conveys no property to the purchaser of the estates. **Heller v. Cohen, 15 Misc. 378, 36 N.Y.S. 668 (1895)**. A title is defective when the party claiming to own the land has not the whole title, but some other person has title to a part or portion of it. Such a title is the same as no title whatsoever. **Place v. People, 192 Ill. 160, 61 N.E. (1901)**; See also **Cospertini v. Oppermann, 76 Cal. 181, 18 P. 256 (1888)** imperfect title is one where something remains to be done by the granting power to pass the title to the land, **Raschel v. Perez, 7 Tex. 348 (1851);** and a doubtful title is also one which conveys no property to the purchaser of the estate. **Heller v. Cohen, 15 Misc. 378, 36 N.Y.S. 668 (1895)**. Every title is described as doubtful which invites or exposes the party holding it to litigation. **Herman v. Somers, 158 PA.ST. 424, 27 A. 1050 (1893)** Each of these types of titles describes exactly the same idea stated in many different ways, that because of some problem, defect, or question surrounding the title, no title can be conveyed, since no title exists. Yet in all of these situations some type of color of title was used as the operative instrument. What then makes one color of title complete, good or clear in one situation, and in another situation the same type of color of title could be described as bad, defective, imperfect or doubtful?

What is necessary to make what might otherwise be a doubtful title, a good title, is the belief of others in the community, whether or not properly justified, that the title is a good one which they would be willing to purchase. **Moore v. Williams, 115 N.Y. 586, 22 N.E. 253 (1889)** The methods presently used to determine whether a title or color of title is good enough to not be doubtful, are the other two-thirds of the three possible requirements for the conveyance of a good or complete (marketable) title.

These two methods of properly ensuring that a title is a good or complete title are title abstracts, the complete documentary evidence of title, and title insurance. The legal title to land, based on a color of title, is made up of a series of documents required to be executed with the solemnities prescribed by law, and of facts not evidenced by documents, which show the claimant a person to whom the law gives the estate. Documentary evidences of title consist of voluntary grants by the sovereign, deeds of conveyances and wills by individuals, conveyances by statutory or judicial permission, deeds made in connection with the sale of land for delinquent taxes, proceedings under the power of eminent domain, and deeds executed by ministerial or fiduciary officers. These documentary evidences are represented by the land patent and the colors of title. {I G. Thompson, Commentaries on the Modem Law of Real Property, pp. 99-100 (5th ed. 1980)}

These instruments, relied upon to evidence the title, coupled with the outward assertive acts that import dominion, must be used by the abstractor in compiling the abstract, and the attorney must examine to determine the true status of the title. The abstract is the recorded history of the land and the various types of titles, mortgages and other liens, claims and interests that have been placed on the property. The abstract can determine the number of times the patent has been re-declared, who owns the mineral rights, what color of title is operable at any particular point in time, and what lien holder is in first position, but it does not convey or even attempt to convey any form of the title itself. As Thompson, supra has stated, it is necessary when operating with colors of titles to have an abstract to determine the status of the operable title and determine

whether that title is good or doubtful. If the title is deemed good after this lengthy process, then the property may be transferred without doing anything more, since it is assumed that the seller was the owner of the property. This is not to say emphatically that the seller is the paramount or absolute owner. This does not even completely guarantee that he is the owner of the land against any adverse claimants. It is not even that difficult to claim that the title holder has a good title due to the leniency and attitude now evidenced by the judicial authorities toward maintaining a stable and uniform system of land ownership, whether or not that ownership is justified. This however, does not explain the purpose and goal of a title abstract.

An abstract that has been properly brought up simply states that it is presumed the seller is the owner of the land, making the title marketable, and guaranteeing that he has a good title to sell. This is all an abstract can legally do since it is not the title itself and it does not state the owner has an absolute title.

Therefore, the abstract cannot guarantee unquestionably that the title is held by the owner. All of this rhetoric is necessary if the title is good; if there is some question concerning the title without making it defective, then the owner must turn to the last of the three alternatives to help pass a good title, title insurance. {G. Thompson, Title to Real Property, Preparation and Examination of Abstracts, Ch.111, Section 79r PP· 99-100 (1919)}

Title insurance is issued by title insurance companies to ensure the validity of the title against any defects, against any encumbrances affecting the designated property, and to protect the purchaser against any losses he sustains from the subsequent determination that his title is actually un-marketable. Title insurance extends to any defects of title. It protects against the existence of any encumbrances, provided only that any judgments adverse to the title shall be pronounced by a court of competent jurisdiction.

It is not even necessary that a defect actually exist when the insurance policy was issued, it is simply necessary that there exists at the time of issuance of the policy and inchoate or potential defect which is rendered operative and substantial by the happening of some subsequent event. Since all one normally has is a color of title, the longer a title traverses history, the greater the possibility that the title will become defective. The greater the need for insurance simply to keep the title marketable, the easier it is to determine that the title possessed is not the true, paramount and absolute title. If a person had the paramount title, there would be no need for title insurance, though an abstract might be useful for record keeping and historical purposes. Title insurance and abstract record keeping are useful, primarily because of extensive reliance on colors of title, as the operative title for a piece of property.

This then supplies the necessary information concerning colors of title, title abstracts, and title insurance. This does not describe the relationship between the landowner and the government.

As was stated in the instruction, in feudal England, the King has the power, right and authority to take a person's land away from him, if and when the King felt it necessary. The question is whether most of the American system of land ownership and titles is in reality any different and whether therefore the American-based system of ownership, is in reality nothing more than a feudal system of land ownership.

Land ownership in America presently is founded on colors of title, and though people believe they are the complete and total owners of their property; under a color of title system this is far from the truth.

When people state that they are free and own their land, they in fact own it exactly to the extent the English barons owned their land in common-law England. They own their land so long as some "sovereign", the government or a creditor, states that they can own their land. If one recalls from the beginning of this memorandum, it was states that if the King felt it justified, he could take the land from one person and give such land to another prospective baron. Today, in American color-of-title Property law, if the landowner does not pay income tax, estate tax, property tax, mortgages or even a security note on personal property, then the "sovereign", the government or the creditor can justify the taking of the property and the sale of that same property to another prospective "baron", while leaving the owner with only limited defenses to such actions.

The only real difference between this and common-law England is that now others besides the King can profit from the unwillingness or inability of the "landowner" to perform the socage or tenure required of every landowner of America. As such no one is completely safe or protected on his property; no one can afford to make one mistake or the consequences will be forfeiture of the property.

If this were what the people in the mid 1700's wanted, there would have been no need to have an American Revolution, since the taxes were secondary to having a sound monetary system and complete ownership of the land. Why fight a Revolutionary War to escape sovereign control and virtual dictatorship over the land, when in the 1990's these exact problems are prevalent with this one exception, money now changes hands in order to give validity to the eventual and continuous takeover of the property between the parties. This is hardly what the forefathers planned for when creating the United States Constitution, and what they did strive for is the next segment of the memorandum of law, allodial ownership of the land via the land patent. The next segment will analyze the history of this type of title so that the patent can be properly understood, making it possible to comprehend the patent's true role in property law today.

SECTION III

LAND PATENTS AND WHY THEY WERE CREATED

As was seen in the previous sections, there is little to protect the landowner who holds title in the chain of title, when distressful economic or weather condition make it impossible to perform on the debt. Under the color-of-title system, the property, "one of those inalienable rights", can be taken for the nonperformance on loan obligations. This type of ownership is similar to the feudal ownership found in the Middle Ages.

Upon defeating the English in 1066 A.D., William the Conqueror pursuant to his 52nd and 58th laws, "...effectually reduced the lands of England to feuds, which were declared to be inheritable and from that time the maxim prevailed there that all lands in England are held from the King, and that all proceeded from his bounty. {I.E. Washburn, Treatise on The American Land of Real Property, Section 65, p.44 (6th ed. 1902)}

All lands in Europe, prior to the creation of the feudal system in France and Germany, were allodial. Most of these lands were voluntarily changed to feudal lands as protection from the neighboring barons or chieftains. Since no documents protected one's freedom over his land, once the lands were pledged for protection, the lands were lost forever. This was not the case in England.

England never voluntarily relinquished its land to William I. In fact were it not for a tactical error by King Harold II men in the Battle of Hastings, England might never have become feudal. A large proportion of the Saxon lands prior to the Conquest of A.D. 1066, were held as allodial, that is, by an absolute ownership, without recognizing any superior to whom any duty was due on account thereof.

The mode of conveying these allodial lands was most commonly done by a writing or charter, called a land-boc, or land allodial charter, which, for safekeeping between conveyances, was generally deposited in the monasteries. In fact, one portion of England, the County of Kent, was allowed to retain this form of land ownership while the rest of England became feudal. Therefore, when William I established feudalism in England to maintain control over his barons, such control created animosity over the next 2 centuries. {F.L. Ganshof, Feudalism, P. 114 (1964)}

As a result of such dictatorial control, some 25 barons joined forces to exert pressure on the then ruling monarch, King John, to gain some rights not all of which the common man would possess.

The result of this pressure at Runnymede became known as the Magna Carta. The Magna Carta was the basis of modem common law, the common law being a series of judicial decisions and royal decrees interpreting and following that document. The Magna Carta protected the basic rights, the rights that gave all people more freedom and power. The rights that would slowly erode.

Among these rights was a particular section dealing with ownership of the land. The barons still recognized the king as the lord paramount, but the barons wanted some of the rights their ancestors had prior to A.D. 1066. {F. Goodwin, Treatise on The Law of Real Property, Ch· 1, p.3 (1905)} Under this theory, the barons would have several rights and powers over the land, as the visible owners, that had not existed in England for 150 years. The particular section of most importance was Section 62 giving the most powerful barons letters of patent, raising their land ownership close to the level found in the County of Kent. Other sections, i.e., 10, 11, 26, 27, 37, 43, 52, 56, 57, and 61 were written to protect the right to "own" property, to illustrate how debts affected this fight to own property, and to secure the return of property that was unjustly taken. All these paragraphs were written with the single goal of protecting the "landowner" and helping him retain possession of his land, acquired in the service of the King, from unjust seizures or

improper debts. The barons attempted these goals with the intention of securing property to Pass to their heirs.

Unfortunately, goals are often not attained. Having re-pledged their loyalty to King John, the barons quickly disbanded their armies. King John died in 1216, one year after signing the Magna Carta. The new king did not wish to grant such privileges found in that document. Finally, the barons who forced the signing of the Magna Carta died, and with them went the driving force that created this great charter. The Magna Carta may have still been alive, but the new kings had no armies at their door forcing them to follow policies, and the charter was to a great extent forced to lie dormant. The barons who received the letters of patent, as well as other landholders perhaps should have enforced their rights, but their heirs were not in a position to do so and eventually the fights contained in the charter were forgotten.

Increasingly until the mid-1600's, the king's power waxed, abruptly ending with the execution of Charles I in 1649. By then however, the original intent of the Magna Carta was in part lost and the descendants of the original barons never required property protected, free land ownership. To this day, the freehold lands in England are still held to a great extent upon the feudal tenures. This lack of complete ownership in the land, as well as the most publicized search for religious freedom, drove the more adventurous Europeans to the Americas to be away from these restrictions.

The American colonists however soon adopted many of the same land concepts used in the old-world.

The kings of Europe had the authority to still exert influence, and the American version of barons sought to retain large tracts of land. As an example, the first patent granted in New York went to Killian Van Rensselaer dated in 1630 and confirmed in 1685 and 1704. {A. Getman, Title to Real Property, Principles and Sources of Titles – Compensation For Lands and Waters, Part Ill, Ch. 17, p.229 (1921)} The colonial charters of these American colonies, granted by the king of England, had references to the lands in the County of Kent, effectively denying the more barbaric aspects of feudalism from ever entering the continent, but feudalism with its tenures did exist for some time.

"It may be said that, at an early date, feudal tenures existed in this country to a limited extent." {C. Tiedeman, An Elementary Treatise on the American Law of Real Property, Ch· 11.} {The Principles of the Feudal System, Section 25, p.22 (2nd ed. 1892).} The result was a newly created form of feudal land ownership in America. As such, the feudal barons in the colonies could dictate who farmed their land, how their land was to be divided, and to a certain extent to whom the land should pass. But, just as the original barons discovered, this power was premised in part of the performance of duties for the king.

Upon the failure of performance, the king could order the Grant revoked, and Grant the land to another willing to acquiesce to the king's authority. This authority, however, was premised on the belief that people, recently arrived and relatively independent, would follow the authority of a king based 3000 miles away. Such a premise was ill founded.

The colonists came to America to avoid taxation without representation, to avoid persecution of religious freedom, and to acquire a small tract of land that could be owned completely. When the colonists were forced to pay taxes and were required to allow their homes to be occupied by soldiers; they revolted, fighting the British, and declaring their Declaration of Independence.

The Supreme Court of the United States reflected on this in **Chisholm v. Georgia, 2 Dall. (U.S.) 419 (1793),** stating: "...the revolution or rather the Declaration of Independence, found the people already united for general purposes, and at the same time, providing for their more domestic concerns, by state conventions, and other temporary arrangements. From the crown of Great Britain, the sovereignty of their country passed to the people of it; and it was then not an uncommon opinion, that the un-appropriated lands, which belonged to that crown, passed, not to the people of the colony or states within those limits they were situated, but to the whole people;... "We the people of the United States, do ordain and establish this constitution." Here we see the people acting as sovereigns of the whole country; and in the language of sovereignty, establishing a constitution by which it was their will, that the state governments, should be bound, and to which the state constitutions should be made to conform. It will be sufficient to observe briefly, that the sovereignties in Europe, and particularly in England, exist on feudal principles.

That system considers the prince as the sovereign, and the people his subjects; it regards his person as the object of allegiance, and excludes the idea of his being on an equal footing with a subject, either in a court of justice or elsewhere. That system contemplates him as being the fountain of honor and authority; and from his grace and grant, derives all franchises, immunities and privileges; it is easy to perceive, that such a sovereign could not be amenable to a court of justice, or subjected to judicial control and actual constraint. The same feudal ideas run through all their jurisprudence, and constantly remind us of the distinction between the prince and the subject.

No such ideas obtain here; at the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects and have none to govern but themselves; the citizens of America are equal as fellow-citizens, and as joint tenants in the sovereignty. From the differences existing between feudal sovereignties and governments founded on compacts, it necessarily follows, that their respective prerogatives must differ.

Sovereignty is the fight to govern; a nation or state sovereign is the person or persons in whom that resides. In Europe, the sovereignty is generally ascribed to the prince; here it rests' with the people; there the sovereign actually administers the government; here never in a single instance; our governors are the agents of the people, and at most stand in the same relation to their sovereign, in which the regents of Europe stand to their sovereigns. Their princes have personal powers, dignities, and preeminence, our rules have none but official; nor do they partake in the sovereignty otherwise, or in any other capacity, than as private citizens."

The Americans had a choice as to how they wanted their new government and country to be formed. Having broken away from the English sovereignty and establishing themselves as their own sovereigns, they had their choice of types of taxation, freedom of religion, and most importantly ownership of land. The American founding fathers chose allodial ownership of land

for the system of ownership on this country. In the opinion of Judge Kent, the question of tenure as an incident to the ownership of lands "has become wholly immaterial in this country, where every vestige of tenure has been annihilated." At the present day there is little, if any, trace of the feudal tenures remaining in the American law of property. Lands in this country are now held to be absolutely allodial.

Upon the completion of the Revolutionary War, lands in the thirteen colonies were held under a different form of land ownership. As stated in re Waltz et. al., **Barlow v. Security Trust & Savings Bank, 240 p. 19 (1925),** quoting **Matthews v. Ward, 10 Gill & J. (Md.) 443 (1839),** "after the American Revolution, lands in this state (Maryland) became allodial, subject to no tenure, nor to any services incident thereto."

The tenure, as you will recall, was the feudal tenure and the services or taxes required to be paid to retain possession of the land under the feudal system. This new type of ownership was acquired in all thirteen states. **Wallace v. Harmstead, 44 Pa. 492 (1863)** The American people, before developing a properly functioning stable government, developed a stable system of land ownership, whereby the people owned their land absolutely and in a manner similar to the king in common-law England. As has been stated earlier, the original and true meaning of the word "fee" and therefore fee simple absolute is the same as fief or feud, this being in contradistinction to the term "allodium" which means or is defined as man's own land, which he possesses merely in his own right, without owing any rent or service to any superior. **Wendell v. Crandall, 1 N. Y. 491 (1848)** [27] Stated another way, the fee simple estate of early England was never considered as absolute, as were lands in allodium, but were subject to some superior on condition of rendering him services, and in which the such superior had the ultimate ownership of the land. In re Waltz, at page 20, quoting I Cooley's Blackstone, (4th ed.) p. 512. This type of fee simple is a Common-Law term and sometimes corresponds to what in civil law is a perfect title. **United States v. Sunset Cemetery Co., 132 F. 2d 163 (1943).**

It is unquestioned that the king held an allodial title which was different than the Common-Law fee simple absolute. This type of superior title was bestowed upon the newly established American people by the founding fathers. The people were sovereigns by choice, and through this new type of land ownership, the people were sovereign freeholders or kings over their own land, beholden to no lord or superior. As stated in **Stanton v. Sullivan, 7 A· 696 (1839),** such an estate is an absolute estate in perpetuity and the largest possible estate a man can have, being, In fact allodial in its nature. This type of fee simple, as thus developed, has definite characteristics: (1) it is a present estate in land that is of indefinite duration; (2) it is freely alienable; (3) it carries with it the right of possession; and most importantly (4) the holder may make use of any portion of the freehold without being beholden to any person. {I G. Thompson, Commentaries on the Modern Law of Real Property, Section 1856, p. 412 (1st ed. 1924)}.

This fee simple estate means an absolute estate in lands wholly unqualmed by any reservation, reversion, condition or limitation, or possibility of any such thing present or future, precedent or subsequent. Id.**; Wichel'man v. Messner, 83 N.W. 2d 800, 806 (1957)** It is the most extensive estate and interest one may possess in real property. Where an estate subject to an option is not in fee. In the case, **Bradford v. Martin, [28] 201 N.W. 574 (1925),** the Iowa Supreme Court went into a lengthy discussion on what the terms fee simple and allodium means in American property

law. The Court stated: " The word "absolutely" in law has a varied meaning, but when unqualifiedly used with reference to titles or interest in land, its meaning is fairly well settled.

Originally the two titles most discussed were "fee simple" and "allodium" (which meant absolute) See Bouvier's. Law Dictionary. (Rawle Ed.) 134; **Wallace v. Harmstead, 44 Pa. 492**; **McCartee v. Orphan's Asylum, 9 Cow. (N.Y.) 437, 18 Am. Dec. 516.**

Prior to Blackstone's time the allodial title was ordinarily called an "absolute title" and was superior to a "fee simple title," the latter being encumbered with feudal clogs which were laid upon the first feudatory when it was granted, making it possible for the holder of a fee-simple title to lose his land in the event he failed to observe his feudatory oath. The allodial title was not so encumbered. Later the term "fee simple," however rose to the dignity of the allodial or absolute estate, and since the days of Blackstone the words of "absolute" and "fee Simple" seem to have been generally used interchangeably; in fact, he so uses them.

The basis of English rand law is the ownership of the realty by the sovereign, from the crown all titles flow. **People v. Richardson, 269 M. 275, 109 N.E. 1033 (1914);** see also **Matthew v. Ward, 10 Gill & J (Md.) 443 (1844)** The case, **McConnell v. Wilcox, I Seam. (IR.) 344 (1837),** stated it this way: "From what source does the title to the land derived from a government spring? In arbitrary governments, from the supreme head be he the emperor, king, or potentate; or by whatever name he is known. In a republic, from the law, making or authorizing to be made the grant or sale. In the first case, the party looks alone to his letters patent; in the second, to the law and the evidence of the acts necessary to be done under the law, to a perfection of his grant, donation or purchase The law alone must be the fountain from whence the authority is drawn; and there can be no other source."

The American people, newly established sovereigns in this republic after the victory achieved during the Revolutionary War, became complete owners in their land, beholden to no lord or superior; sovereign freeholders in the land themselves. These freeholders in the original thirteen states now held allodial the land they possessed before the war only feudally. This new and more powerful title protected the sovereigns from unwarranted intrusions or attempted takings of their land, and more importantly it secured in them a right to own land absolutely in perpetuity. By definition, the word perpetuity means, "Continuing forever. Legally, pertaining to real property, any condition extending the inalienability···" Black's Law Dictionary, P·1027 (5th ed. 1980)

In terms of an allodial title, it is to have the property of in-alienability forever. Nothing more need be done to establish the ownership of the sovereigns to their land, although confirmations were usually required to avoid possible future title confrontations. The states, even prior to the creation of our present Constitutional government, were issuing titles to the unoccupied lands within their boundaries. In New York, even before the war was won, the state issued the first land patent in 1781, and only a few weeks, after the battle and victory at Yorktown in 1783, the state issued the first land patent to an individual. In fact, even before the United States was created, New York and other states had developed their own Land Offices with Commissioners.

New York was first established in 1784 and was revised in 1786 to further provide for a more definite procedure for the sale of unappropriated State Lands. Id. The state courts held, "The

validity of letters patent and the effectiveness to convey title depends on the proper execution and record generally been the law that public grants to be valid must be recorded. The record is not for purposes of notice under recording acts but to make the transfer effectual." Later, if there was deemed to be a problem with the title, the state grants could be confirmed by issuance of a confirmatory grant. This then, in part, explains the methods and techniques the original states used to pass title to their lands, lands that remained in the possession of the state unless Purchased by the still yet uncreated federal government, or by individuals in the respective states. Too much this same extent Texas, having been a separate country and republic, controlled and still controls its lands. In each of these instances, the land was not originally owned by the federal government and then later passed to the people and states. This then is a synopsis of the transition from colony to statehood and the rights to land ownership under each situation. This however has said nothing of the methods used by the states in the creation of the federal government and the eventual disposal of the federal lands.

The Constitution in its original form was ratified by a convention of the States, on September 17, 1787.

The Constitution and the government formed under it were declared in effect on the first Wednesday of March 1789. Prior to this time, during the Constitutional Convention, there was serious debate on the disposal of what the convention called the "Western Territories," now the states of Ohio, Indiana, Illinois, Michigan, Wisconsin and part of Minnesota, more commonly known as the Northwest Territory. This tract of land was ceded to the new American republic in the treaty signed with Britain in 1783.

The attempts to determine how such a disposal of the Western territories should come about was the subject of much discussion in the records of the Continental Congress. Beginning in September 1783, there was continual discussion concerning the acquisition of and later disposition to the lands east of the Mississippi River. Journals of Congress, Papers of the Continental Congress, No. 25, 11, folio 255, p. 544-557 (September 13, 1783) "¼and whereas the United States have succeeded to the sovereignty over the Western territory, and are thereby vested as one undivided and independent nation, with all and every power and right exercised by the king of Great Britain, over the said territory, or the lands lying and situated without the boundaries of the several states, and within the limits above described; and whereas the western territory ceded by France and Spain to Great Britain, relinquished to the United States by Great Britain, and guarantied to the United States by France as aforesaid, if properly managed, will enable the United States to comply with their promises of land to their officers and soldiers; will relieve their citizens from much of the weight of taxation;.... and if cast into new states, will tend to increase the happiness of mankind, by rendering the purchase of land easy, and the possession of liberty permanent; therefore Resolved, that a committee be appointed to report the territory lying without the boundaries of the several states; ... ; and also to report an establishment for a land office."

There was also serious discussion and later acquisition by the then technically nonexistent federal government of land originally held by the colonial governments. As the years progressed, the goal remained the same, a proper determination of a simple method of disposing of the western lands. "That an advantageous disposition of the western territory is an object worthy the

deliberation of Congress." Id. February 14, 1786, at p. 68. In February 1787, the Continental Congress continued to hold discussions on how to dispose of all western territories. As part of the basis for such disposal, it was determined to divide the new northwestern territories into medians, ranges, townships, and sections, making for easy division of the land, and giving the new owners of such land a certain number of acres in fee. Journals of Congress, p. 21, February 1787, and Committee Book, Papers of the Continental Congress, No. 190, p. 132 (1788)

In September of that same year, there were most discussions on the methods of disposing the land. In those discussions, there were debates in the validity and solemnity of the state patents that has been issued in the past. Only a week earlier the Constitution was ratified by the conventions of the states.

Finally, the future Senate and House of Representatives, though not officially a government for another one and a half years, held discussions on the possible creation of documents that would pass the title of lands from the new government to the people. In these discussions, the first patents were created and ratified, making the old land-boc, or land-allodial charters of the Saxon nobles, 750 years earlier, and the letters patent of the Magna Carta, guidelines by which the land would pass to the sovereign freeholders of America. Id., July 2, 1788, pp.77-286.

As part of the method by which the new United States decided to dispose of its territories, it created in the Constitution an article, section, and clause, that specifically dealt with such disposal. Article IV, Section 111, Clause 11, states in part, "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States. " Thus, Congress was given the power to create a vehicle to divest the Federal Government of all its right and interest in the land. This vehicle, known as the land patent, was to forever divest the federal government of its land and was to place such total ownership in the hands of the sovereign freeholders who collectively created the government. *The land patents issued prior to the initial date of recognition of the United States Constitution were ratified by the members of Constitutional Congress.* Those Patents created by statute after March 1789, had only the power of the statutes and the Congressional intent behind such statutes as a reference and basis for the determination of their powers and operational effect originally and in the American system of land ownership today.

There have been dozens of statutes enacted pursuant to Article IV, Section 111, Clause 11. Some of these statutes had very specific intents of aiding soldiers of wars, or dividing lands in a very small region of one state, but all had the main goal of creating in the sovereigns, freeholders on their lands, beholden to no lord or superior. Some of the statutes include, 12 Stat 392, 37th Congress, Sess. 11, Ch. 75, (1862) (the Homestead Act); 9 Stat. 520, 3 Ist Congress, Sess. 1, Ch. 85 (1850) Military Bounty Service Act); 8 Stat. 123, 29th Congress, Sess. 11 Ch. 8, (1847) (Act to raise additional military force and for other purposes); 5 Stat 444, 21st Congress, Sess. 11, Ch. 30 (1831); 4 Stat 51, 18th Congress, Sess. I.,Ch. 174 (1824); 5 Stat 52, 18th Congress, Sess. 1, Ch. 173 (1824); 5 Stat 56, 18th Congress, Sess. 1, Ch. 172, (1824); 3 Stat. 566, 16th Congress, Sess. 1, Ch. 51, (1820) (the major land patent statute enacted to dispose of lands); 2 Stat 748, 12th Congress, Sess. 1. Ch. 99 (1812); 2 Stat. 728, 12th Congress, Sess. 1, Ch. 77, (1812); 2 Stat. 716, 12th Congress, Sess. 1, Ch. 68, (1812) (the act establishing the General Land-Office in the Department of Treasury); 2 Stat 590, Ilth Congress, Sess. U, Ch. 3.5,(1810);2 Stat 437, 9th

Congress, Sess. H, Ch. 34, (1807); and 2 Stat 437, 9th Congress, Sess. H, Ch. 31, (1807) These, of course, are only a few of the statutes of enacted to dispose of public lands to the sovereigns.

One of these acts however, was the main patent statute in reference to the intent Congress had when creating the patents. That status is 3 Stat 566, In order to understand the validity of a patent, in today's property law, it is necessary to turn to other sources than the acts themselves. These sources include the congressional debates and case law citing such debates. For the best answer to this question, it is necessary to turn to the Abridgment of the Debates of Congress, Monday, March 6, 1820, in the Senate, considering the topic "The Public Lands."

This abridgment and the actual debates found in its concern one of the most important of the land patent statutes, 3 Stat 566, 16th Congress, Sess. 1. Ch. 51, Stat. 1, (April 24, 1820)

In this important debate, the reason for such a particular act in general and the protection afforded by the patent in particular were discussed. As Senator Edwards states; it is not my purpose to discuss, at length, the merits of the proposed change. I will, at present, content myself with an effort, merely, to shield the present settlers upon public lands from merciless speculators, whose cupidity and avarice would unquestionably be tempted by the improvements which those settlers have made with the sweat of their brows, and to which they have been encouraged by the conduct of the government itself, for though they might be considered as embraced by the letter of the law which provides against intrusion on public lands, yet, that their case has not been considered by the Government as within the mischief's intended to be prevented is manifest, not only from the forbearance to enforce the law, but from the positive rewards which others, in their situation, have received, by the several laws which have heretofore been granted to them by the same right if preemption which I now wish extended to the present settlers." Further, Senator King from New York stated, he considered the change as highly favorable to the poor man; and he argued at some length, that it was calculated to plant in the new country a population of independent, unembarrassed freeholders; that it would cut up speculation and monopoly; that the money paid for the lands would be carried from the State or country from which the purchaser should remove; that it would prevent the accumulation of an alarming debt, which experience proved never would and never could be paid.

In other statutes, the Court recognized much of these same ideas. In **United States v. Reynes, 9 How. (U.S.) 127 (1850)**, the Supreme Court stated: "The object of the Legislature is manifest.it was intended to prevent speculation by dealing for rights of preference before the public lands were in the market The speculator acquired power over choice spots, by procuring occupants to seat themselves on them and who abandoned them as soon as the land was entered under their preemption right, and the speculation accomplished. Nothing could be more easily done than this, if contracts of this description could be enforced."

The act of 1830, however, proved to be of little avail and then came the Act of 1835 (5 Stat 251) which compelled the preemptor to swear that he had not made an arrangement by which the title might insure to the benefit of anyone except himself, or that he would transfer it to another at any subsequent time. This was preliminary to the allowing if his entry, and discloses the policy of Congress. "It is always to be borne in mind, in construing a congressional grant that the act by which it is made is a law as well as a conveyance and that such effect must be given to it as will

carry out the intent of Congress. That intent should not be defeated by applying to the grant the rules of the common law¼words of present grant, are operative, if at all, only as contracts to convey. But the rules of common law must yield in this, as in other cases, to the legislative will." **Missouri, Kansas & Texas Railway Company v. Kansas Pacific Railway Company, 97 US 49 1, 497 (1878.** "The administration of the land system in this country is vested in the Executive Department if the Government, first in the Treasury and now in the Interior Department, the officers charged with the disposal of the public domain under are required and empowered to determine so far as it relates to the extent and character of the rights claimed under them, and to be given, though their actions, to individuals. Government, and courts of justice must never interfere with it." **Marks v. Dickson, 61 US (20 How) 501 (1857);** see also **Cousin v. Blanc's ex., 19 How. US 206, 209 (1856).**

"The Power of the Congress to dispose of its land cannot be interfered with, or its exercise embarrassed by any State legislation; nor can such legislation deprive the grantees of the United States of the possession and enjoyment of the property granted by reason of any delay in the transfer of the title after the initiation of proceedings for its acquisition." **Gibson v. Chouteau, 13 Wal. (U. S.) 92, 93 (1871)**

State statutes that give lesser authoritative ownership of title than the patent can not even be brought into federal court**. Langdon v. Sherwood, 124 U.S. 74, 81 (1887)** These acts of Congress making grants are not to be treated both law and grant, and the intent of Congress when ascertained is to control in the interpretation of the law. **Wisconsin C. R· Co. v. Forsythe, 159 U.S. 46 (1895)** "The intent to be searched for by the courts in a government Patent is the intent which the government had as that time, and not what it would have been had no mistake been made. The true meaning of a binding expression in a patent must be applied, no matter where such expressions are found in the document. It should be construed as to effectuate the primary object Congress had in view; and obviously a construction that gives effect to a patent is to be preferred to one that renders it inoperative and void.

A grant must be interpreted by the law of the country in force at the time when it was made. The construction of federal grant by a state court is necessarily controlled by the federal decisions on the same subject. The United States may dispose of the public lands of such terms and conditions, and subject to such restrictions and limitations as in its judgment will best promote the public welfare, even if the condition is to exempt the land from sale on execution issued or judgment recovered in a State Court for a debt contracted before the patent issues." **Miller v. Little, 47 Cal. 348, 350 (1874)** Congress has the sole power to declare the dignity and effect if titles emanating from the United States and the whole legislation of the Government must be examined in the determination of such titles. **Bagneu v. Broderick, 38 U.S. 436 (1839)** It was clearly the policy of Congress, in passing the preemption and patent laws, to confer the benefits of those laws to actual settlers upon the land. **Close v. Stuyvesant, 132 M. 607, 617**. "The intent of Congress is manifest in the determinations of meaning, force and power vested in the patent. These cases all illustrate the power and dignity given to the patent. It was created to dives the government of its lands, and to act as a means of conveying such lands to the generations of people that would occupy those lands. This formula, "or his legal representatives," embraces representatives of the original grantee in the land, the contract, such as assignees or grantees, as

well as the operation of law, and leaves the question open to inquiry in a court of justice as to the party to whom the patent, or confirmation, should ensure." **Hogan v. Page, 69 US 605 (1864).**

The patent was and is the document and law that protects the settler from the merciless speculators, from the people that use avarice to unjustly benefit themselves against an unsuspecting nation. The patent was created with these high and grant intentions, and was created with such intentions for a sound reason. "The settlers as a rule seem to have been poor persons, and presumably without the necessary funds to improve and pay for their land, but it appears that in every case where the settlement was made under the preemption law, the settler entered and paid for the land at the expiration of the shortest period at which entry could be made" **Close v. Stuyvesant, 132 HI. 607, 623 (1890).** "We must look to the benefit character of the acts that created this grants and patents and the peculiar objects they were Intended to protect and secure.

A class of enterprising, hardy and valuable citizens has become the pioneers in the settlement and improvement of the new and distant lands of the government. **McConnell v. Wilcox, 1 Seam. (M.) 344, 367 (1837).** "In furtherance of what is deemed a wise policy, tending to encourage settlement, and to develop the resources of the country, it invites the heads of families to occupy small parcels of the public Land To deny Congress the power to make a valid and effective contract of this character would materially abridge its power of disposal, and seriously interfere with a favorite policy of the government, which fosters measures tending to a distribution of the lands to actual settlers at a nominal price." **Miller v. Little, 47 Cal. 348, 351(1874)** The legislative acts, the Statutes at Large, enacted to divest the United States of its land and to sell that land to the true sovereigns of this republic, had very distinct intents.

Congress recognized that the average settler of this nation would have little money, therefore Congress built into the patent, and its corresponding act, the understanding that these lands were to be free from avarice and cupidity, free from the speculators who preyed on the unsuspecting nation, and forever under the control and ownership of the freeholder, who by the sweat of his brow made the land produce the food that would feed himself and eventually the nation. Even today, the intent of Congress is to maintain a cheap food supply though the retention of the sovereign farmers on the land. **United States v. Kimball Foods, Inc., 440 U.S. 715 (1979);** see also **Curry v. Block, 541 F. Supp. 506 (1982)** Originally, the intent of Congress was to protect the sovereign freeholders and create a permanent system of land ownership in the country.

Today, the intent of Congress is to retain the small family farm and utilize the cheap production of these situations, it has been necessary to protect the sovereign on his parcel of land, and ensure that he remain in that position. The land patent and the patent acts were created to accomplish these goals. In other words, the patent or title deed being regular in its form, the law will not presume that such was obtained through fraud of the public right This principle is not merely an arbitrary rule of law established by the courts, rather it is a doctrine which is founded upon reason and the soundest principles of public policy. It is one, which has been adopted in the interest of peace in the society and the permanent security of titles. Unless fraud is shown, this rule is held to apply to patents executed by the public authorities. **State v. Hewitt Land Co., 134 P. 474,479 (1913)**

It is therefore necessary to determine exact power and authority contained in a patent. Legal titles to lands cannot be conveyed except in the form provided by law. **McGaffahan v. Mining Co., 96 U.S. 316 (1877)** Legal title to property is contingent upon the patent issuing from the government. Sabo v. Horvath, 559 P.2d 1038, 1040 (Aka. 1976) "That the patent carries the fee and is the best title known to a court of law is the settled doctrine of this court." **Marshall v. Ladd, 7 Wall. (74 U.S.) 106 (1869)** "A patent issued by the government of the United States is legal and conclusive evidence of title to the land described therein. No equitable interest, however strong, to land described in such a patent, can prevail at law, against the patent" {Land Patents, Opinions of the United States Attorney General's office, (September, 1969)} "A patent is the highest evidence of title, and is conclusive against the government and all claiming under junior patents or titles, until it is set aside or annulled by some judicial tribunal." **Stone v. United States, 2 Wall. (67 U.S.) 765 (1865)** The patent is the instrument which, under the laws of Congress, passes title from the United States and the patent when regular on its face, is conclusive evidence of title in the patentee. When there is a confrontation between two parties as to the superior legal title, the patent is conclusive evidence of title in the patentee. When there is a confrontation between two parties as to the superior legal title, the patent is conclusive evidence as to ownership. **Gibson v. Chouteau, 13 Wall. 912 (1871)** Congress having the sole power to declare the dignity and effect of its titles has declared the patent to be the superior and conclusive evidence of the legal title. **Bagnefl v. Brodrick, 38 US 438 (1839)** "Issuance of a government patent granting title to land is the most accredited type of conveyance known to our Law". **United States v. Creek Nation, 295 US 103, 111 (1935);** see also **United States v. Cherokee Nation, 474 F.2d 628,634 91973).** The patent is prima facie conclusive evidence of the title. **Marsh v. Brooks, 49 U.S. 223, 233 (1850).**

A patent, once issued, is the highest evidence of title, and is a final determination of the existence of all facts. **Walton v. United States, 415 F. 2d 121, 123 (I0th Cir. 1969);** see also United **States v. Beaman, 242 F. 876 (1917) File v. Alaska, 593 P. 268, 270 (1979)** (When the federal government grants land via a patent, the patent is the highest evidence of title). Patent rights to the land is the title in fee, **City of Los Angeles v. Board of Supervisors of Mono County, 292 P.2d 539 (1956),** the patent of the fee simple, **Squire v. Capoeman, 351 U.S. 1,6 (1956),** and the patent is required to carry the fee. **Carter v. Rubby, 166 U.S. 493, 496 (1896);** see also **Klais v. Danowski, 129 N.W.2d 414, 422 (1964)** 1423 (Interposition of the patent or interposition of the fee title). The land patent is the muniment of title, such title being absolute in its nature, making the sovereigns absolute freeholders on their lands. Finally, the patent is the only evidence of the legal fee simple title. **McConnell v. Wilcox, I Scam (ILL.) 381, 396 (1837)** All these various cases and quotes illustrate one statement that should be thoroughly understood at this time, the patent is the highest evidence of title and is conclusive of the ownership of land in courts of competent jurisdiction.

This however, does not examine the methods or possibilities of challenging a land patent.

In **Hooper et al. v. Scheimer,,64 U.S. (23 How.) 235 (1859),** the United States Supreme Court stated, "I affirm that a patent is unimpeachable at law, except, perhaps, when it appears on its own face to be void; and the authorities on this point are so uniform and unbroken in the courts, Federal and State, that little else will be necessary beyond a reference to them." Id. at 240 (1859) A patent cannot be declared void at law, nor can a party travel behind the patent to avoid it. Id. A

patent cannot be avoided at law in a collateral, proceeding unless it is declared void by statute, or its nullity indicated by some equally explicit statutory denunciations. One perfect on its face is not to be avoided, in a trail at law, by anything save an elder patent. It is not to be affected by evidence or circumstances which might show that the impeaching party might prevail in a court of equity. A patent is evidence, in a court of law, of the regularity of all previous steps to it, and no facts behind it can be investigated. A patent cannot be collaterally avoided at law, even for fraud. A patent, being a superior title, must of course, prevail over colors of title; nor is it proper for any state legislation to give such titles, which are only equitable in nature with a recognized legal status in equity courts, precedence over the legal title in a court of law. The Hooper case has many of the maxims that apply to the powers and possible disabilities of a land patent, however there is extensive case law in the area.

The presumptions arise, from the existence of a patent, evidencing a grant of land from the United States, that all acts have been performed and all facts have been shown, which are prerequisites to its issuance, and that the right of the party, grantee therein, to have it issued, has been presented and passed upon by the proper authorities. **Green v. Barber, 66 N.W. 1032 (1896)** As stated in Bouvier's Law Dictionary, Vol. H, p. 1834 (1914): Misrepresentations knowingly made by the application for a patent will justify the government in proceedings to set it aside, as it has a right to demand a cancellation of a patent obtained by false and fraudulent misrepresentations. **United States v. Manufacturing Co., 128 U.S. 673 (1888);** but courts of equity cannot set aside, annul, or correct patents or other evidence of title obtained from the United States by fraud or mistake, unless on specific averment of the mistake or fraud, supported by clear and satisfactory proof, Maxelli Land Grant Cancellation, 11 How. (U.S.) 552 (1850); although a patent fraudulently obtained by one knowing at the time that another person has a prior right to the land may be set aside by an information in the nature of a bill in equity filed by the attorney of the United States for the district in which the land lies; Id.

A court of equity, upon a bill filed for that purpose, will vacate a patent of the United States for a tract of land obtained by mistake from the officers of the land office, in order that a clear title may be transferred to the previous purchaser; **Hughes v. United States, 4 Wall. (U.S.) 232 (1866);** but a patent for land of the United States will not be declared void merely because the evidence to authorize its issue is deemed insufficient by the court. **Milliken v· Starling's lessee, 16 Ohio 61**· A state can impeach the title conveyed by it to a grantee only by a bill in chancery to cancel it, either for fraud on the part of the grantee or mistake of law; and until so canceled it cannot issue to any other party a valid patent for the same land. **Chandler v· Manufacturing Co., 149 U.S. 79 (1893)**

Other cases espouse these and other rules of law. A patentee can be deprived of his rights only by direct proceedings instituted by the government or by parties acting in its name, or by persons having a superior title to that acquired through the government. **Putnum v. Ickes, 78 F.2d 233, denied 296 U.S. 612 (1935)** It is not sufficient for the one challenging a patent to show that the patentee should not have received the patent; he must also show that he as the challenger is entitled to it. **Kale v· United States, 489 F.2d 449, 454 (1973)** A United States patent is protected from easy third party attacks. **Fisher v· Rule, 248 U.S. 314, 318 (1919);** see also **Hooffiagle v· Andcrson, 20 U.S. (7 Wheat.) 212 (1822)** A Patent issued by the United States of America so vests the title in the lands covered thereby, that it is the further general rule that, such

patents are not open to collateral attack. **Thomas v· Union pacific Railroad Company,588, 596 i1956)** See also **State v. Crawford, 475 P.2d 515 (A-riz. App. 1970)** (A patent is prima facie valid, and if its validity can be attacked at all, the burden of proof is upon the defendant); **State v. Crawford, 441 P.2d 586,590 (Ariz. APP· 1968)** (A patent to land is the highest evidence of title and may not be collaterally attacked); and **Dredge v· Husite Company 369 P.2d 676,682 (1962)**

(A Patent is the act of legally instituted tribunal, done within its jurisdiction, and passes the title. Such a patent is a final judgment as well as a conveyance and is conclusive upon a collateral attack) Absent some facial invalidity, the patents are presumed valid. **Murray v. State, 596 P.2d 805, 816 (1979)** The government retains no power to nullify a patent except through a direct court proceeding. **United States v. Reimann, 504 F.2d 135 (1974)** See also **Green v· Barker, 66 N.W. 1032, 1034 (1896)** (The doctrine announced was that the deed upon its face, purported to have been issued in pursuance of the law, and was therefore only assailable in a direct proceeding by aggrieved parties to set it aside) Through these cases, it can be shown that the patent which passes the title from the United States to the sovereigns, was created to keep the speculators from the land, is only able in a direct proceeding for fraud or mistake. In no other situation is it allowable for the courts, to imply eliminate the patent. One question that may arise is what do the courts mean by a collateral attack and what can be done by courts of equity if a collateral attack is presented?

Perhaps the easiest means of defining a collateral attack is to show, the converse corollary, or a direct attack on a patent. As was stated in the previous paragraphs, a direct attack upon a land patent is an action for fraud or mistake brought by the government or a party acting in its place.

Therefore, a collateral attack, by definition, is any attack upon a patent that is not covered within the direct attack list.

Perhaps the most prevalent collateral attack in Property law today is a mortgage or deed of trust foreclosure on a color of title. In these instances, it is determined that the mortgagee or another purchases the complete title and interest in the land in his place. Such a determination displaces the patentee's ownership of the title without the court ever ruling that the patent was acquired through fraud or mistake.

This is against public policy, legislative intent, and the overwhelming majority of case law.

Therefore, it is now necessary to determine the patent's role in American property law today, to see what powers the courts of equity have in protecting the rights of the challengers of patents.

The attitude of the Courts is to promote simplicity and certainty in title transactions, thereby they follow what is in the chain of title, and not what is outside. **Sabo v. Horvath, 559 p.2d 1038, 1044 (1976)**

However in equity courts, title under a patent from the government is subject to control, to protect the rights of parties acting in a fiduciary capacity. **Sanford v. Sanford, 139 U.S. 290 (1891).** This protection however does not include the invalidation of the patent. The

determination of the land department in matters cognizable by it, in the alienation of lands and the validity of patents cannot be collaterally attacked or impeached.

Therefore the courts have had to devise another means to control the patentee, if not the patent itself, as stated in **Raestle v. Whitson, 582 P.2d 170, 172 (1978)**, "The land patent is the highest evidence of title and is immune from collateral attack. This does not preclude a court from imposing a constructive trust upon the patentee for the benefit of the owners of an equitable interest" This then explains the most equitable way a court may effectively restrict the sometimes harsh justice handed down by a strict court of law. Equity courts will impose a trust upon the patentee until the debt has been paid. As has been stated, a patent cannot be collaterally attacked, therefore the land cannot be sold or taken by the courts unless there is strong evidence of fraud or mistake. However, the courts can require the patentee to pay a certain amount at regular intervals until the debt is paid, unless of course, there is a problem with the validity of the debt itself. This is the main purpose of the patent in this growing epidemic of farm foreclosures that defy the public policy of Congress, the legislative intent of the Statutes at large, and the legal authority as to the type of land ownership possessed in America. Why then is the rate of foreclosures on the rise?

Titles to land today, as was stated earlier in this memorandum, are normally in the form of colors of title. This is because of the trend in recent property law to maintain the status quo. The rule in most jurisdictions, and those which have adopted a grantor-grantee index in particular, is that a deed outside the chain of title does not act as a valid conveyance and does not serve notice of a defect of title on a subsequent purchaser. These deeds outside the chain of title are known as "wild deeds." **Sabo v. Horvath, 559 P.2d 1038, 1043 (1976);** See also **Porter v Buck, 335 So.2d 369, 371 (1976); The Exchange National Bank v. Lawndale National Bank, 41 ILL.2d 316, 243 N.E.2d 193, 195-96 (1968)** (The chain of title for purposes of the marketable title act, may not be founded on a wild deed. These stray, accidental, or interloping conveyances are contrary to the intent of the marketable title act, which is to simplify and facilitate land title transactions); and **Manson v. Berkman, 356 ILL. 20, 190 N. E. 77, 79 (1934)** This liberal construction of what constitutes a valid conveyance has led to a thinning of the title to a point where the absolute and paramount title is almost impossible to guarantee. This thinning can be directly attributed to the constant use of the colors of title. Under the guise of being the fee simple absolute, these titles have operated freely, but in reality, the evidence something much different.

It was said in common-law England, that when a title was not completely alienable and not the complete title it was not a fee simple absolute. Rather it was some type of contingent conveyance that depended on the performance of certain tasks before the title was considered to be absolute. In fact, normally the title never did develop into a fee simple absolute. These types of conveyance were evidenced in part by the operable word, since the conveyance and in part by the manner in which the granter could reclaim the property. If the title automatically reverted to the grantor upon the happening of a contingent action, then the title was by a fee simple determinable. **Scheller v. Trustees of Schools of Township 41 North, 67 ILL. App.3d 857, 863 (1978)** This is evidenced most closely today by deeds of trust in some states. If it required a court's ruling to reacquire the land and title, then the transaction and title were held by a fee

simple with a condition subsequent. **Mahrenholz v. Country Board of Trustees of Lawrence County, 93 III.App.3d 366, 370-74 (1981)** This is most closely evidenced by a mortgage in a lien or intermediate-theory state. These analogies may be somewhat startling and new to some, but the analogies are accurate. When a mortgage is acquired on property, the mortgagee steps into the position of a grantor with the authority to create the contingent estate as required by the particular facts. This is exactly what the grantor in Common Law property law could acquire. All the grantor had to do was choose a particular type of contingency and use the necessary catch words, and almost invariably the land would one day be refused due to a violation of the contingency. In today's property law, the color of title has little power to protect the landowner.

When the sovereign is unable to pay the necessary principal and interest on the debt load, then the catch words and phrases found in the deed of trust or mortgage become operational. Upon the occurrence of that event, the mortgagee or speculator, having through a legal maneuver acquired the position of a grantor, is in a position to either automatically receive the property simply by advertising and selling it, or can acquire the position of the grantor and eventually the possession of the property by a court proceeding. In Common Law, the grantor of a fee simple determinable where the contingency was broken or violated, could automatically take the land from the grantee holder, by force if necessary.

If however, the grant was a fee simple upon condition subsequent the grantor, when the contingency was broken, had to bring a legal proceeding to declare the contingence broken, to declare the grantee in violation, and to order the grantee to vacate the premises. These situations, though under different names and proceedings, occur every day in America. Is there really any serious debate therefore, that the colors of title used today, with the creation of a lien upon the property, become fee simple determinable and fee simples upon condition subsequent? Is this a legitimate method of ensuring a stable and permanent system of land ownership? If the color of title is weak, then how strong is a mortgage or deed of trust placed on the property?

Fee simple estates may be either legal or equitable. In each situation it is the largest estate in the land that the law will recognize. **Hughes v. Miller's Mutual Fire Insurance Co., 246 S.W.23 (1922)** If a mortgagee, upon the creation of a mortgage or deed of trust, steps into the shoes of the grantor upon a conditional fee simple, does it then mean the mortgagee has acquired one of the two halves of a fee simple, when cases have shown the fee simple is only evidenced by a patent? Actually, courts have held in many states that a mortgage is only a lien. **United States v. Certain Interests in Property in Champaign County, State of Illinois, 165 F.Supp.474, 480 (1958)** (In Illinois and other lien theory states, the mortgagee has only a lien and not a vested interest in the leasehold) See also **Federal Farm Mortgage Corp. v. Ganswer, 146 Neb. 635, 20 N.W.2d 689 (1945)** Even after a condition is broken or there is a default on a mortgage, a mortgagee only has an equitable lien which can be enforced in proper proceedings); South **Omaha Bank v. Levy, 95 N.W.603 (1902)** Strict foreclosure will not lie when mortgagor holds the legal title); **First** National **Bank v. Sergeant, 65 Neb. 394, 91 N.W. 595 (1902)**

(Mortgagee cannot demand more than is legally due); **Morrill v. Skinner, 57 Neb. 164, 77 N.W. 375 (1898)** (Mortgage conveys no estate but merely creates a lien); **Barber v. Crowell, 55 Neb. 571, 75 N. W. 1 109 (1898)** (Mortgage is mere security in form of conditional conveyance), **Speer v. Hadduck, 31 Freeman (HI.) 439, 443 (1863)** (Assignments or conveyances of

mortgages do not convey the fee simple, rather they hold only security interests) In lien and intermediate-theory states, these cases amply illustrate that a mortgage or deed of trust is only a lien. Even in title theory of mortgage states, courts of equity have determined that the fee simple title is not really conveyed, either in its equitable or legal state. See supra Barber, at 1110. A fee simple estate still exists even though the property is mortgaged or encumbered. **Hughes v. Miller's Mutual Fire Insurance Co., 246 S.W. 23, 24 (1922)** In fact, a creditor asserting a lien (mortgage) must introduce evidence or proof that will clearly demonstrate the basis of his lien. **United States v. United States Chain Company, 212 F. Supp. 171 (N. D.** If a mortgagee, even in the title theory states, has only a lien, yet when the mortgage or deed of trust is created he has a fee simple determinable or condition subsequent, then obviously the color of title used as the operative title has little force or power to protect the sovereign Freeholder. Nor can it be said that such a color of title is useful in the intendance of stable and permanent titles. The patent, in almost all cases has been originally issued to the first purchaser from the government.

Theoretically then the public policy, Congressional intent from the 30's, and the Congressional intent of the last few decades should protect sovereign in the enjoyment and possession of his freehold. This however is not the case. Instead, vast mortgaging of the land has occurred. The agriculture debt alone has risen to over $220,000,000,000 in the past three decades. This is in part due to the vast expansion of mortgaged holdings and part due to the rural sector's inability to repay existing loans requiring the increased mortgaging if the land. This is in exact contradiction to public policy and legislative intent if maintaining stable and simplistic land records; yet marketable titles (colors of title) were supposed to guarantee such records. **Wichelman v. Messner, 83 N.W.2d 800, 805 357.**

Colors of title are ineffective against mortgages and promote the instability and complexity of the records of land titles by requiring abstracts and title insurance simply to guarantee a marketable title. Worse, an injustice has prevailed in some of the states of permitting actions to determine titles to be maintained upon warrants for land (warranty deeds) and other titles not complete or legal in their character. This practice is against the intent of the Constitution and the Acts of Congress. **Bagnell v. Broderick, 38 U.S. 438 (1839).** Such lesser titles have no value in actions brought in federal courts not with standing a State legislature, which may have provided otherwise. **Hooper et. al. v. Scheimer, 64 U.S. (23 How.) 235 (1859)** It is in fact possible that the state legislatures have even violated the Supremacy Clause of the United States Constitution.

These actions are against the intent of the founding fathers and against the legislative intent of the Congressman who enacted the statutes at large creating the land patent or land grant This patent or grant, since the land grant has in some states, another name for the patent, the terms being synonymous, **Northern Pacific Railroad Co. v. Barden, 46 F. 592, 617 (1891);** prevented every problem that was created by the advent of colors of title, marketable titles, and mortgages.

Therefore, it is necessary to determine the validity of returning to the patent as the operative title.

Patents are issued (and theoretically passed) between sovereigns and deeds are executed by persons and private corporations without these sovereign powers. **Leading Fighter v. County of Gregory, 230 N.W.2d 114, 116 (1975)** As was stated earlier, the American people in creating

the Constitution and the government formed under it, made such a document and government as sovereigns, retaining that status even after the creation of the government. **Chisholm v. Georgia, 2 Dall. (U.S.) 419 (1793)** The government as sovereign passes the title to the American people creating in them sovereign Freeholders.

Therefore, it follows that the American people, as sovereigns, should also have this authority to transfer the fee simple title, through the patent, to others. Cases have been somewhat scarce in this area, but there is some case law to reinforce this idea. In **Wilcox v. Calloway, I Wash. (Va.) 38, 38-41 (1823),** the Virginia Court of Appeals heard a case where the patent was brought up or reissued to the parties four separate times. Some patents were issued before the creation of the Constitutional United States government, and some occurred during the creation of that government. The courts determined the validity of those patents, recognizing each actual acquisition as being valid, but reconciling the differences by finding the first patent, properly secured with all the necessary requisite acts fulfilled, carried the title.

The other patents and the necessary requisition a new patent each time yielded the phrase "lapsed patent."

A lapsed Patent being one that must be required to perfect the title. Id. Subsequent patentees take subject to any reservations in the original patent. **State v. Crawford 441 P.2d 586,590 (1968).** A patent regularly issued by the government is the best and only evidence of a perfect title. The actual patent should be secured to place at rest any question as to validity of entries (possession under a claim and color of title).

Young v. Miller, 125 So.2d 257, 258 (1960). Under the color of title act, the Secretary of Interior may be required to issue a patent if certain conditions have been met, and the freeholder and his predecessors in title are in peaceful, adverse possession under claim and color of title for more than a specified period.

Beaver v. United States, 350 F.2d 4, cert. denied, 387 U.S. 937 (1965). A description which will identify the lands (and possession) is all that is necessary for the validity of the patent, **Lossing v. Shull, 173 S.W.2d 1, 1 Mo. 342 (1943).** A patent to two or more persons creates presumptively a tenancy in common in the patentees. **Stoll v. Gottbreht, 176 N.W. 932, 45 N.D. 158 (1920).** A patent to be the original grantee or his legal representatives embrace the representatives by contract as well as by law.

Reichert v. Jerome H. Sheip, Inc., 131 So. 229, 222 Ala. 133 (1930). A patent has a double operation. In the first place, it is documentary evidence having the dignity of a record of the evidence of the title or such equities respecting the claim as to justify its recognition and later confirmation. In the second place, it is a deed of the United States, or a title deed. As a deed, its operation is that if a quitclaim or rather of a conveyance of such interest as the United States possess in the land, such interest in the land passing to the people or sovereign freeholders. 63 Am. Jur. 2d Section 97, p. 566.

Finally, the United States Supreme Court, in **Surmna Corporation v. California ex rel. State Lands Commission, etc., 80 L.Ed.2d 237 (1984),** made determinations as to the validity of a

patent confirmed by the United States through the Treaty of Guadalupe Hidalgo, 9 Stat. 631 (1951). The State of California attempted to acquire land that belonged to the corporation. The State maintained that there was a public trust easement granting to the State authority to take the land without compensation for public use.

The corporation relied in part on the intent of the treaty, in part on the intent of the patent and the statute creating it, and in part in the requisite challenge date of the patent expiring. The Summa Court followed the lengthy dissertation of the dissenting judge on the California Supreme Court, See 31 Cal. 3d 288, dissenting opinion, in determining that the patent which had been the apparent operative title throughout the years, was paramount and the actions by the State were against the manifest weight of the Treaty and the legislative intent of the patent statutes. In each of these cases it states that the patent, through possession, or claim and color of title, or through the term "**his heirs and assigns forever",** or through the necessary passage of title at the death of a joint tenant or tenant in common, is still the operable title and is required to secure the peaceful control of the land. These same ideas can also apply to state patents for lands that went to the state or remained in the hands of the state upon admission into the Union. **Oliphant v. Frazho, 146 N.W.2d 685, 686,687 (1966); Fiedier v. Pipers, 107 So.2d 409, 411-412 (1958)** (Not even the State could be heard to question the validity of a patent signed by the Governor and the Register of the State Land Office).

"No government can object to the intent and creation of a patent after such is issued, unless issued through fraud or mistake. The patent, either federal or state, has an intent to create sovereign freeholders in the land protected form the speculators, (any lending institution speculates upon land), and a public policy to maintain a simplistic, stable and permanent system of land records. Land patents were designed to effectively insure that this intent and policy were retained. Colors of title cannot provide this type of stability, since such titles are powerless against liens, mortgages, when the freeholder is unable to repay principle and interest on the accompanying promissory note. Equity will entertain jurisdiction at the instance of the owner of fee of lands to remove a cloud upon his title created by the sale of the premises and a deed issued thereto under a decree of foreclosure of a mortgage there-on." **Hodgen v. Guttery, 58 Free. (i I 1.) 431, 438 (1871)** (though this case dealt with an improper sale of land covered by a patent, any forced sales of lands covered by a patent is improper in view of the policy and intent of the Congress.)

Equity however will protect the mortgagee who stands to lose his interest in the property, thereby requiring a trust to be created until the debt is erased, making partners of the creditor and debtor.

What then exists is a situation where the patent should be declared (confirmed or reissued), to protect the sovereign freeholder and to re-institute the policy and intent of Congress. The patent as the paramount title, fee simple absolute, cannot be collaterally attacked, but when a debt can not be paid immediately placing the creditor in jeopardy, the courts will impose a constructive trust until the new "partners" can mutually eliminate the debt. If the debt cannot be satisfactorily removed, it is still possible, considering the present intent of the government, to maintain sovereign freeholders on the property, immune from the loss of the land, since it is Congress' intent to keep the family farm in place. The use of colors of title to act as the operative title is inappropriate considering the rising number of foreclosures and the inability of the colors of title

to restrain a mortgage or lien. However, the lending institutions, speculators on the land, maintain that the public policy of the country includes the eradication of the sovereign freeholders in the rural sector in an effort to implant upon the country, large corporate holdings.

This last area must be effectively met and eliminated.

To those who framed the Constitution, the rights of the States and the rights of the people were two distinct and different things. Throughout their debates they had two objects foremost in their minds. First, to create a strong and effective national government, and secondly to protect the people and their rights from usurpation and tyranny by government. The people's liberties and individual rights and safeguards were to be kept forever beyond the control and dominion of the legislatures of the States, whom they distrusted, and against whom they so carefully guarded themselves.

If such control and domination and unlimited powers were given to a few legislatures they could override every one of the reserved rights covered by the first ten Amendments (the bill of rights); they could change the government of limited powers to one of unlimited powers; they could declare themselves hereditary rulers; they could abolish religious freedoms, they could abolish free speech and the right of the people to petition for redress; they could not only abolish trial by jury, but even the rights to a day in court; and most importantly they could abolish free sovereign ownership of the land. The whole literature of the period of the adoption of the Constitution and the first ten amendments is one of great testimony to the insistence that the Constitution must be so amended as to safeguard unquestionably the rights and freedoms of the people so as to secure from any future interference by the new government, matters the people had not already given into its control, unless by their own consent. **United States v. Sprague, 282 U.S. 716, 723-726 (1930)**

The problem has not in the lending institutions that simply practice good business on their part. The problem in the loss of freedoms by this present interference with allodial sovereign ownership lies with the state legislatures that created law, or marketable title acts, that claimed to enact new simplistic, stable land titles and actually created a watered-down version of the fee simple absolute that requires complicated tracing and protection, and is ineffective against mortgage foreclosures. None of these problems would occur if the patent were the operable title again, as long as the sovereigns recognized the powers and disabilities of their fee simple title. The patent was meant to keep the sovereign freeholder on the land, but the land was also to be kept free of debt, since that debt was recognized in 1820 as un-repayable, and today is un-repayable.

The re-declaration of the patent is essential in the protection of the rural sector of sovereign freeholders, but also essential is the need to impress the state legislatures that have strayed from their enumerated powers with the knowledge that they have enacted laws that have defeated the intent and goal of man since the middle ages. That intent, of course, is to own a small tract of land absolutely, whether by land-bloc or patent, on which the freeholder is beholden to no lord or superior.

The patent makes sovereign freeholders of each person who own his/her land. A return to the patent must occur if those sovereign freeholders wish to protect that land from the encroachment of the state legislatures and the speculators that benefit from such legislation.

SECTION IV

CONCLUSION

As has been seen, man is always striving to protect his rights, the most dear being the absolute right to ownership of the land, This right was guaranteed by the land patent, the public policy of the Congress, and the legislative intent behind the Statutes at Large. Such fights must be reacquired through the re-declaration of the patent in the color of title claimant's name, based on his color of title and possession.

With such reborn rights, the land is protected from the forced sale because of delinquency on a promissory note and foreclosure on the mortgage. This protected land will not eliminate the debt, a trust must be created whereby "partners" will work together to repay it. These rights must be recaptured from the state legislated laws, or the freedoms guaranteed in the Bill of Rights and Constitution will be lost.

Once lost, those rights will be exceedingly hard, if not impossible to reclaim, and quite possibly, as Thomas Jefferson said, the children of this generation may someday wake up homeless on the land their forefathers founded. This Court has the opportunity, and the obligation to uphold the original intent of the founding fathers, and the Congress in the protection of our most valued unalienable right, the right to allodial property. END

EXHIBIT C

CERTIFIED Declaration Documents & Certificate of Acceptance of Declaration of CROMAR LAND PATENT #392 part and parcel thereof

ENT 50724:2020 PG 1 of 38
JEFFERY SMITH
UTAH COUNTY RECORDER
2020 Apr 17 5:00 pm FEE 40.00 BY MA
RECORDED FOR CROMAR, PAUL

UTAH COUNTY RECORDING DISTRICT

PAUL KENNETH CROMAR and BARBARA ANN CROMAR, FOREIGN GRANTORS

Paul Kenneth Cromar and Barbara Ann Cromar, American State Grantees

Acknowledgement, Acceptance and Deed of Re-Conveyance
Certificate of Assumed Name
Act of Expatriation Paul Kenneth Cromar and Barbara Ann Cromar
Act of Expatriation Paul Kenneth Cromar and Barbara Ann Cromar
Act of Expatriation Paul Kenneth Cromar and Barbara Ann Cromar
Cancellation of All Prior Powers of Attorney
Foreign Sovereign Immunities Act
Marriage Paperwork
Baby Deed for Land Recording
Paramount Claim of the Life and the Estate
LAND PATENT NOTICE

Return to: Cromar, Paul Kenneth and Cromar, Barbara Ann
c/o 9870 N. Meadow Drive
Cedar Hills, Utah, [84062]

This cover sheet has been added to these recorded documents to provide space for the recording data.
This cover sheet appears as the first page of the document in the official public record.
Do not detach.

Deed of Land Recording 5 MPKC 5 5 1959 USA

American Common Law Copyright and Trademark of Trade Name

On the 5th day of January in the year 1959 Anno Domini at the hour and minute of 10:30 p.m., a new baby was born on the land of San Jose in URUGUAY as a US Military child and was given the name:

Paul Kenneth Cromar.

The private natural biological parents are: Dale Young Cromar, Father, born May 13, 1934 on the land of the Salt Lake County in the Utah State, and Hevia Antonietta Junca Coronel, Mother, born October 7th of 1934, on the land of Cerro Largo in country of URUGUAY.

The family lives in the Salt Lake County of the Utah State and keeps the mailing address: 2578 S. Elizabeth St #8 / Salt Lake City UT [84106]. This baby is their first living child and first son.

By: Paul Kenneth C.

Witness Jurat

In Witness of these facts, before me, a Public Notary, appeared Paul Kenneth Cromar a private natural person and did present proofs of their identity and was deposed and did swear to or affirm these facts from Without the United States and did proclaim them under penalty of perjury and did sign this Deed in confirmation of all the above:

By: Barbara-Ann. Cromar. Witness

By: _____ Notary

My commission expires on: 6-23-2021.

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

State of Utah
County of Utah

Deed of Land Recording - 26 MBAC 1 16 1963 USA

American Common Law Copyright and Trademark of Trade Name

On the 26th day of January in the year 1963 Anno Domini at the 8th hour of a.m., a new baby was born on the land of Custer County in the Montana State to the Hunt Family and was given the name:

Barbara Ann Hunt.

The private natural biological parents are: Raymond Ford Hunt, Father, born September 22, 1934 on the land of the Custer County in the Montana State & Betty Lou Boeckel, Mother, born November 25, 1937, on the land of the Mercer County in the North Dakota State.

The family lives in the Custer County of the Montana State and keeps the mailing address: 412 South Custer / Miles City MT {59301}. This baby is their second living child and second daughter.

by: Barbara Ann Crona.

Witness Jurat

In Witness of these facts, before me, a Public Notary, appeared Barbara Ann Crona a private natural person and did present proofs of their identity and was deposed and did swear to or affirm these facts from Without the United States and did proclaim them under penalty of perjury and did sign this Deed in confirmation of all the above:

By: _____ Witness

By: _____ Notary

Seal

My commission expires on: 6-23-2021

K. USHER
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

MANDATORY NOTICE
Foreign Sovereign Immunities Act
Sections 1605 and 1607
NOTICE OF LIABILITY:
18 USC 2333, 18 USC 1341 and 1342

This **MANDATORY NOTICE** is provided to all **Territorial United States** District and State and County Courts, their officers, clerks, bailiffs, sheriffs, deputies, and employees and **all Municipal Appointees including their** DISTRICT, STATE, and COUNTY COURTS, **their OFFICERS and** EMPLOYEES:

The vessels doing business as Barbara Ann Cromar and not limited to Barbara Cromar, Barbara A. Cromar, B. A. Cromar, B. Cromar, Barbara Ann, BARBARA KENNETH CROMAR, BARBARA CROMAR, BARBARA A. CROMAR, B. A. CROMAR, B. CROMAR, BARBARA KENNETH, together with all derivatives and permutations and punctuations and orderings of these names, are not acting in any federal territorial or municipal capacity and have not knowingly or willingly acted in any such capacity since the day of nativity: **January 26, 1963.** All vessels are duly claimed by the Holder in **Due Course and held under published Common Law Copyright since January 26, birth year 1963.**

These vessels are publishing **MANDATORY NOTICE** that they are **Foreign Sovereigns** from the Utah state of **The United States of America.** This is your **MANDATORY NOTICE** that these above-named vessels are owed all material rights, duties, exemptions, insurances, treaties, bonds, agreements, and guarantees including indemnity and full faith and credit; you are also hereby provided with MANDATORY NOTICE that these vessels are **not subject** to Territorial or Municipal United States **law and are owed The Law of Peace,** Department of the Army Pamphlet 27-161-1, from all Territorial and Municipal Officers and employees who otherwise have no permission to approach or address them.

Any harm resulting from trespass upon these vessels or the use of fictitious names or titles related to them shall be subject to full commercial liability and penalties: 18 USC 2333, 18 USC 1341 and 1342.

So said, signed, and sealed this 17 day of April, 2020 in Utah County, Utah, The United States of America:

By: Barbara-Ann: Cromar

Notary Witness and Acknowledgement

Utah State)
Utah County)

Today before me, a Commissioned Notary is the living woman known to me to be Barbara **Ann Cromar** and she did issue this MANDATORY NOTICE as shown and she also affirmed her testimony as shown before me this 17th day of April in the year 2020, in Witness whereof I set my Signature and Seal:

_____ Public Notary; my commission expires on: 6-23-2021

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

Cancellation of All Prior Powers of Attorney

"All prior Powers of Attorney granted by Barbara Ann Cromar are removed, cancelled, and permanently revoked effective January 26, 1963.

Barbara Ann Cromar is Attorney-in-Fact for all purposes related to the administration of her estates and all correspondence should be addressed to: Barbara Ann Cromar, c/o 9870 N. Meadow Drive, Cedar Hills, Utah [84062]."

by: Barbara Ann Cromar. this 17 day of April 2020.

Public Notary Witness

Utah State)

Utah County)

I, K. Usher, a Public Notary, was visited today by the woman known to me to be Barbara Ann Cromar, and she did affirm and sign this Cancellation of All Prior Powers of Attorney in my presence for the purposes stated.

by: _____ Public Notary;

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

my Commission expires on: 6-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas BARBARA ANN CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure BARBARA ANN CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and does repatriate to the land of HER birth known as Montana and does freely affirm HER allegiance to the same actual and organic state of the Union and does accept and reclaim HER true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Barbara Ann, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April, **2020:**

By: Barbara Ann: Cromar. **(seal) Barbara Ann Cromar.**

Notary Witness

Utah State
Utah County

Before me this 17th **day of** April **2020 did appear one BARBARA ANN CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021

Seal

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas BARBARA A. CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure BARBARA A. CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and does repatriate to the land of HER birth known as Montana and does freely affirm HER allegiance to the same actual and organic state of the Union and does accept and reclaim HER true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Barbara A., c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April, **2020:**

By: Barbara-Ann: Cromar **(seal) Barbara A. Cromar.**

Notary Witness

Utah State
Utah County

Before me this 17th **day of** April **2020 did appear one BARBARA A. CROMAR and** she/he **did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021

Seal

K. USHER
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

Paramount Claim of the Life and the Estate of the Barbara Ann Cromar
Born January 26, 1963 in Miles City, Montana
Raymond Ford Hunt and Betty Lou Boeckel
Wedded September 25, 1960
Beulah, N. Dakota
The United States of America

Whereas I, the living woman known as Barbara Ann Cromar, am the result of the life and love and physical embodiment of my parents, the living man known as Raymond Ford Hunt and the living woman known as Betty Lou Hunt (née Betty Lou Boeckel) who were lawfully wedded in Beulah, N. Dakota in the calendar year 1960, now therefore I am their living daughter from the moment of conception and from the first combining of their unique genetic code to create my unique genetic code and my zygote in support of my physical embodiment then and now, and as I am the only true and surviving inheritor, I hereby publish my claim and recording of the facts:

The Afterbirth composed of a placenta, umbilical cord, and fetal tissues which accompanied me into this world and which was in possession of my DNA was never a viable separate living organism and was instead a portion of my flesh akin to any hair, skin, or other representation of my genetic content, that was not abandoned, not donated, and not returned to me or my parents for burial. No separate estate, living status, ownership interest or death apart from my own life may be claimed in behalf of the Afterbirth or other waste resulting from my birth, from my shedding of hair, my shedding of skin, the deposit of my fingerprints or any other DNA-containing substance whatsoever.

I hereby establish my Paramount Claim upon my unique DNA as the only lawful and living inheritor thereof from the moment of my conception forward and I also publish my nullification of any claim of ownership or material interest in my DNA based upon samples procured from any bodily waste or substance for any purpose.

As witness to my claims, I here affix the Signature and Seal of my Lawful Person, retaining all rights and prerogatives thereof:

by: Barbara-Ann: Cromar.

Public Notary Witness:

Today, on the 17 day, of April, in the year 2020, I was visited by a woman properly identified or known to me to be Barbara Ann Cromar and she did establish this record before me and sign it for the purposes stipulated herein, and I do accordingly add my signature and seal:

by: _____, Notary.

My commission expires on: 6-23-2021.

K. USHER
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas ~~PAUL CROMAR~~ BARBARA CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure BARBARA CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 day of April, 2020:

By: Barbara Ann Cromar. ~~Paul Cromar~~

Notary Witness

Utah State
Utah County

Before me this 17th day of April 2020 did appear one ~~PAUL CROMAR~~ and he she (tn) Barbara Ann Cromar (tn) did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:

_____ Notary; my commission expires on 6-23-2021.

Seal

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

Paramount Claim of the Life and the Estate of the Paul Kenneth Cromar
Born May 5, 1959 in San Jose, Uruguay (United States Military)
Dale Young Cromar and Hevia Antonietta Junca Coronel
Wedded July 25, 1958
Durham, North Carolina
The United States of America

Whereas I, the living man known as Paul Kenneth, am the result of the life and love and physical embodiment of my parents, the living man known as Dale Young Cromar and the living woman known as Hevia Junca Cromar (née Hevia Antonietta Junca Coronel) who were lawfully wedded in Durham, North Carolina in the calendar year 1958, now therefore I am their living son from the moment of conception and from the first combining of their unique genetic code to create my unique genetic code and my zygote in support of my physical embodiment then and now, and as I am the only true and surviving inheritor, I hereby publish my claim and recording of the facts:

The Afterbirth composed of a placenta, umbilical cord, and fetal tissues which accompanied me into this world and which was in possession of my DNA was never a viable separate living organism and was instead a portion of my flesh akin to any hair, skin, or other representation of my genetic content, that was not abandoned, not donated, and not returned to me or my parents for burial. No separate estate, living status, ownership interest or death apart from my own life may be claimed in behalf of the Afterbirth or other waste resulting from my birth, from my shedding of hair, my shedding of skin, the deposit of my fingerprints or any other DNA-containing substance whatsoever.

I hereby establish my Paramount Claim upon my unique DNA as the only lawful and living inheritor thereof from the moment of my conception forward and I also publish my nullification of any claim of ownership or material interest in my DNA based upon samples procured from any bodily waste or substance for any purpose.

As witness to my claims, I here affix the Signature and Seal of my Lawful Person, retaining all rights and prerogatives thereof:

by: _____

Public Notary Witness:

Today, on the 17 day, of April, in the year 2020, I was visited by a man properly identified or known to me to be Paul Kenneth Cromar and he did establish this record before me and sign it for the purposes stipulated herein, and I do accordingly add my signature and seal:

by: _____, Notary.

My commission expires on: 4-23-2021

State of Utah
State of Utah

K. USHER
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

MANDATORY NOTICE
Foreign Sovereign Immunities Act
Sections 1605 and 1607
NOTICE OF LIABILITY:
18 USC 2333, 18 USC 1341 and 1342

This **MANDATORY NOTICE** is provided to all **Territorial United States** District and State and County Courts, their officers, clerks, bailiffs, sheriffs, deputies, and employees and all Municipal Appointees including their **DISTRICT, STATE, and COUNTY COURTS, their OFFICERS and** EMPLOYEES:

The vessels doing business as Paul Kenneth Cromar and not limited to Paul Cromar, Paul K. Cromar, P. K. Cromar, P. Cromar, Paul Kenneth, PAUL KENNETH CROMAR, PAUL CROMAR, PAUL K. CROMAR, P. K. CROMAR, P. CROMAR, PAUL KENNETH, together with all derivatives and permutations and punctuations and orderings of these names, are not acting in any federal territorial or municipal capacity and have not knowingly or willingly acted in any such capacity since the day of nativity: **May 5th, birth year 1959**. All vessels are duly claimed by the Holder in Due Course and held under published Common Law Copyright since **May 5th, birth year 1959**.

These vessels are publishing **MANDATORY NOTICE** that they are **Foreign Sovereigns** from the Utah state of **The United States of America**. This is your **MANDATORY NOTICE** that these above-named vessels are owed all material rights, duties, exemptions, insurances, treaties, bonds, agreements, and guarantees including indemnity and full faith and credit; you are also hereby provided with **MANDATORY NOTICE** that these vessels are **not subject** to Territorial or Municipal United States law and are owed **The Law of Peace**, Department of the Army Pamphlet 27-161-1, from all Territorial and Municipal Officers and employees who otherwise have no permission to approach or address them.

Any harm resulting from trespass upon these vessels or the use of fictitious names or titles related to them shall be subject to full commercial liability and penalties: 18 USC 2333, 18 USC 1341 and 1342.

So said, signed, and sealed this 17 day of April, 2020 in Utah County, Utah, The United States of America:

By: Paul Kenneth Cromar.

Notary Witness and Acknowledgement

Utah State)
Utah County)

Today before me, a Commissioned Notary is the living man known to me to be Paul Kenneth Cromar and he did issue this MANDATORY NOTICE as shown and he also affirmed his testimony as shown before me this 17 day of April in the year 2020, in Witness whereof I set my Signature and Seal:

Public Notary, ~~my commission~~ expires on: 6-23-2021

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas PAUL CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure PAUL CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April, **2020:**

By: Paul Cromar Ltd C, **Paul Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one PAUL CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021

K. USHER
NOTARY PUBLIC STATE OF UTAH
COMMISSION# 696730
COMM. EXP. 06-23-2021

Cancellation of All Prior Powers of Attorney

"All prior Powers of Attorney granted by Paul Kenneth Cromar are removed, cancelled, and permanently revoked effective May 5, 1959.

Paul Kenneth Cromar is Attorney-in-Fact for all purposes related to the administration of his estates and all correspondence should be addressed to: Paul Kenneth Cromar, c/o 9870 N. Meadow Drive, Cedar Hills, Utah [84062]."

by: Paul Kenneth Cromar this 17 day of April 2020.

Public Notary Witness

Utah - State of Utah

Utah County)

I, K. Usher, a Public Notary, was visited today by the man known to me to be Paul Kenneth Cromar, and he did affirm and sign this Cancellation of All Prior Powers of Attorney, in my presence for the purposes stated.

by: _____ Public Notary;

my Commission expires on: 6-23-2021.

K. USHER
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas PAUL KENNETH CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure PAUL KENNETH CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul Kenneth, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April **, 2020:**

By: Paul Kenneth Cromar **(seal) Paul Kenneth Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one PAUL KENNETH CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

Notary; my commission expires on 6-23-2021

Seal

K. USHER
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas PAUL K. CROKAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure PAUL K. CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul K., c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April**, 2020:**

By: Paul Kent Cromar **(seal) Paul K. Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one PAUL K. CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021

K. USHER Seal
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas PAUL KENNETH CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure PAUL KENNETH CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul Kenneth, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April**, 2020:**

By: Paul Kenneth: C **(seal) Paul Kenneth Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one PAUL KENNETH CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

Notary; my commission expires on 6-23-2021

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

Seal

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas PAUL K. CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into *under conditions of full disclosure* PAUL K. CROMAR *willingly and purposefully* renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and while born on the land of HIS birth known as Uruguay (as United States Military child) was naturalized to Utah and does freely affirm HIS allegiance to his naturalized organic Utah state of the Union and does accept and reclaim HIS true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Paul K., c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April, **2020:**

By: Paul K. Cromar **(seal) Paul K. Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one PAUL K. CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021

K. USHER Seal
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

RETURN TO: PAUL KENNETH CROMAR, GRANTOR

C/O Cromar, Paul Kenneth, Administrator
ADDRESS: c/o 9870 NORTH MEADOW DRIVE
CEDAR HILLS, UTAH 84062

CERTIFICATE OF ASSUMED NAME
NOTICE OF TRANSFER OF RESERVED NAME

Returnee – CROMAR **certificate of ownership**

PROVIDING FOR FILING OF NAME[S] WHEN BUSINESS IS CONDUCTED UNDER ASSUMED NAME; SESSIONS LAW 145:1907: CHAPTER 145 [H.B.64] OF THE STATE OF WASHINGTON; AN ACT PROVIDING THAT WHEN ANY BUSINESS OTHER THEN A CORPORATION(S) OR LIMITED PARTNERSHIP IS CONDUCTED UNDER AN ASSUMED NAME, A CERTIFICATE SHOWING THE REAL PARTIES IN INTEREST SHALL BE FILED WITH THE COUNTY CLERKAND FIXING A PENALTY x 2. TO BE DEEMED A PUBLIC OFFICER YOU MUST PRODUCE AND BE VETTED BY THE ADMINISTRATOR OF THIS DOCUMENT, A LETTER OF INTENT, A LETTER OF COMPLIANCE WITH ALL STATE AND FEDERAL RULES AND REGULATIONS AS PRESCRIPED BY THE SECRETARY OF STATE OR ANY PRIVATE PERSON WHO CROMARS NOT PROPERLY IDENTIFY THEMSELVES UPON REQUEST BY PRODUCING A BUSINESS LICENSE, A UBI NUMBER, AND A BOND FILLED OUT IN THE C.A.P. NAME ON THIS CERTIFICATE, ARE FINED ON THE SPOT FOR 500.00 IN CONSIDERATION. FEE SCHEDULE; TO BE DETERMINED BY THE HEAD ADMINISTRATOR OF THIS DOCUMENT AT THE TIME OF ENGAGEMENT. AND ALSO THE CORRESPONDING SESSION LAWS OF THE STATE OF ALASKA INCLUDING CHAPTER 84 OF THE 1961 SESSION LAWS, CHAPTER 84, SECTION 13, "Common Law Rights" AND AS 10.35.030 (1CHAPTER 33 SLA 1966) TRANSFER OF RESERVED NAME.

Where as GRANTOR is a Cestui Que Vie TRUST formed without the knowledge or consent of the Grantee and has accumulated unauthorized debt against the ESTATE benefiting secondary beneficiaries merely presumed to exist and claiming to have an interest in the ESTATE established under the MUNICIPAL LAW OF THE DISTRICT OF COLUMBIA and the DISTRICT OF COLUMBIA MUNICIPAL CORPORATION, the actual Grantee, the living man known to the public as Paul Kenneth Cromar invokes the provisions of Article IV of the Cestui Que Vie Act 1666 as one "having been found to be alive" and to be owed all benefit, control, and interest in the GRANTOR TRUST ESTATE set free and clear of all liens, debts, titles held under color of law, tithes, fees, and all other encumbrances established by the United States of America, Inc., THE UNITED STATES OF AMERICA, INC., the UNITED STATES, (INC.), USA, Inc., E Pluribus Unum the United States of America and all and any franchises thereof ab initio from the date of first registration of the ESTATE TRUST and all and any derivatives thereof, including but not limited to PAUL CROMAR and PAUL KENNETH CROMAR and PAUL K. CROMAR and any other styles, punctuations, orders, abbreviations or variations of my Trade Name.

REGISTRATION REASON:
REINSTATEMENT OF ACTUAL HOLDER IN DUE COURSE OF ESTATE NAME AND ESTATE PROPERTY AND ALL INTEREST DUE; PUBLIC AND PRIVATE RECOGNITION OF GRANTEE AS HOLDER IN DUE COURSE AND LAWFUL ENTITLEMENT HOLDER OF FOREIGN GRANTOR TRUST NAMED PAUL KENNETH CROMAR AS OF 5 MAY 1959.

BUSINESS INFORMATION:
LEGAL ENTITY: HEIR GRANTEE, PRIVATE, PUBLIC, SIGNATURE TRUST
BUSINESS DESCRIPTION: **COMMERCE, GRANTOR, PRIVATE, PUBLIC, SIGNATORY**
BUSINESS NAME:
D.B.A PAUL KENNETH CROMAR and CROMAR, PAUL KENNETH and PAUL CROMAR and PAUL K. CROMAR and all and any derivatives thereof in any way related to the ESTATE so NAMED.

PHYSICAL POST OFFICE ADDRESS:
C/O 180 S 100 W, Pleasant Grove, Utah Postal Code Extension 84062

OWNER INFORMATION:

True and Real Trade Name: Grantee, Private, Signatory, Beneficiary, Holder, Transferee:

First Name: Paul
Middle Name: Kenneth
Last Name: Cromar
STYLE: Bicameral & Surname
Post Office Address (Physical):
c/o 9870 North Meadow Drive, Cedar Hills, Utah Postal Code Extension 84062
Post Master Location: 180 S 100 W, Pleasant Grove, Utah Postal Code Extension 84062

THIS CERTIFICATE IS TO CONDUCT BUSINESS IN COMMERCE IN AN ASSUMED NAME DESIGNED TO ACCOMPANY NEW BUSINESS ACCOUNT REGISTRATION.

I am claiming the writ of Habeas Corpus to institute and maintain actions of any kind in the courts of "this" state while maintaining true domicile on the land of these United States, to take, hold and dispose of property either Real, Intangible or Personal held in the name of the FOREIGN GRANTOR TRUST dba PAUL KENNETH CROMAR together with all derivative NAMES and Names and styles thereof, together with guarantee of pre-payment and exemption from Taxes, Tithes, and Fees, together with re-conveying all actual assets rightfully belonging to the Lawful Holder in Due Course.

Under the form of creating a qualification or attaching a condition, the Unites States and United States of America however styled or construed cannot, in effect, inflict a punishment for a past act which was not punishable at the time it was committed and which was not the knowing, willing, and consensual act of the actual Holder in Due Course of the given name and estate.

All violators, agents, actors under color of law, and actions under color of authority claimed by any corporations, associations, or subcontractors, agencies or agents of any kind or like violating or attempting to violate the political status and Title Order of the Grantee at any time past, present, or future shall be liable severally, and jointly to this certificate as an affidavit of obligation in the normal commercial sense and as such is a severity representing accounts receivable and is a lien upon the real and movable property, malpractice insurance and performance bonds of any such violators and is not dischargeable in bankruptcy court or subject to any probate claim; at all times the owner/holder in due courses' property is exempt from third party levy and all related vessels in commerce and in trade are tax pre-paid.

This shall also serve as Mandatory Notice required under the Foreign Sovereign Immunities Act that the Living Soul, Owner, Proprietor, Holder-in-Due Course, Indemnitee, is a Foreign Sovereign owed all rights, guarantees, and protections of The Constitution for the united States of America and all assets owed to the Priority Creditors of the Territorial United States and the Municipal United States. This Foreign Sovereign, Paul Kenneth Cromar, retains all rights in reversion and is not subject to any conference of citizenship or other merely presumed benefit or obligation.

ISSUED THIS 17th DAY OF APRIL IN THE YEAR 2020 ON AND FOR THE COUNTY OF UTAH ON THE STATE OF UTAH; NOTICE TO AGENTS IS NOTICE TO PRINCIPALS, NOTICE TO PRINCIPALS IS NOTICE TO AGENTS; WITNESS BY NOTARY CROMARS NOT ALTER STATUS.

By: _____ (Seal) Signature, all rights reserved.

ACKNOWLEDGMENT OF HEAD ADMINISTRATOR FROM HOME OFFICE, **Private Banker, UCC-1-201, 1-308:** c/o Paul Kenneth Cromar, TRUE AND REAL TRADE NAME BY MY HAND AND SEAL I TAKE OFFICE WITHOUT ENCUMBRANCE AND WITHOUT DEBT OR OTHER OBLIGATION, FULLY EXEMPT, INDEMNIFIED, AND WITHOUT GRANT OF ANY OTHER POWER OF ATTORNEY DBA: PAUL KENNETH CROMAR & CROMAR, PAUL KENNETH and ALL DERIVATIVES INCLUDING PAUL K. CROMAR and PAUL CROMAR at C/O 9870 NORTH MEADOW DRIVE, CEDAR HILLS, UTAH 84062, RETURNEE: CROMAR.

These provisions and copyrights are in effect from May 5, 1959 onward and the Name/NAMES are re-venued and permanently domiciled on the land and soil of the United States and upon land and soil of Utah.

Notary Witness and Acknowledgement

Attachment to "Certificate of Assumed Name
Notice of Transfer of Reserved Name"

Utah State
Utah County

Today before me, a Commissioned Public Notary, visited the living man known to me to be Paul Kenneth Cromar and he did Issue this Certificate of Assumed Name as shown and he also affirmed his testimony as shown before me this 17th day of April in the Year 2020, in Witness whereof I set my Signature and Seal:

_____ Public Notary;

my commission expires on: 6-23-2021.

K. USHER
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

seal

Acknowledgement, Acceptance and Deed of Conveyance

I, the living man, Paul Kenneth Cromar being of age, of sound mind and in good health, free of ~~all duress or improper consideration hereby acknowledge, accept, and convey my given~~ lawful Trade Name, Paul Kenneth Cromar to the land and soil of Utah, my naturalized state, having lived here more than 1 year and 1 day, together with all derivative names, including Paul Kenneth Cromar, Paul K. Cromar, Paul Cromar, PAUL KENNETH CROMAR, PAUL K. CROMAR, PAUL CROMAR, and all other variations however styled, punctuated, spelled, ordered, or ~~otherwise represented as pertaining to me and my estate, and hereby declare their permanent~~ domicile on the land and soil of Utah.

~~All prior Powers of Attorney, all other prior presumed or granted Executorships, Guardianships,~~ and Agency relationships are terminated and revoked effective with my natural birthday May 5, 1959, as I elect to be recognized as the sole living owner, executor, beneficiary, and agent of my name and estate since my 21st birthday on May 5, 1971.

So said, so signed, and so sealed by my living hand this 17 day of April in the year 2020 by:

By: _____ LS

Witness Jurat

Utah State}
Utah County}

I, a public notary, was visited today by the living ~~woman~~ man(kn) known and identified as Paul Kenneth Cromar and ~~she~~ he(kn) did sign and seal this Acknowledgement, Acceptance and Deed of Conveyance in my presence and did affirm the same in my sight, whereupon I affix my signature and seal as testimony to these facts:

_____ Notary;

K. USHER
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

my commission expires on: 6-23-2021

Acknowledgement, Acceptance and Deed of Conveyance

I, the living woman, Barbara Ann Hunt being of age, of sound mind and in good health, free of all duress or improper consideration hereby acknowledge, accept, and convey my given lawful Trade Name, Barbara Ann Cromar to the land and soil of Utah, my naturalized state, having lived here more than 1 year and 1 day, together with all derivative names, including Barbara Ann Cromar, Barbara A. Cromar, Barbara Cromar, Barbara Ann Hunt, Barbara A. Hunt, Barbara Hunt, BARBARA ANN CROMAR, BARBARA A. CROMAR, BARBARA CROMAR, BARBARA ANN HUNT, BARBARA A. HUNT, BARBARA HUNT, and all other variations however styled, punctuated, spelled, ordered, or otherwise represented as pertaining to me and my estate, and hereby declare their permanent domicile on the land and soil of Utah.

All prior Powers of Attorney, all other prior presumed or granted Executorships, Guardianships, and Agency relationships are terminated and revoked effective with my natural birthday January 26, 1963, as I elect to be recognized as the sole living owner, executor, beneficiary, and agent of my name and estate since my 21st birthday on January 26, 1975.

So said, so signed, and so sealed by my living hand this 14th day of April in the year 2020 by:

By: Barbara-Ann Cromar. LS

Witness Jurat

Utah State}
Utah County}

I, a public notary, was visited today by the living woman known and identified as Barbara Ann Cromar and she did sign and seal this Acknowledgement, Acceptance and Deed of Conveyance in my presence and did affirm the same in my sight, whereupon I affix my signature and seal as testimony to these facts:

_____ Notary;

K. USHER
NOTARY PUBLIC • STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

my commission expires on: 6-23-2021

RETURN TO: BARBARA ANN CROMAR, GRANTOR

C/O Cromar, Barbara Ann, Administrator
ADDRESS: c/o 9870 NORTH MEADOW DRIVE
CEDAR HILLS, UTAH 84062

CERTIFICATE OF ASSUMED NAME

NOTICE OF TRANSFER OF RESERVED NAME

Returnee – CROMAR **certificate of ownership**

PROVIDING FOR FILING OF NAME[S] WHEN BUSINESS IS CONDUCTED UNDER ASSUMED NAME; SESSIONS LAW 145;1907; CHAPTER 145 [H.B.64] OF THE STATE OF WASHINGTON; AN ACT PROVIDING THAT WHEN ANY BUSINESS OTHER THEN A CORPORATION(S) OR LIMITED PARTNERSHIP IS CONDUCTED UNDER AN ASSUMED NAME, A CERTIFICATE SHOWING THE REAL PARTIES IN INTEREST SHALL BE FILED WITH THE COUNTY CLERKAND FIXING A PENALTY x 2. TO BE DEEMED A PUBLIC OFFICER YOU MUST PRODUCE AND BE VETTED BY THE ADMINISTRATOR OF THIS DOCUMENT, A LETTER OF INTENT, A LETTER OF COMPLIANCE WITH ALL STATE AND FEDERAL RULES AND REGULATIONS AS PRESCRIPED BY THE SECRETARY OF STATE OR ANY PRIVATE PERSON WHO CROMARS NOT PROPERLY IDENTIFY THEMSELVES UPON REQUEST BY PRODUCING A BUSINESS LICENSE, A UBI NUMBER, AND A BOND FILLED OUT IN THE C.A.P. NAME ON THIS CERTIFICATE. ARE FINED ON THE SPOT FOR 500.00 IN CONSIDERATION. FEE SCHEDULE: TO BE DETERMINED BY THE HEAD ADMINISTRATOR OF THIS DOCUMENT AT THE TIME OF ENGAGEMENT. AND ALSO THE CORRESPONDING SESSION LAWS OF THE STATE OF ALASKA INCLUDING CHAPTER 84 OF THE 1961 SESSION LAWS, CHAPTER 84, SECTION 13, "Common Law Rights" AND AS 10.35.030 (1CHAPTER 33 SLA 1966) TRANSFER OF RESERVED NAME.

Where as GRANTOR is a Cestui Que Vie TRUST formed without the knowledge or consent of the Grantee and has accumulated unauthorized debt against the ESTATE benefiting secondary beneficiaries merely presumed to exist and claiming to have an interest in the ESTATE established under the MUNICIPAL LAW OF THE DISTRICT OF COLUMBIA and the DISTRICT OF COLUMBIA MUNICIPAL CORPORATION, the actual Grantee, the living man known to the public as Barbara Ann Cromar invokes the provisions of Article IV of the Cestui Que Vie Act 1666 as one "having been found to be alive" and to be owed all benefit, control, and interest in the GRANTOR TRUST ESTATE set free and clear of all liens, debts, titles held under color of law, tithes, fees, and all other encumbrances established by the United States of America, Inc., THE UNITED STATES OF AMERICA, INC., the UNITED STATES, (INC.), USA, Inc., E Pluribus Unum the United States of America and all and any franchises thereof ab initio from the date of first registration of the ESTATE TRUST and all and any derivatives thereof, including but not limited to BARBARA CROMAR and BARBARA ANN CROMAR and BARBARA K. CROMAR and any other styles, punctuations, orders, abbreviations or variations of my Trade Name.

REGISTRATION REASON:
REINSTATEMENT OF ACTUAL HOLDER IN DUE COURSE OF ESTATE NAME AND ESTATE PROPERTY AND ALL INTEREST DUE; PUBLIC AND PRIVATE RECOGNITION OF GRANTEE AS HOLDER IN DUE COURSE AND LAWFUL ENTITLEMENT HOLDER OF FOREIGN GRANTOR TRUST NAMED BARBARA ANN CROMAR AS OF 26 JANUARY 1963.

BUSINESS INFORMATION:
LEGAL ENTITY: HEIR GRANTEE, PRIVATE, PUBLIC, SIGNATURE TRUST
BUSINESS DESCRIPTION: **COMMERCE, GRANTOR, PRIVATE, PUBLIC, SIGNATORY**
BUSINESS NAME:
D.B.A BARBARA ANN CROMAR and CROMAR, BARBARA ANN and BARBARA CROMAR and BARBARA A. CROMAR and all and any derivatives thereof in any way related to the ESTATE so NAMED.

PHYSICAL POST OFFICE ADDRESS:
C/O 9870 NORTH MEADOW DRIVE, CEDAR HILLS, UTAH 84062

OWNER INFORMATION:

True and Real Trade Name: Grantee, Private, Signatory, Beneficiary, Holder, Transferee:
First Name: Barbara
Middle Name: Ann
Last Name: Cromar
STYLE: Bicameral & Surname
Post Office Address (Physical):
c/o 9870 North Meadow Drive, Cedar Hills, Utah Postal Code Extension 84062
Post Master Location: 180 S 100 W, Pleasant Grove, Utah Postal Code Extension 84062

THIS CERTIFICATE IS TO CONDUCT BUSINESS IN COMMERCE IN AN ASSUMED NAME DESIGNED TO ACCOMPANY NEW BUSINESS ACCOUNT REGISTRATION.

I am claiming the writ of Habeas Corpus to institute and maintain actions of any kind in the courts of "this" state while maintaining true domicile on the land of these United States, to take, hold and dispose of property either Real, Intangible or Personal held in the name of the FOREIGN GRANTOR TRUST dba BARBARA ANN CROMAR together with all derivative NAMES and Names and styles thereof, together with guarantee of pre-payment and exemption from Taxes, Tithes, and Fees, together with re-conveying all actual assets rightfully belonging to the Lawful Holder in Due Course.

Under the form of creating a qualification or attaching a condition, the Unites States and United States of America however styled or construed cannot, in effect, inflict a punishment for a past act which was not punishable at the time it was committed and which was not the knowing, willing, and consensual act of the actual Holder in Due Course of the given name and estate.

All violators, agents, actors under color of law, and actions under color of authority claimed by any corporations, associations, or subcontractors, agencies or agents of any kind or like violating or attempting to violate the political status and Title Order of the Grantee at any time past, present, or future shall be liable severally, and jointly to this certificate as an affidavit of obligation in the normal commercial sense and as such is a severity representing accounts receivable and is a lien upon the real and movable property, malpractice insurance and performance bonds of any such violators and is not dischargeable in bankruptcy court or subject to any probate claim; at all times the owner/holder in due courses' property is exempt from third party levy and all related vessels in commerce and in trade are tax pre-paid.

This shall also serve as Mandatory Notice required under the Foreign Sovereign Immunities Act that the Living Soul, Owner, Proprietor, Holder-in-Due Course, Indemnitee, is a Foreign Sovereign owed all rights, guarantees, and protections of The Constitution for the united States of America and all assets owed to the Priority Creditors of the Territorial United States and the Municipal United States. This Foreign Sovereign, Barbara Ann Cromar, retains all rights in reversion and is not subject to any conference of citizenship or other merely presumed benefit or obligation.

ISSUED THIS 17th DAY OF APRIL IN THE YEAR 2020 ON AND FOR THE COUNTY OF UTAH ON THE STATE OF UTAH; NOTICE TO AGENTS IS NOTICE TO PRINCIPALS, NOTICE TO PRINCIPALS IS NOTICE TO AGENTS; WITNESS BY NOTARY CROMARS NOT ALTER STATUS.

By: Barbara-Ann: Cromar. (Seal) Signature, all rights reserved.

ACKNOWLEDGMENT OF HEAD ADMINISTRATOR FROM HOME OFFICE, **Private Banker, UCC-1-201, 1-308:** c/o Barbara Ann Cromar, TRUE AND REAL TRADE NAME BY MY HAND AND SEAL I TAKE OFFICE WITHOUT ENCUMBRANCE AND WITHOUT DEBT OR OTHER OBLIGATION, FULLY EXEMPT, INDEMNIFIED, AND WITHOUT GRANT OF ANY OTHER POWER OF ATTORNEY DBA: BARBARA ANN CROMAR & CROMAR, BARBARA ANN and ALL DERIVATIVES INCLUDING BARBARA K. CROMAR and BARBARA CROMAR at C/O 9870 NORTH MEADOW DRIVE, CEDAR HILLS, UTAH 84062, RETURNEE: CROMAR.

These provisions and copyrights are in effect from January 26, 1963 onward and the Name/NAMES are re-venued and permanently domiciled on the land and soil of the United States and upon land and soil of Utah.

Notary Witness and Acknowledgement

Attachment to "Certificate of Assumed Name
Notice of Transfer of Reserved Name"

Utah State
Utah County

Today before me, a Commissioned Public Notary, visited the living woman (fn) known to me to be Barbara Ann Cromar and she did issue this Certificate of Assumed Name as shown and he also affirmed his testimony as shown before me this 22nd day of April in the Year 2020, in Witness whereof I set my Signature and Seal:

_____ Public Notary;

my commission expires on: 10-23-2021.

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

seal

ACT OF EXPATRIATION
AND OATH OF ALLEGIANCE

Whereas BARBARA CROMAR is a naturalized "citizen of the United States" under the Diversity Clause of the Constitution(s) and is the age of majority and whereas such citizenship was never desired nor intended nor willingly nor voluntarily entered into under conditions of full disclosure BARBARA CROMAR willingly and purposefully renounces all citizenship or other assumed political status related to the United States defined as "the territories and District of Columbia" (13 Stat. 223, 306, ch. 173, sec. 182, June 30, 1864) and its government, a corporation doing business variously as the UNITED STATES, UNITED STATES OF AMERICA, Municipal Corporation of the District of Columbia, etc. formed under the Act of 1877, and does repatriate to the land of HER birth known as Montana and does freely affirm HER allegiance to the same actual and organic state of the Union and does accept and reclaim HER true Nationality as an American State National and an American State Vessel in all international trade and commerce owned and operated by Cromar, Barbara, c/o 9870 N. Meadow Drive, Cedar Hills, Utah, Postal Code Extension 84062.

This action I validate, certify, Witness and affirm this 17 **day of** April, **2020:**

By: Barbara-Ann Cromar. **Barbara Cromar.**

Notary Witness

Utah State
Utah County
Before me this 17th **day of** April **2020 did appear one BARBARA CROMAR and he did establish this Act of Expatriation and Oath of Allegiance freely and without coercion, in Witness whereof I set my sign and seal:**

_____ **Notary; my commission expires on** 6-23-2021.

Seal

K. USHER
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 08-23-2021

The united states of America, and in The Republic state of Utah

Paul Kenneth Cromar
and Barbara Ann Cromar
c/o 9870 N. Meadow Drive
Cedar Hills, Utah, Republic,
usA NON-DOMESTIC

NOTICE OF,

CERTIFICATE OF ACCEPTANCE OF DECLARATION OF LAND PATENT,

LAND PATENT #392 / Homestead Certificate 1136 / Application 1864,

Dated, February 26, 1887. (SEE ATTACHED),

KNOW ALL YE MEN AND WOMEN BY THESE PRESENT.

1. That we, Paul Kenneth Cromar and Barbara Ann Cromar, do hereby certify and declares that we are "Assignees" in the LAND PATENT named and numbered above; that we have brought up said Land Patent in our names as it pertains to the land described below. The character of said land so claimed by the patent, and legally described and referenced under the Patent Number Listed above is; Southeast quarter of section 6 in township five south of range two east of Salt Lake Meridian in Utah Territory containing on hundred and sixty acres." (SEE ATTACHED).

2. That we, Paul Kenneth Cromar and Barbara Ann Cromar, is domiciled at 9870 North Meadow Drive, Cedar Hills, Utah Republic, usA NON-DOMESTIC. Unless otherwise stated, we have individual knowledge of matters contained in this Certification of Acceptance of Declaration of Patent. We are fully competent to testify with respect to these matters.

3. We, Paul Kenneth Cromar and Barbara Ann Cromar, am an Assignee at Law and a bona fide subsequent purchaser by contract, of certain legally described portion of LAND PATENT under the original, certified LAND PATENT # 392, Dated February 26, 1887, which is duly authorized to be executed in pursuance of the supremacy of

treaty law, citation and Constitutional Mandate, herein referenced, whereupon a duly authenticated true and correct lawful description, together with all hereditament , tenements , pre-emptive rights appurtenant thereto, the lawful and valuable consideration which is appended hereto, and made a part of this NOTICE OF CERTIFICATE OF ACCEPTANCE OF DECLARATION OF LAND PATENT.(SEE ATTACHED).

4. No claim is made herein that we have been assigned the entire tract of land as described in the original patent. My assignment is inclusive of only the _attached lawful description. The filing of this NOTICE OF CERTIFICATE OF ACCEPTANCE AND DECLARATION OF LAND PATENT shall not deny or infringe on any right, privilege, or Immunity of any other Heir or Assigns to any other portion of land covered in the above described Patent Number 392. (SEE ATTACHED)

5. If this duly certified LAND PATENT is not challenged by a lawfully qualified party having a claim, Lawful lien, debt, or other equitable interest if any in a court of law within sixty (60) days from the date of this filing this NOTICE, then the above described property shall become the Allodial Freehold of the Heir or Assignee to said Patent, the LAND PATENT shall be considered

6. Henceforth perfected in our names "Paul Kenneth Cromar and Barbara Ann Cromar", and all future claims against this land shall be forever waived.
When a lawfully qualified Sovereign American individual has a claim to title and is challenged, the court of competent original and exclusive jurisdiction is the Common law Supreme Court (Article III). Any action against a patent by a corporate state or their Respective statutory, legislative units (i.e., courts) would be an action at Law which is outside the venue and jurisdiction of these Article 1 courts. There is no Law issue contained herein which may be heard in any of the State courts (Article 1), nor can any court of Equity/Admiralty/Military set aside, annul, or correct a LAND PATENT.

7. Therefore, said land remains unencumbered, free and clear, and without liens or lawfully attached in any way, and is hereby declared to be private land and private property, not subject to any commercial forums (e. g. U C C) whatsoever.

8. A common Law courtesy of sixty (60) days is stipulated for any challenges hereto, otherwise, laches or estoppel shall forever bar the same against said ALLODIAL freehold estate; assessment lien theory to the contrary, notwithstanding. Therefore, said declaration, after (60) days from date, if no challenges are brought forth and upheld, perfects this ALLODIAL TITLE the name/ names forever

JURISDICTION

THE REPCIPIENT HERETO IS MANDATED by Article IV Sec. 3, Clause 2, Article VI, Sec.2 & 3, the 9th and 10th Amendments with reference to the 7th Amendment, enforced under Article III, Sec. 3, clause 1, of the Constitution for the United States of America.

PERJURY JURAT

Pursuant to Title 28 USC sec. 1746 (1) and executed "without the United States", we affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my belief and informed knowledge . And further deponent saith not. We now affix my signature of the above affirmations with EXPLICIT RESERVATION OF ALL OF MY UNALIENABLE RIGHTS, WITHOUT PREJUDICE to any

Respectfully,

by: Paul Kenneth Cromar

Paul Kenneth Cromar
c/o 9870 North Meadow Drive
Cedar Hills, Utah [84062]

by: Barbara Ann : Cromar.

Barbara Ann Cromar
c/o 9870 North Meadow Drive
Cedar Hills, Utah [84062]

Witnessed by: Maddie Senator Maddie Senator Date as of April 17, 2020

Witnessed by: Stan Lowder STAN Senator

Witnessed by: _____

NOTICE

This Notice is to inform any person who has lawful standing to view this file and who wishes to review the complete file on record may do so by requesting an appointment with:

Paul Kenneth Cromar
Phone: 801-400-5900,
Address: 9870 N. Meadow Drive
Cedar Hills, Utah [84062]
E-mail: kencromar5@gmail.com

Notice# 1
I, Paul Kenneth Cromar will set the time, date and place for the review of my documents, no exceptions!

Notice# 2
I, Paul Kenneth Cromar have the summary of the chain of title included in this file.

Notice #3
This document has a total of __ pages.

NOTICE:

Failure of any lawful party claiming an interest to bring forward a lawful challenge to this Certificate of Acceptance of Declaration of Land Patent and the benefit of Original Land Grant! Patent, as stipulated herein, will be !ached and estoppel to any and all parties claiming an interest forever.

Failure to make a lawful claim, as indicated herein, within sixty (60) calendar days of this notice, will forever bar any claimant from any claim against my/our allodial patent estate as described herein and will be a Final Judgment.

SUMMARY OF CHAIN OF TITLE

USA-Patent #392 Homestead Certificate 1136 Application 1864	to	Edward Meredith	May 20, 1882
Edward Meredith	to	Joseph Halliday	August 29, 1882
Joseph Halliday & Louisa Halliday	to	Vern L. Halliday	July 19, 1928
S. Sheya & Rose Sheya	to	Celeste Dalpiaz	May 1, 1929
Celeste Dalpiaz & Giovanna Dalpiaz	to	The State of Utah	December 31, 1936
The State of Utah	to	LaVere J. Wadley	July 3, 1941
LaVere J. Wadley & Eunice B. Wadley	to	Adrian Atkinson & Odessa N. Atkinson	June 20, 1959
Cecil L. Huntsman & Ruby J. Huntsman	to	Adrian Atkinson & Odessa N. Atkinson	October 10, 1968
Ernell Parra Thayne & Devora S. Thayne	to	North Meadow Inc.	January 17, 1972
James D. Harvey & Barbara S. Harvey	to	North Meadow Inc.	December 23, 1977
QUIT CLAIM Ernell Parra Thayne & Devora S. Thayne	to	North Meadow Inc.	March 9, 1979
North Meadow Inc.	to	Taylor Homes	June 17, 1991
Kim C. Turner & Don G. Taylor - DBA Taylor Homes	to	P. Kenneth & Barbara A. Cromar	October 7, 1991
Affiliated Title Co. Inc.	to	P. Kenneth & Barbara A. Cromar	June 1, 1993

P. Kenneth & Barbara A. Cromar	to	Meadow Trust / Aran Islands Holdings	August 15, 1195
Meadow Trust / Aran Islands Holdings	to	Meadow Trust / Strategy Holdings	June 5, 1998
Strategy Holdings	to	Paul Kenneth & Barbara Ann Cromar	October 23, 2008

The United States of America,

To all to whom these Presents shall come, Greeting:

Homestead Certificate No. 4[illegible]
Application [illegible]

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Salt Lake City Utah Territory, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Edward Meredith has been established and duly consummated, in conformity to law, for the South east quarter of section twenty six in Township five South of range two East of Salt Lake Meridian in Utah Territory containing one hundred and sixty acres

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

Now know ye that there is, therefore, granted by the United States unto the said Edward Meredith the tract of Land above described: **To have and to hold** the said tract of Land, with the appurtenances thereof, unto the said Edward Meredith and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, I, Grover Cleveland, PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twenty sixth day of February, in the year of our Lord one thousand eight hundred and eighty seven and of the Independence of the United States the one hundred and eleventh

L.S.

By the President: Grover Cleveland

By M McLean, Secretary.

Robt W Ross, Recorder of the General Land Office.

QUIT-CLAIM DEED

ENT 74128 BK 3273 PG 602
NINA B REID UTAH CO RECORDER BY MB
1993 OCT 20 3:46 PM FEE 12.00
RECORDED FOR BARBARA S HARVEY

JAMES D. HARVEY and BARBARA S. HARVEY, husband and wife, of Pleasant Grove, County of Utah, State of Utah, grantors, hereby QUIT-CLAIM to JAMES D. HARVEY and BARBARA S. HARVEY, Trustees or Successor Trustees of THE JAMES D. HARVEY FAMILY TRUST, of Pleasant Grove, County of Utah, State of Utah, for the sum of Ten Dollars any and all interest in the following described tract of land in Utah County, State of Utah:

COMMENCING AT A POINT WHICH IS EAST 690.77 FEET AND NORTH 26.17 FEET FROM THE SOUTH QUARTER SECTION CORNER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 2 EAST, S.L.B.& M.; AND RUNNING THENCE NORTH 0°20' WEST 1036.59 FEET; THENCE NORTH 61°45' WEST 46.95 FEET; THENCE NORTH 75°29' WEST 387.14 FEET; THENCE NORTH 28°31' WEST 180.72 FEET; THENCE SOUTH 85°03' EAST 70.40 FEET; THENCE NORTH 88°49' EAST 406.06 FEET; THENCE NORTH 88°42' EAST 108.46 FEET; THENCE NORTH 0°11' WEST 26.25 FEET; THENCE NORTH 89°49' EAST 396.00 FEET; THENCE NORTH 0°11' WEST, PARALLEL TO THE EAST LINE OF SECTION 6, 1199.87 FEET; THENCE NORTH 27°20' EAST 78.65 FEET; THENCE NORTH 47°24' EAST 74.58 FEET; THENCE NORTH 89°49' EAST 156.12 FEET TO A POINT WHICH IS WEST 1237.44 FEET AND SOUTH 4.03 FEET FROM THE EAST QUARTER CORNER OF SECTION 6; AFORESAID; THENCE SOUTH 0°11' EAST 118 RODS, MORE OR LESS, TO AMERICAN FORK CREEK; THENCE SOUTHEASTERLY ALONG SAID AMERICAN FORK CREEK 53 RODS MORE OR LESS; THENCE SOUTH 89°04' WEST 192.61 FEET; THENCE NORTH 89°58' WEST 302.52 FEET; THENCE SOUTH 89°20' WEST 676.43 FEET TO THE POINT OF BEGINNING. AREA 34.7 ACRES MORE OR LESS.
COMMENCING AT A POINT WHICH IS NORTH 18.13 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 2 EAST, S.L.B.& M.; AND RUNNING THENCE NORTH 1304.68 FEET TO THE NORTHERLY LINE OF A DITCH; THENCE, WITH SAID DITCH LINE ON THE FOLLOWING COURSES: SOUTH 89°07' EAST 99.41 FEET; THENCE SOUTH 80°19' EAST 39.90 FEET; THENCE SOUTH 43°06' EAST 34.94 FEET; THENCE SOUTH 23°30' EAST 86.29 FEET; THENCE SOUTH 34°11' EAST 71.39 FEET; THENCE SOUTH 58°50' EAST 36.80 FEET; THENCE SOUTH 79°39' EAST 222.42 FEET; THENCE SOUTH 59°16' EAST 172.53 FEET TO THE INTERSECTION OF THE SAID DITCH LINE WITH THE WEST LINE OF A ROADWAY; THENCE, WITH SAID ROADWAY SOUTH 0°20' EAST 973.06 FEET;

ENT 4128 BK 3273 PG 805

THENCE SOUTH 89°20' WEST 641.32 FEET TO THE POINT OF BEGINNING./ COMMENCING NORTH LINE OF ROAD, SAID POINT BEING SOUTH 2612.34 FEET AND EAST 697.88 FEET FROM NORTH QUARTER SECTION CORNER OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 2 EAST, S.L.B. & M.; AND RUNNING THENCE SOUTH 89°14' WEST 155.15 FEET ALONG SAID ROAD; THENCE NORTH 0°20' WEST, 1333.40 FEET; THENCE NORTH 89°18' EAST 155.15 FEET TO A SECOND ROAD RIGHT-OF-WAY; THENCE WITH THE SAID LINE OF SAID RIGHT-OF-WAY SOUTH 0°20' EAST 1333.30 FEET TO POINT OF BEGINNING; 5 ACRES. TOGETHER WITH 45 SHARES PLEASANT GROVE IRRIGATION COMPANY PRIMARY WATER AND 10 SHARES OF PLEASANT GROVE IRRIGATION COMPANY EAST MEADOW WATER.

WITNESS, the hands of said grantors, this 4 day of October, A. D., 1993.

JAMES D. HARVEY

BARBARA S. HARVEY

STATE OF UTAH)
: ss.
COUNTY OF DAVIS)

On the 4 day of Oct., 1993, personally appeared before me JAMES D. HARVEY and BARBARA S. HARVEY, the signers of the within instrument, who duly acknowledged to me that they executed the same.

My Commission Expires: 04-27-96

NOTARY PUBLIC
Residing at Davis County

Grantee's Address:
806 West 9200 North
Pleasant Grove, Utah

Notary Public
KARAN S. COFINA
481 Laurelwood
Kaysville, Utah 84037
My Commission Expires
April 27, 1996
State of Utah

Acknowledgement, Acceptance and Deed of Re-Conveyance

I, the living man, Paul Kenneth Cromar, being of age, of sound mind and in good health, free of all duress or improper consideration hereby acknowledge, accept, and re-convey my given lawful Trade Name, Paul Kenneth Cromar to the land and soil of Utah, my native state, together with all derivative names, including Paul Kenneth Cromar, Paul Cromar, Paul K. Cromar, P. K. Cromar, PAUL KENNETH CROMAR, PAUL K. CROMAR, PAUL CROMAR, P. K. CROMAR, and all other variations however styled, punctuated, spelled, ordered, or otherwise represented as pertaining to me and my estate, and hereby declare their permanent domicile on the land and soil of Utah.

All prior Powers of Attorney, all other prior presumed or granted Executorships, Guardianships, and Agency relationships are terminated and revoked effective with my natural birthday May 5, 1959, as I elect to be recognized as the sole living owner, executor, beneficiary, and agent of my name and estate since my 21st birthday on May 5, 1971.

So said, so signed, and so sealed by my living hand this 17 day of April in the year 2020 by:

By: _____ seal LS

Witness Jurat

Utah State }
Utah County }

I, a public notary, was visited today by the living man known and identified as Paul Kenneth Cromar and he did sign and seal this Acknowledgement, Acceptance and Deed of Re-Conveyance in my presence and did affirm the same in my sight, whereupon I affix my signature and seal as testimony to these facts:

_____ Notary;

K. USHER
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

my commission expires on: 6-23-2021

Seal

Acknowledgement, Acceptance and Deed of Re-Conveyance

I, the living man, Barbara Ann Cromar, being of age, of sound mind and in good health, free of all duress or improper consideration hereby acknowledge, accept, and re-convey my given lawful Trade Name, Barbara Ann Cromar to the land and soil of Utah, my native state, together with all derivative names, including Barbara Ann Cromar, Barbara Cromar, Barbara A. Cromar, B. A. Cromar, BARBARA ANN CROMAR, BARBARA A. CROMAR, BARBARA CROMAR, B. A. CROMAR, and all other variations however styled, punctuated, spelled, ordered, or otherwise represented as pertaining to me and my estate, and hereby declare their permanent domicile on the land and soil of Utah.

All prior Powers of Attorney, all other prior presumed or granted Executorships, Guardianships, and Agency relationships are terminated and revoked effective with my natural birthday January 26, 1963, as I elect to be recognized as the sole living owner, executor, beneficiary, and agent of my name and estate since my 21st birthday on January 26, 1975.

So said, so signed, and so sealed by my living hand this 17 day of April in the year 2020 by:

By: Barbara-Ann: Cromar seal LS

Witness Jurat

Utah State }
Utah County }

I, a public notary, was visited today by the living man (Woman (Kn)) known and identified as Barbara Ann Cromar and he (she (Kn)) did sign and seal this Acknowledgement, Acceptance and Deed of Re-Conveyance in my presence and did affirm the same in my sight, whereupon I affix my signature and seal as testimony to these facts:

_____ Notary;

K. USHER
NOTARY PUBLIC · STATE OF UTAH
COMMISSION# 695730
COMM. EXP. 06-23-2021

my commission expires on: 6-23-2021

Seal

Utah County
HEART of UTAH

PROPERTY INFORMATION

mobile view

Serial Number: 47:059:0003 **Serial Life:** 1981...


Total Photos: 2

Property Address: 9870 MEADOW - CEDAR HILLS
Mailing Address: 886 E 490 N LINDON, UT 84042-1595
Acreage: 0.36
Last Document: 121145-2008
Subdivision Map Filing
Legal Description: LOT 3, PLAT C, AMEMDED NORTH MEADOW EST. SUB.

Owner Names | Value History | Tax History | Location | Photos | Documents | Aerial Image

2009...	CROMAR, BARBARA ANN
2009...	CROMAR, PAUL KENNETH
2000-2008	STRATEGY HOLDINGS
2000-2008	WHITE, LANNY
1999	STRATEGY HOLDINGS
1999	WHITE, LANNY
1996-1998	ARAN ISLANDS HOLDINGS
1992-1995	CROMAR, BARBARA A
1992-1995	CROMAR, KEN
1992NV	TAYLOR HOMES
1988-1991	NORTH MEADOW INCORPORATED
1984-1987	NORTH MEADOW INCORPORATED
1981-1983	NORTH MEADOW INC

Abstract

Main Menu

Comments or Concerns on Value/Appraisal - Assessor's Office
Documents/Owner/Parcel information - Recorder's Office
Address Change for Tax Notice

This page was created on 4/17/2020 4:58:50 PM

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STATE OF UTAH
COUNTY OF UTAH
I THE UNDERSIGNED RECORDER OF UTAH COUNTY, UTAH DO HEREBY CERTIFY THAT THE AMENDED AND FOREGOING IS A TRUE COPY OF THE ORIGINAL RECORDED DOCUMENT IN THE OFFICE RECORD IN MY OFFICE AS THE SAME APPEARS IN ENTRY 50734-2020 PAGES 38
BOOK _____ AT PAGE _____
WITNESS MY HAND AND SEAL OF SAID OFFICE THIS 27
DAY OF April 20 21
ANDREA ALLEN, RECORDER
Tamra Christensen DEPUTY

EXHIBIT D

MANDATORY NOTICE - Foreign Sovereign Immunities Act
& NOTICE OF LIABILITY – Barbara & Ken Cromar

MANDATORY NOTICE

Foreign Sovereign Immunities Act
Sections 1605 and 1607
NOTICE OF LIABILITY:
Title 18 USC 2333
Title 18 USC 1341 and 1342

This MANDATORY NOTICE is provided to all Territorial United States District and State and County Courts, their officers, clerks, bailiffs, sheriffs, deputies, and employees and all Municipal Appointees including their DISTRICT, STATE, and COUNTY COURTS, their OFFICERS and EMPLOYEES:

The vessels doing business as Barbara Ann Cromar, BARBARA ANN CROMAR, BARBARA A. CROMAR, together with all derivatives and permutations and punctuations of these names, a lawfully copyrighted and trademarked living-and-breathing woman, is not acting in any federal territorial or municipal capacity and has not knowingly or willingly acted in any such capacity since the day of nativity: January 26, 1963. All vessels are duly claimed by the Holder in Due Course and held under published Common Law Copyright since January 26, 1963.

These vessels are publishing MANDATORY NOTICE that they are Foreign Sovereigns from the Utah state of The United States of America. This is your MANDATORY NOTICE that these above-named vessel is owed all material rights, duties, exemptions, insurances, treaties, bonds, agreements, and guarantees including indemnity and full faith and credit; you are also hereby provided with MANDATORY NOTICE that this vessel is not subject to Territorial or Municipal United States law and are owed The Law of Peace, Department of the Army Pamphlet 27-161-1, from all Territorial and Municipal Officers and employees who otherwise have no permission to approach or address her.

Any harm resulting from trespass upon these vessels or the use of fictitious names or titles related to them shall be subject to full commercial liability and penalties: 18 USC 2333, 18 USC 1341 and 1342.

So said, signed, and sealed this 15th day of April, in the year of our Lord 2021, in Utah County, Utah state, The United States of America.

By: Barbara-Ann: Cromar

By: Barbara-Ann: Cromar --(right thumbprint)

Contact:
Cromar, Barbara-Ann:
c/o 9870 N. Meadow Dr.
Cedar Hills, Utah state [84062]

MANDATORY NOTICE

Foreign Sovereign Immunities Act
Sections 1605 and 1607
NOTICE OF LIABILITY:
Title 18 USC 2333
Title 18 USC 1341 and 1342

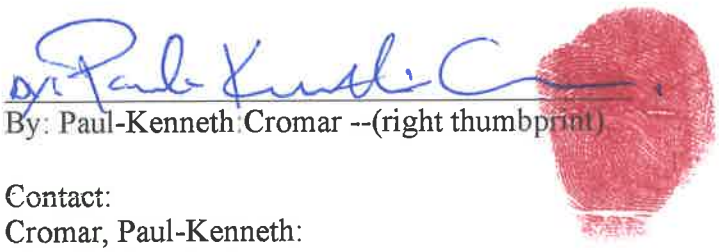
This MANDATORY NOTICE is provided to all Territorial United States District and State and County Courts, their officers, clerks, bailiffs, sheriffs, deputies, and employees and all Municipal Appointees including their DISTRICT, STATE, and COUNTY COURTS, their OFFICERS and EMPLOYEES:

The vessels doing business as Paul Kenneth Cromar, PAUL KENNETH CROMAR, PAUL K. CROMAR, together with all derivatives and permutations and punctuations of these names, a lawfully copyrighted and trademarked living-and-breathing man, is not acting in any federal territorial or municipal capacity and has not knowingly or willingly acted in any such capacity since the day of nativity: May 5, 1959. All vessels are duly claimed by the Holder in Due Course and held under published Common Law Copyright since May 5, 1959.

These vessels are publishing MANDATORY NOTICE that they are Foreign Sovereigns from the Utah state of The United States of America. This is your MANDATORY NOTICE that these above-named vessel is owed all material rights, duties, exemptions, insurances, treaties, bonds, agreements, and guarantees including indemnity and full faith and credit; you are also hereby provided with MANDATORY NOTICE that this vessel is not subject to Territorial or Municipal United States law and are owed The Law of Peace, Department of the Army Pamphlet 27-161-1, from all Territorial and Municipal Officers and employees who otherwise have no permission to approach or address him.

Any harm resulting from trespass upon these vessels or the use of fictitious names or titles related to them shall be subject to full commercial liability and penalties: 18 USC 2333, 18 USC 1341 and 1342.

So said, signed, and sealed this 15th day of April, in the year of our Lord 2021, in Utah County, Utah state, The United States of America:



By: Paul-Kenneth Cromar --(right thumbprint)

Contact:
Cromar, Paul-Kenneth:
c/o 9870 N. Meadow Dr.
Cedar Hills, Utah state [84062]

EXHIBIT E

DECLARATION OF ALIENAGE – King & Queen - paul & Barbara

Declaration of Alienage

In the Name of Our Father and His Son Jesus Christ, and for the Messiah's sake, Known by all men by these presents; *We* come in peace and dignity for humanity, good cause; Take notice to all parties of interest for the administration of Justice... In the light of day in this grave matter, *We* Give My Proclamation ORDERS to the world, in love and light.

To Whom it may concern;

In Reference to: NOTICE Given; Corpus Juris Secundum
Section 16, Page 892: Points of Authority***IN LAW...Evidence of Life...Continues
See "Death Section 6", In the Matter of: associated accounts
FACT-OF-DEATH: Death of the person on whose estate administration is sought is a jurisdiction requisite; and while the presumption of death arising from absence may present a prima facie case sufficient to warrant a grant of administration, yet if it subsequently develops that such person was in fact alive, the administration is **void**.

While it is true that the presumption of death arising from a person's absence, unheard from, for a considerable length of time (see "Death Section 6"), may present a prima facie case sufficient to warrant a grant of administration on his estate, the arising of such presumption does not take the case out of the operation of the general rule on the subject, and if it is made to appear that the person was in fact alive at the time such administration was granted, the administration is absolutely void. Although, that payment to an administrator of an absentee who is not in fact dead is no defense against the absentee or his legal representative, nor are costs and disbursement incurred by such administrator a legal charge against the absentee or his property; but where the administrator has paid debts of the absentee, he is subrogated to the rights of the creditors whom he has paid. It has been considered, however, that the invalidity of the administration does not relate back, but that it is invalid only the time when the presumption of death is rebutted...

Waiver Notice: To the debtors in possession, We do not consent to be the surety, nor to these proceedings or your unilateral offer to contract, any voluntary or involuntary servitude, waive all government obligated benefits, as We are not for hire, or profit or gain, if you think you represent me you are Fired!, Fired!!, Fired!!!, Fired!!!! Nunc-pro-tunc, ab-initio;

It is *My/Our* ORDER, and *Our* will, intention and *Our* command to any and all claimants, or such parties; As of this memorial moment, *Me, Myself, I (Are, Us, We);* I are not pursuant to 31 CFR 363.6, and infant *[To take notice of declaration of disaffirmance, renounce, terminate, revoke, rescind, disaffirm any and all contracts associated with infancy...43 C.J.S., Infant, § 78, pp. 190,192...., in In 43 C.J.S. Infants § 75, p. 176 it is said 'the general rule which has been said to have its exceptions and limitations, is that the disaffirmance of a contract made by an infant nullifies it and renders it void ab initio, and that the rights of the parties are to be determined as though the contract had not been made, the parties being restored to the status quo as far as possible, and renders it void ab-initio]*, and Notice to the Claimants, surety(ies), and Notice to Revocation of Wills or Codicils part and parcel that You think You may or might have had... or officious Intermeddling in commerce, or any presumed power(s) of Attorney(s)

otherwise utilized are hereafter **REVOKED** and Terminated for your personal, commercial trespass on private property, without *Our* consent; Notice of termination of Adult guardianship, specifically for restoring, and pertaining to conservatorship of the estate, you must certify *my/Our* rights to subrogation, prior to any action, You shall indemnify and hold harmless me against any wrongdoing, malfeasance, maladministration, barratry;

> **Public Notice;** *We* are alive in *Our* landed earthen vessel, Breathing, walking, having dominion on the ground,.. and not lost as sea… suae-potestate-esse, That *We* have never Abandoned *Our* title by nature, accept *Our* RNA, DNA, real, personal, fungible goods, We claim *Our* Mind, body, soul, and We terminate, revoke, renounce of any all previous Soul contracts that may have falsely presumed to bind us, *We* stand upright for right, truth, "Now the word of the LORD came to me Saying, "[5] Before I formed you in the womb, I consecrated you, I appointed you a prophet to the nations." (Jeremiah 1:4-5)
>
> At this time forward 2021/ 04/15 on or about 3:00 p.m., *We* accept *Our* birthright, ab-initio, having arrived in the year of our lord, one-thousand nine-hundred fifty-nine and sixty-three, both over twenty-five years old, in attainment of majority now sixty-one and fifty-eight years old, as witnessed by each of *Our* mothers, that *We* are begotten of Him, AS *We* do not waive or abandon any rights, promises, given, from now and forever, *We* are not slaves! ... Now the king and queen to *Our* nation;

We stand on the law according to Public Law 97-280 OCT 4, 1982, KJV-1611, Law of Bible by nature and *Our* God's law and no other, it is against *Our* religious dictates of his/her own conscience, to worship, practice, pray, pay tribute at or worship any other Gods, of another organization, churches; and otherwise

Christ taught us how to pray saying, "…Give us this day our daily bread, forgive us our debts, as we also have forgiven our debtors…(see Matthew 6:8-15)", and we repent of all of *Our* sin, and transgressions, ask for forgiveness, from *Our* brothers and sisters in the LORD, "So shalt thou find favour and good understanding in the sight of God and man. [5] Trust in the LORD with all thine heart; and lean not unto thine own understanding. [6] In all thy ways acknowledge him, and he shall direct thy paths." (Proverbs 3:4-6) "The Land shall not be sold in perpetuity, for the land is mine. For you are strangers and sojourners with me." (Leviticus 25:23) "The Lord is my strength and my shield; my heart trusted in him, and I am helped: therefore my heart greatly rejoiceth; and with my song will I praise him." (Psalm 28:7) **The Lord's prayer** says, "The Lord is my sherpherd, I shall not want. …" (Psalm 23: 1-6) The Resurrection of Christ, saved me by grace, and moreover, brethren, I declare unto you the gospel which I preached unto you, which also ye have received," (1 Corinthians 15: 1-4) and, "Even as the Son of man came not to be ministered unto, but to minister, and to give his life a ransom for many." (Matthew 20:28) "…Who gave Himself for us, that he might redeem us from every lawless deed and purify for Himself His own special people, zealous for good works." (Titus 2:14) "Having therefore, brethren, boldness to enter into the holiest by the blood of Jesus, By a new and living way, which he hath consecrated for us... (Hebrews 10:19-22) : "For Christ sent me not to baptize, but to preach the gospel: not with wisdom of words, lest the cross of Christ should be made of none effect." (1 Corinthians 1:17, KJV) ... So, "That Christ may dwell in your hearts by faith;...and grounded in love,…". (Ephesians 3:17)

And you hath He quickened, who were dead in [their] trespasses and sins; Wherein in time past ye walked according to the course of this world (Ephesians 2:1-2) ... **"No longer as a bondservant but more than a bondservant – a beloved brother - especially to me, but how much more to you, both in the flesh and in the Lord."** (Philemon 1:16)
" [1] Why do the nations conspire and the peoples plot in vain? [2] The kings of the earth rise up and the rulers band together against the LORD and against his anointed,... [4] The One enthroned in heaven laughs; the Lord scoffs at them. [5] He rebukes them in his anger...". (Psalm 2: 1-2, 4-5)

WHOSOEVER believeth that Jesus is the Christ is born of God: and every one that loveth him that begat, loveth him also that is begotten of him, for whatsoever is born of God overcometh the world, even *Our* faith...and Whosoever shall confess that Jesus is the son of God, God dwelleth in him, and he is God and, "So then, the law was our guardian until Christ came, in order that we might be justified by faith. But now that faith has come, we are no longer under a guardian, For in Christ Jesus you are all sons of God, through Faith. For as many of you as were baptized into Christ have put on Christ, [28]There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female, **for you are all one in Christ Jesus**, And if you are Christ's, then you are Abraham's offspring, heirs according to promise." (Galatians 3:24-29)

"And because you are sons, God has sent the Spirit of His Son into our hearts, crying, "Abba! Father!" So you are no longer a slave, but a son, and if a son, **then an heir through God through Christ.** (Galatians 4:6-7) **who is the guarantee** "of our inheritance until the redemption of the purchased possession, to the praise of His glory." (Ephesians 1:14) We are God's own possession.

"Moreover the prince shall not take of the people's inheritance by oppression, to thrust them out of their possession; *but* he shall give his sons inheritance out of his own possession: that my people be not scattered every man from his possession." (Ezekial 46:18)

"For you are a holy people to the LORD your God, and the LORD has chosen you to be a people for Himself, a special treasure above all the peoples who are on the face of the earth." (Deuteronomy 7:6) "And this *is* the manner of the release: Every creditor that lendeth *ought* unto his neighbour shall release *it*; he shall not exact *it* of his neighbour, or of his brother; because it is called the LORD'S release." (Deuteronomy 15:2)

"But you are a chosen generation, a royal priesthood, a holy nation, His own special people that you may proclaim the praise of Him who called you out of darkness into **His marvelous light**;" (1 Peter 2:9) as His peculiar...people... **Do not call anyone on earth your father**, "And call no *man* your father upon the earth: for **one is your Father, which is in heaven**."(see Matthew 23:9)

"And from Jesus Christ, who is the faithful witness, and the first begotten of the dead, and the Prince of the kings of the earth: unto him that loved us, and washed us from our sins in his own blood, - **Revelation 1:5**

"He who has an ear, let him hear what the Spirit says to the churches. To the one who conquers I will grant to eat of the tree of life, which is in the paradise of God. - **Revelation 2:7**

"He who has an ear, let him hear what the spirit says to the churches. The one who conquers will not be hurt by the second death. - **Revelation 2:11**

"Therefore repent. If not, I will come to you soon and war against them with the sword of my mouth. - **Revelation16**

"He who has an ear, let him hear what the Spirit says to the churches. To the one who conquers I will give some of the hidden manna, and I will give him a white stone, with a new name written on the stone that no one knows except the one who receives it. - **Revelation 2:17**

"The one who conquers and who keeps my works until the end, to him I will give authority over the nations, – and he will rule them with a rod of iron, as when earthen pots are broken in pieces, even as I myself have received authority from my Father. – and I will give him the morning star. - **Revelation 2:26-27**

"The one who conquers will be clothed thus in white garments, and I will never blot his name out of the book of life. I will confess his name before my Father and before His angels.
- **Revelation 3:5**

"And to the angel of the church in Philadelphia write: The words of the holy One, the true One, who has the key of David, Who opens and no one will shut, Who shuts and no one opens;
- **Revelation 3:7**

"Behold, I will make those of the synagogue of Satan who say that they are Jews and are not, but lie-behold I will make them come and bow down before your feet, and they will learn that I have loved you. - **Revelation 3:9**

"Behold, I come quickly: hold that fast which thou hast, that no man take thy crown. [12] Him that overcometh will I make a pillar in the temple of my God, and he shall go no more out: and I will write upon him the name of my God, and the name of the city of my God, which is new Jerusalem, which cometh down out of heaven from my God: and I will write upon him my new name." - **Revelation 3:11-12**

Manna is a symbol of God's sustenance and provision for the people of Israel in the wilderness as they came out of Egypt in obedience to God's call, risking their own lives to go to a land they would only later be shown.

Notice of estoppel; YOU can do nothing to me that HEAVEN does not ALLOW! *Our* God is fully capable of delivering us from any pit of fire you may/are going to set before *us*. And further stop domestic terrorism, or involuntary servitude, and enticement into slavery, "Whoever, steals a man and sells him, and anyone found in possession of, shall be put to death" **(Exodus 21:16)**, by your acts of robbery, human trafficking, piracy, theft, kidnaping, or attempt to sell, stolen property, unlawful conversion conflict of interest by two or more officers or employees, - Cease and Desist the spread of malicious slander, misconduct, malicious prosecution (see 3 John 1:10), "Thou shall not bear false witness against thy neighbor" (Exodus 20:16), and "False witness will not go unpunished and he who breathes out lies will perish" (Proverbs 19:9), and the invasion of privacy; *We* are collapsing *Our* Cestui Que Via 1666 Trusts, accepting the body, for there is NO value left in this matter, **UCC § 2A-505** (1)(2)(3)(4)(5) cancel lease, Perfected security annexed and now entitled to safe harbor into any port of the world, in full faith and credit of the United States of America, Tax Exempt from withholding and zero reporting, new status of foreign grantor 508A, religious entity,W-8-BEN, peace and friendship treaty;

Wherefore now, nunc-pro-tunc, ab-initio, *We,* being alive and well, not lost at sea… that *We* are born in equity, and no longer a minor, slave, standup for equality, truth breathing and walking on the land of the living, now over twenty-five (25) years old, original jurisdiction is now under Civilian Due Process of Law, my right to self-determination 8 USC sec 1502, American national One of the union state of American confederacy, and Article III courts only, Attainment of majority-Restoration to competency, and any Reversioner interest to said Trust/Estate.

> *We* decree, command and order to cancel, nullify all, past, present, and future contracts against me, without my consent, and you shall return a Certificate of release, discharge, to accord and satisfaction, We accept, knowledge and delivery in the city of my God, the new Jerusalem, living man on the land and; you shall Release the order of the court to me immediately in this matter, without cost, or fees and by the grace of God.

In Ephesians 2:19-22 the apostle Paul emphasizes that when we profess faith in God we Transition from being "foreign" to domestic in relation to Him and the Kingdom of Heaven. "Yea, come unto Christ, and be perfected in him, and deny yourselves of all ungodliness; and if ye shall deny yourselves of all ungodliness, and love God with all your might, mind and strength, then is his grace sufficient for you, that by his grace ye may be perfect in Christ; and if by the grace of God ye are perfect in Christ, ye can in nowise deny the power of God." (Moroni 10:32 – *Book of Mormon – Another Testament of Jesus Christ* – companion to the Bible) *We* pray, yearn and accept the opportunity to be a part of His Kingdom.

So It Be Written! So It Be Granted! and So It Is Ordered!
For these words are true and faithful, In much AGAPE….

/s/ King paul • son of the Christ,
/s/ Queen barbara • daughter of the Christ,
By: Abraham's offspring, heirs
Permanent address - HEAVEN
2021/04/15 on or about 3:00 p.m.

As witnessed by: *Our* Father in Heaven, the Earthly and the Holy Spirits, the Word, the Blood and the Water…now and forever… from the beginning to the end.

Failure to respond from this order, after Ten (10) days you shall tacit agree that you have no jurisdiction of the subject matter and you must release, the property from escrow, Immediately called CROMAR, Located at: U.S. DISTRICT COURT / 351 South West Temple / Salt Lake City, Utah 84101 and the UTAH DISTRICT COURT / 137 North Freedom Blvd. / Provo, Utah 84601 without delay, or accept full commercial liability for the trespass on private property. Possible civil or criminal actions for wrongdoing, Man stealing, sale of stolen property, or Distress on your bonds for your breach of the peace, and breach of contract, surrender Your escrow account for liquated damages.

Remit response to The Office of the General Executor in care of:

CROMAR / c/o 9870 N. Meadow Drive / Cedar Hill, Utah state [84062]

- or -

CROMAR / PO Box 492 / Pleasant Grove, Utah state [84062]

EXHIBIT F

AFFIDAVIT OF JURISDICTION STATEMENT

Paul K. Cromar
9870 N. Meadow Drive
Cedar Hills, UT 84062

ENT 105533:2006 PG 1 of 2
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2006 Aug 15 4:58 pm FEE 12.00 BY KH
RECORDED FOR CROMAR, PAUL K

AFFIDAVIT OF JURISDICTION STATEMENT BY PAUL K. CROMAR

1. WHEREFORE, I Paul K. Cromar am a citizen of the state of Utah, domiciled in Utah County, governed and protected by the laws of the state of Utah, properly made pursuant to the Utah Constitution properly created and passed by the Utah Legislature and the Governor of the state of Utah, and my own good moral character.

2. Paul K. Cromar does not now and never has been a resident of the United States as defined in,

   > IRC 26 section 3121(e)(2) United States.
   > The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa." And, IRC 7701(a)(9).
   > [also known as the Federal Zone]

3. Paul K. Cromar is not now, nor has ever been, a resident in a state over which the US government has jurisdiction, as defined in IRC 26 section 3121(e)(1)

   > The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. And, IRC 7701(10)
   > [also known as the Federal Zone]

4. Paul K. Cromar is not now, and never has been, a resident of a federal enclave as defined US Constitution Article 1, section 8, paragraph 17:

   > "...To exercise like Authority over all Places purchased by Consent of the Legislature of the State in which the Same shall be,...."
   > [also known as the Federal Zone]

5. Paul K. Cromar does not now, nor has ever pursued, an occupation or trade in any of the aforementioned jurisdictions mentioned above in 2, 3, and 4.

6. Paul K. Cromar does not now, nor has ever pursued, a trade or business as mentioned in IRC 26 section 1402(a).

   > The term "net earnings from self employment" means the gross income derived by an individual from any trade or business...

   The term "net earnings from self employment" means the gross income derived by an individual from any trade or business (emphasis mine), and, defined in IRC 7701 (26).

The term "trade or business" includes the performance of the function of a public office.

7. Paul K. Cromar does not now, and never has received wages as an employee as defined in IRC 3401(C).

   For purpose of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of the foregoing, the term "employee" also includes an officer of a corporation.

8. Paul K. Cromar is not now, nor has he ever been an officer of a United States Corporation" as defined in Section 207 of the Public Salary tax act as, "a corporate agency or instrumentality is one (a) a majority of the stock of which is owned by or on behalf of the United States."

9. Paul K. Cromar is not now, or has he ever been the proper object or subject of a federal Levy as described in IRC 6331 A.

   Levy may be made upon the accrued salary or wages of any officer, employee, or elected official of the United States or the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia…

10. Paul K. Cromar has never knowingly or willingly volunteered into the jurisdiction of the United States as defined in section 2 of this statement, and is not willingly or knowingly prepared to do so at this time.

Paul K. Cromar, declares this statement to be true and correct to the best of his knowledge and belief.

Respectfully submitted this 11th day of August, 2006.

Paul K. Cromar

NOTARY:

I Nathan Keith witnessed Paul K. Cromar sign this document in my presence on this date of 15 Aug 2006 and confirmed positive identification.

NATHAN KEITH
Notary Public
State of Utah
My Comm. Expires Mar 1, 2010
1900 N Canyon Rd Provo UT 84604

EXHIBIT G

MEMORANDUM OF LAW – Acts of Treason by the Judiciary

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
• 445 Broadway, Albany, NY. 12207-2936 •

United States Grand Jury[1] (*Status: sovereign*[2]) Tribunal, the People - against - United States Supreme Court, Federal Judiciary U.S. Senate, and U.S. House of Representatives (*Status: clipped sovereignty*) Defendants	**JURISDICTION:** Court of Record[3] Law Case No. 1776-1789-1791-2019 Administrator Grand Jury Foreman Depository Case No. 1:16-CV-1490 • **WRIT MANDAMUS**[4] • **ACTION AT LAW**[5] **DEMANDING A RETURN TO THE LAW**[6] • **DECISION & ORDER** **Copied:** President Trump, AG William Barr

MEMORANDUM OF LAW ACTS OF TREASON BY THE JUDICIARY

The purpose of this memorandum is to establish the sovereign authority of the authors of the Constitution, the People and make clear that there never was a rule of absolute judicial immunity nor could there be. Judges are not above the law; they are creatures of the law and are bound to obey it. If judges break the law, they can be removed for bad behavior, prosecuted and sued for damages; they are duty bound to;

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[1] **The UUSCLGJ** is comprised of fifty Grand Juries each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverters both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

[2] "'**Sovereignty**' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

[3] **"A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

[4] The action of mandamus is one, brought in a court of competent jurisdiction, to obtain an order of such court **commanding an inferior tribunal to do without discretion**, which the law enjoins as a duty resulting from an office, trust, or station. Rev Code Iowa, 1880, §3373 (Code 1931, §12440).

[5] **AT LAW:** [Bouvier's] This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

[6] **AT LAW:** Blacks 4th This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

1) Obey the Law of the land,
2) Interpret the Constitution with ordinary understanding,
3) Liberally construe the Constitution to the benefit the People,
4) Actively resist any encroachments upon the Constitution, and
5) Nullification of any legislation in conflict with the Constitution.

SOVEREIGN AUTHORITY IS IN THE PEOPLE ALONE *"The very meaning of 'sovereignty' is that the decree of the sovereign makes law."*[7] *"A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice."*[8] *"His judges* (We the People, Jurist) *are the mirror by which the king's* (Natures God) *image is reflected."*[9]

WE THE PEOPLE ORDAINED THE LAW OF THE LAND ARTICLE VI, CLAUSE 2: *"This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; anything in the Constitution or Laws of any State to the Contrary notwithstanding."*

JUDGES MUST HAVE JURISDICTION *"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."*[10] *"A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts."*[11]

JUDGES ARE ACCOUNTABLE Justice Douglas, in his dissenting opinion at page 140 said, *"If (federal judges) break the law, they can be prosecuted."* Justice Black, in his dissenting opinion at page 141) said, *"Judges, like other people, can be tried, convicted and punished for crimes."*[12]

JUDICIAL IMMUNITY DOES NOT EXIST *"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All*

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[7] American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.
[8] (Fortesc.c.8. 2Inst.186)
[9] 1 Blackstone's Commentaries, 270, Chapter 7, Section 379.
[10] Ableman v. Booth, 21 Howard 506 (1859)
[11] Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)
[12] Chandler v. Judicial Council of the 10th Circuit, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100

the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. ... It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives."[13]

"*Our own experience is fully consistent with the common law's rejection of a rule of judicial immunity. We never have had a rule of absolute judicial immunity. At least seven circuits have indicated affirmatively that there is no immunity... to prevent irreparable injury to a citizen's constitutional rights... Subsequent interpretations of the Civil Rights Act by this Court acknowledge Congress' intent to reach unconstitutional actions by all state and federal actors, including judges... The Fourteenth Amendment prohibits a state [federal] from denying any person [citizen] within its jurisdiction the equal protection under the laws. Since a State [or federal] acts only by its legislative, executive or judicial authorities, the constitutional provisions must be addressed to those authorities, including state and federal judges... We conclude that judicial immunity is not a bar to relief against a judicial officer acting in her [his] judicial capacity.*"[14]

"*By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect. ... "when a state officer acts under a state law in a manner violating the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States.*"[15]

JUDGES HOLD THEIR OFFICE DURING GOOD BEHAVIOR Article III Section 1: The Judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The

[13] U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882).
[14] Pulliam v. Allen, 466 U.S. 522 (1984); 104 S. Ct. 1781, 1980, 1981, & 1985.
[15] Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974).

judges, both of the supreme and inferior courts, shall hold their offices during good behavior...[16]

JUDGES' ENGAGED IN ACTS OF TREASON *"Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason."*[17] *"No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it."*[18] *"High Treason: Treason against the sovereign, as distinguished from petit or petty treason, which might formerly be committed against a subject."*[19]

JUDGES' REMOVAL FROM OFFICE Article II Section 4: The President, Vice President and all civil officers[20] (includes judges) of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

IMPEACHMENT Article I Section 2 Clause 4: The House of Representatives shall have the sole power of impeachment. And, Article I Section 3 Clause 6 The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

INDICTMENT: Article I Section 3 Clause 7: Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

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[16] **GOOD BEHAVIOR:** The term "good behavior" means conduct that is authorized by law, and "bad behavior" means conduct such as the law will punish. State v. Hardin, 183 N.C. 815, 112 S.E. 593, 594. Orderly and lawful conduct; Huyser v. Com., 25 Ky.L. Rep. 608, 76 S.W. 175; In re Spenser, 22 Fed.Cas. 921. "Good behavior," means merely conduct conformable to law, or to the particular law theretofore breached. Ex parte Hamm, 24 N.M. 33, 172 P. 190, 191, L.R. A.1918D, 694; Baker v. Commonwealth, 181 Ky. 437, 205 S.W. 399, 401.

[17] Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958).

[18] Sawyer, 124 U.S. 200 (188); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

[19] 4 Bl.Comm. 74, 75; 4 Steph. Comm. 183, 184, note.

[20] **Civil officer:** The word "civil," as regards civil officers, is commonly used to distinguish those officers who are in public service but not of the military. U. S. v. American Brewing Co., D.C.Pa., 296 F. 772, 776; State v. Clarke, 21 Nev. 333, 31 P. 545, 18 L.R.A. 313, 37 Am.St.Rep. 517. Hence, any officer of the United States who holds his appointment under the national government, whether his duties are executive or judicial, in the highest or the lowest departments of the government, with the exception of officers of the army and navy, is a "civil officer." 1 Story, Const. § 792. See, also, Com'rs v. Goldsborough, 90 Md. 193, 44 A. 1055.

OBSTA PRINCIPIIS[21] *"It may be that it is the obnoxious thing in its mildest form; but illegitimate and un-constitutional 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 persons 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 Citizens, and against any stealthy encroachments thereon. Their motto should be Obsta Principiis."*[22]

INTERPRETING THE CONSTITUTION

LIBERALLY CONSTRUED The purpose of a written constitution is entirely defeated if, in interpreting it as a legal document, its provisions are manipulated and worked around so that the document means whatever the manipulators wish. Jefferson recognized this danger and spoke out constantly for careful adherence to the Constitution as written, with changes to be made by amendment, not by tortured and twisted interpretations of the text.

ORDINARY UNDERSTANDING Thomas Jefferson said, *"The Constitution to which we are all attached was meant to be republican, and we believe to be republican according to every candid interpretation. Yet we have seen it so interpreted and administered, as to be truly what the French have called, a monarchie masque* (or oligarchy's mask)." *"Laws are made for men of ordinary understanding and should, therefore, be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties which may make anything mean everything or nothing at pleasure."*[23]

"Common sense [is] the foundation of all authorities, of the laws themselves, and of their construction.[24] *The Constitution on which our Union rests, shall be administered by me* [Thomas Jefferson as President] *according to the safe and honest meaning contemplated by the plain understanding of the people of the United States at the time of its adoption--a meaning to be found in the explanations of those who advocated, not those who opposed it, and who opposed it merely lest the construction should be applied*

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[21] **OBSTA PRINCIPIIS:** Lat. Withstand begin-nings; resist the first approaches or encroach-ments. Bradley, J., Boyd v. U. S., 116 U.S. 635, 6 Sup.Ct. 535, 29 L.Ed. 746.
[22] Boyd v. United, 116 U.S. 616 at 635 (1885)
[23] Thomas Jefferson to William Johnson, 1823. ME 15:450.
[24] Thomas Jefferson: Batture at New Orleans, 1812. ME 18:92.

which they denounced as possible.[25] *I do then, with sincere zeal, wish an inviolable preservation of our present federal Constitution, according to the true sense in which it was adopted by the States, that in which it was advocated by its friends, and not that which its enemies apprehended, who therefore became its enemies.*"[26]

TWO MEANINGS

"*Whenever the words of a law will bear two meanings, one of which will give effect to the law, and the other will defeat it, the former must be supposed to have been intended by the Legislature, because they could not intend that meaning, which would defeat their intention, in passing that law; and in a statute, as in a will, the intention of the party is to be sought after.*[27] *On every question of construction carry ourselves back to the time when the Constitution was adopted,* [Federalist and Anti Federalist papers] *recollect the spirit manifested in the debates and instead of trying what meaning may be squeezed out of the text or invented against it, conform to the probable one in which it was passed.*"[28]

KENTUCKY RESOLUTIONS

"*Where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy.*[29] *[The States] alone being parties to the [Federal] compact... [are] solely authorized to judge in the last resort of the powers exercised under it, Congress being not a party but merely the creation of the compact and subject as to its assumptions of power to the final judgment of those by whom and for whose use itself and its powers were all created and modified.*[30] *The government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion and not the Constitution the measure of its powers; but... as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.*"[31]

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[25] Thomas Jefferson: Reply to Address, 1801. ME 10:248.
[26] Thomas Jefferson to Elbridge Gerry, 1799. ME 10:76.
[27] Thomas Jefferson to Albert Gallatin, 1808. ME 12:110.
[28] Thomas Jefferson to William Johnson, 1823. ME 15:449.
[29] Thomas Jefferson: Draft Kentucky Resolutions, 1798. ME 17:386.
[30] Thomas Jefferson: Draft Kentucky Resolutions, 1798. ME 17:387.
[31] Thomas Jefferson: Draft Kentucky Resolutions, 1798. ME 17:380.

THE CONSTITUTION IS NOT MOOT[32]

As the man who discovered America's Freedom Formula, Thomas Jefferson warned of those that read the Constitution as a legal document to be manipulated and worked around by tortured and twisted interpretations of the text so that the document means whatever the manipulators wish it to mean in order to empower themselves and or suppress others.

The Constitution is to be read according to the true sense in which it was adopted by the States. However, because of intellectual laziness, particularly in Law and our political process, and subversive factions that have infiltrated our government, our government servants with vested powers are unconstitutionally taught by and provided with for their use, an Army of BAR attorneys, minions of the oligarchy, who are trained to expand their powers at the cost of suppressing our Liberties. They have expanded the powers of our public servants to the point of making the servant the master and the master the servant. They make everything a controversy and claim our Constitution moot or out of date.

Our Constitution was written by ordinary men for ordinary understanding and interpreted with common sense. The Bill of rights was added "*to prevent misconstruction or abuse of its powers*". The People need to first understand that the Bill of Rights is a bill of prohibition. Thereby any misconstruction or abuse of its powers would be clearly seen if it denied, a right much like Article I Section 9 that also is a list of prohibitions.

> "*...THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution...*" - Bill of Rights Preamble

[32] **MOOT**, adj. Blacks 4th: A subject for argument; unsettled; undecided. A moot point is one not settled by judicial decisions. A moot case is one which seeks to determine an abstract question which does not arise upon existing facts or rights. Adams v. Union R. Co., 21 R.I. 134, 42 A. 515, 44 L.R.A. 273.

WAR AGAINST THE CONSTITUTION

These tyrants in power have turned the "Bill of Rights" which was written to prevent misconstruction or abuse of government powers into a document of "Restriction of Rights" by turning common sense on its head. Judges have enabled government agencies to create "no free speech zones"; they have licensed our Liberties; they demonize, raid, arrest and terrorize people who assemble liberty meetings, teach common law, and question their authority.

These tyrants torture and twist to interpret the meaning of our right to bear arms for the militia only while Article I Section 8 Clause 16 divides the militia into two parts one employed in service and one ready for service, a/k/a the organized and the unorganized. The Militia Act of 1903 and most if not all State Constitutions makes it clear that the militia is "EVERY ABLE BODIED MALE". This immediately destroys the argument that the second amendment is moot. And most importantly self-defense is an unalienable right.

Furthermore, the bearing of arms is understood to be a "military grade rifle" which is an automatic weapon in order to defend ourselves from an invading military force. These tyrants have infringe upon our right to defend ourselves, our state and our nation by licensing weapons and making a law against automatic weapons as they continue to try and disarm us. They serve and execute warrants without sworn affidavits and "wet ink signatures." They try us in courts whose jurisdictions are unknown without a Grand Jury indictment and often without a trial jury or by puppet grand and trial juries, without sworn affidavits and without an injured party.

IN CONCLUSION, We the People being the authors of the Law of the Land do not have civil liberties that are determined by the whims of legislators providing us with "*the power of doing whatever the laws* [statutes] *permit.*"[33] But to the contrary we have Natural Liberty which is "*the power of acting as one thinks fit, without any restraint or control, unless by the law of nature,*"[34] in other words "*Liberty from all human law*"!

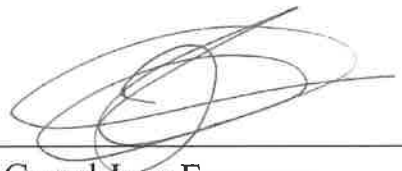
The debate is over; the reading of the Federalist papers and the Anti Federalists papers bear absolute proof that the Constitution is not moot and was written with ordinary common sense meaning simply what it says; needing no BAR interpreter whose job it is, unbeknown to most, to spread confusion and destroy the Constitution.

Judges are not above the law. They are creatures of the law and are bound to obey it. If judges break the law, they can be removed for bad behavior, prosecuted and sued for

[33] 1 Bl. Comm. 6; Inst. 1, 3, 1. See Dennis v. Moses, 18 Wash. 537, 52 P. 333, 40 L.R.A. 302.
[34] 1 Bl. Comm. 125.

damages, they are duty bound to obey the Law, interpret the Constitution with ordinary understanding, liberally construe the Constitution to benefit the People, actively resist any encroachments upon the Constitution, and nullify any legislation in conflict with the Constitution. If judges fail to defend the Constitution when brought before them they war against it and must be removed and tried for treason.

SEAL August 14, 2019



Grand Jury Foreman

EXHIBIT H

ADMINISTRATIVE PROCEDURE ACT
- S. 7 Senate Judiciary Committee Report – November 19, 1945

Calendar No. 758

79TH CONGRESS
1st Session

SENATE

REPORT
No. 752

ADMINISTRATIVE PROCEDURE ACT

REPORT

OF THE

COMMITTEE ON THE JUDICIARY

ON

S. 7

A BILL TO IMPROVE THE ADMINISTRATION OF JUSTICE BY PRESCRIBING FAIR ADMINISTRATIVE PROCEDURE

NOVEMBER 19 (legislative day, OCTOBER 29), 1945.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1945

COMMITTEE ON THE JUDICIARY

PAT McCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
HARLEY M. KILGORE, West Virginia
ABE MURDOCK, Utah
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CHARLES O. ANDREWS, Florida
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—— —— (vacancy)

ALEXANDER WILEY, Wisconsin
WILLIAM LANGER, North Dakota
HOMER FERGUSON, Michigan
CHAPMAN REVERCOMB, West Virginia
KENNETH S. WHERRY, Nebraska
E. H. MOORE, Oklahoma
H. ALEXANDER SMITH, New Jersey

CALVIN M. CORY, *Clerk*
J. G. SOURWINE, *Counsel*

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Calendar No. 758

79TH CONGRESS
1st Session

SENATE

REPORT
No. 752

ADMINISTRATIVE PROCEDURE ACT

NOVEMBER 19 (legislative day, OCTOBER 29), 1945.—Ordered to be printed

Mr. MCCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 7]

The Committee on the Judiciary, to whom was referred the bill (S. 7), to improve the administration of justice by prescribing fair administrative procedure, having considered the same, reports favorably thereon, with an amendment, and recommend that the bill do pass, as amended.

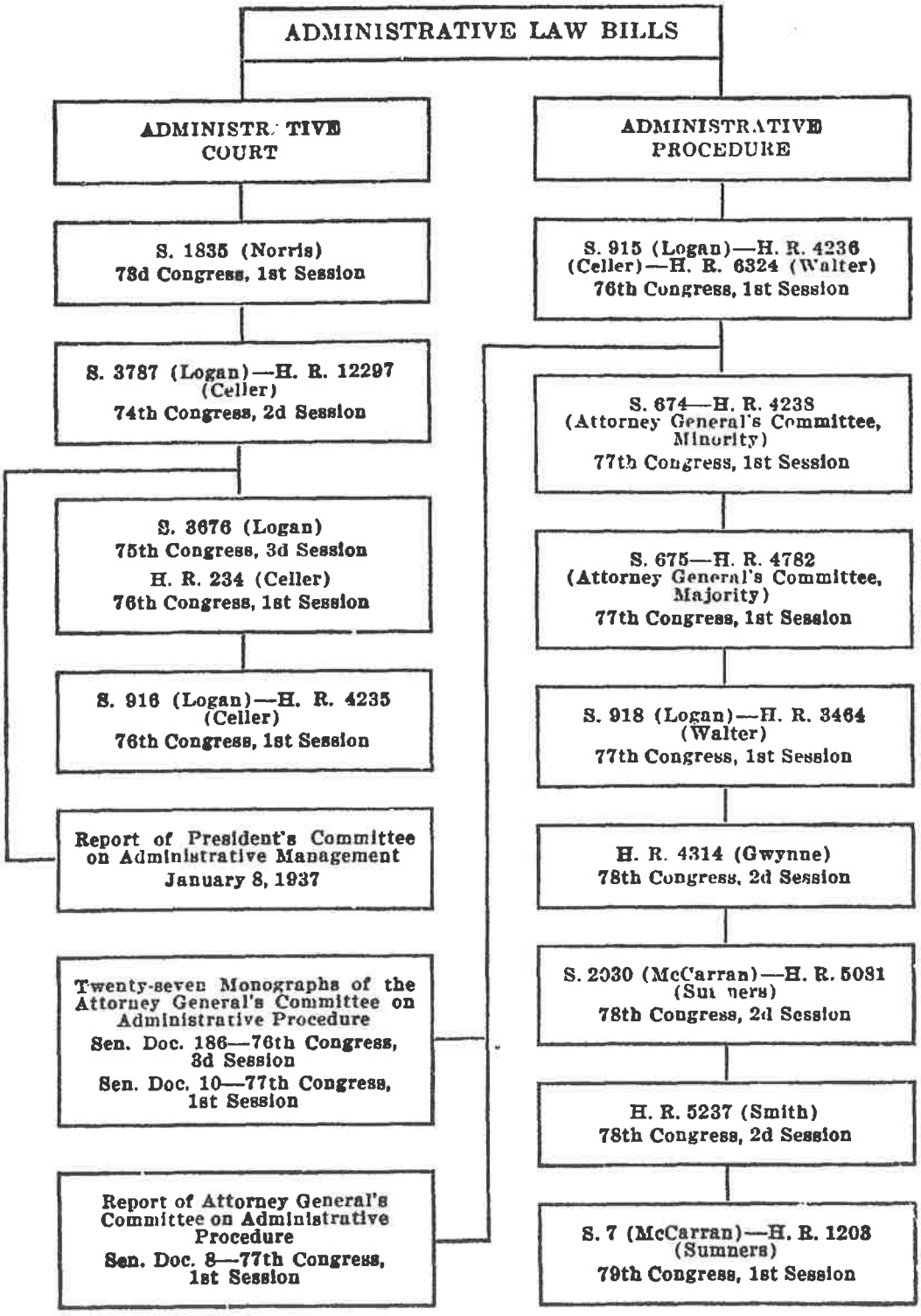
There is a widespread demand for legislation to settle and regulate the field of Federal administrative law and procedure. The subject is not expressly mentioned in the Constitution, and there is no recognizable body of such law, as there is for the courts in the Judicial Code. There are no clearly recognized legal guides for either the public or the administrators. Even the ordinary operations of administrative agencies are often difficult to know. The Committee on the Judiciary is convinced that, at least in essentials, there should be some simple and standard plan of administrative procedure.

I. LEGISLATIVE HISTORY

For more than 10 years Congress has considered proposals for general statutes respecting administrative law and procedure. Figure 1 on page 2 presents a convenient chronological chart of the main bills introduced. Each of them has received widespread notice and intense consideration.

The growth of the Government, particularly of the executive branch, has added to the problem. The situation had become such by the middle of the 1930's that the President appointed a committee

FIGURE 1


ADMINISTRATIVE LAW BILLS
ADMINISTRATIVE COURT
ADMINISTRATIVE PROCEDURE
S. 1835 (Norris)
78d Congress, 1st Session
S. 3787 (Logan)—H. R. 12297 (Celler)
74th Congress, 2d Session
S. 3676 (Logan)
75th Congress, 3d Session
H. R. 234 (Celler)
76th Congress, 1st Session
S. 916 (Logan)—H. R. 4235 (Celler)
76th Congress, 1st Session
Report of President's Committee on Administrative Management
January 8, 1937
Twenty-seven Monographs of the Attorney General's Committee on Administrative Procedure
Sen. Doc. 186—76th Congress, 3d Session
Sen. Doc. 10—77th Congress, 1st Session
Report of Attorney General's Committee on Administrative Procedure
Sen. Doc. 8—77th Congress, 1st Session
S. 915 (Logan)—H. R. 4236 (Celler)—H. R. 6324 (Walter)
76th Congress, 1st Session
S. 674—H. R. 4238 (Attorney General's Committee, Minority)
77th Congress, 1st Session
S. 675—H. R. 4782 (Attorney General's Committee, Majority)
77th Congress, 1st Session
S. 918 (Logan)—H. R. 3464 (Walter)
77th Congress, 1st Session
H. R. 4314 (Gwynne)
78th Congress, 2d Session
S. 2030 (McCarran)—H. R. 5081 (Sumners)
78th Congress, 2d Session
H. R. 5237 (Smith)
78th Congress, 2d Session
S. 7 (McCarran)—H. R. 1203 (Sumners)
79th Congress, 1st Session

to make a comprehensive survey of and suggestions concerning administrative methods, overlapping functions, and diverse organization. While that committee was not primarily concerned with the more detailed questions of administrative law and procedure as the term is now understood, it was inevitably brought face to face with the fundamental problem of the inconsistent union of prosecuting and deciding functions exercised by many executive agencies.

REPORT OF PRESIDENT'S COMMITTEE.—In 1937 the President's Committee on Administrative Management issued its report, in which it said (pp. 32–33, 39–40):

> The executive branch of the Government of the United States has * * * grown up without plan or design * * *. To look at it now, no one would ever recognize the structure which the founding fathers erected a century and a half ago. * * * Commissions have been the result of legislative groping rather than the pursuit of a consistent policy. * * * They are in reality miniature independent governments set up to deal with the railroad problem, the banking problem, or the radio problem. They constitute a headless "fourth branch" of the Government, a haphazard deposit of irresponsible agencies and uncoordinated powers. * * * There is a conflict of principle involved in their make-up and functions. * * * They are vested with duties of administration * * * and at the same time they are given important judicial work. * * * The evils resulting from this confusion of principles are insidious and far reaching. * * * Pressures and influences properly enough directed toward officers responsible for formulating and administering policy constitute an unwholesome atmosphere in which to adjudicate private rights. But the mixed duties of the commissions render escape from these subversive influences impossible. Furthermore, the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness; it weakens public confidence in that fairness. Commission decisions affecting private rights and conduct lie under the suspicion of being rationalizations of the preliminary findings which the Commission, in the role of prosecutor, presented to itself.

To which, in transmitting it to Congress, the President added (pp. iii–v):

> I have examined this report carefully and thoughtfully, and am convinced that it is a great document of permanent importance. * * * The practice of creating independent regulatory commissions, who perform administrative work in addition to judicial work, threatens to develop a "fourth branch" of the Government for which there is no sanction in the Constitution.

See also pages 41–42, 207–210, 215–219, 222–223, 230–239 for additional comments and the very drastic remedy proposed in that report. That Committee recommended the complete separation of investigative-prosecuting functions and personnel from deciding functions and personnel.

EARLIER HEARINGS AND BILLS.—In 1938 the Senate Committee on the Judiciary held hearings on a proposal for the creation of an administrative court and, in that connection, issued a committee print elaborately analyzing administrative powers conferred by statute (S. 3676, 75th Cong., 3d sess.). In 1939 the Walter-Logan administrative procedure bill was favorably reported to the Senate (S. Rept. 442, 76th Cong., 1st sess., on S. 915). In the third session of the same Congress the Walter-Logan bill (S. 915 and H. R. 6324) was reported to the House of Representatives with amendments (see H. Rept. 1149, 76th Cong., 1st sess.; for an annotated draft, see S. Doc. 145, 76th Cong., 3d sess.). The Walter-Logan bill was passed by the Congress but vetoed by the President in 1940 in part on the ground

that action should await the then imminent final report by a committee appointed in the executive branch to study the entire situation (H. Doc. 986, 76th Cong., 3d sess.).

ATTORNEY GENERAL'S COMMITTEE.—In December 1938 the Attorney General, renewing the suggestion which he had previously made respecting the need for procedural reform in the wide and growing field of administrative law, recommended the appointment of a commission to make a thorough survey of existing practices and procedure and point the way to improvements (S. Doc. 8, 77th Cong., 1st sess., p. 251). The President concurred and authorized the Attorney General to appoint a committee for that purpose (id., p. 252). This Committee was composed of Government officials, teachers, judges, and private practitioners. It made an interim report in January 1940 (id., 254–258). Its staff prepared, and in 1940–41 issued, a series of studies of the procedures of the principal administrative agencies and bureaus in the Federal Government (S. Doc. 186, 76th Cong., 3d sess., pts. 1–13; and S. Doc. 10, 77th Cong., 1st sess., pts. 1–14). The Committee held executive sessions over a long period, at which the representatives of Federal agencies were heard. It also held public hearings. It then prepared and issued a voluminous final report. See *Administrative Procedure in Government Agencies—Report of the Committee on Administrative Procedure, Appointed by the Attorney General, at the Request of the President, to Investigate the Need for Procedural Reform in Various Administrative Tribunals and to Suggest Improvements Therein* (S. Doc. 8, 77th Cong., 1st sess.). That Committee is popularly known as the Attorney General's Committee on Administrative Procedure and will be so designated in this report. In the framing of the bill herewith reported, (S. 7), your committee has had the benefit of the factual studies and analyses prepared by the Attorney General's Committee.

SUBSEQUENT BILLS AND HEARINGS.—Growing out of the work of the Attorney General's Committee on Administrative Procedure, several bills were introduced in 1941 (S. 674, 675, and 918, 77th Cong., 1st sess.). Hearings were held on these bills during April, May, June, and July of that year. (See *Administrative Procedure*, hearings, 77th Cong., 1st sess., pts. 1–3, plus appendix.) However, the then emergent international situation prompted a postponement of further consideration of the matter. But all interested administrative agencies were heard at length at that time and the proposals then pending involved the same basic issues as the present bill.

PRESENT BILL.—Based upon the studies and hearings in connection with prior bills on the subject, and after several years of consultation with interested parties in and out of official positions, S. 2030 (78th Cong., 2d sess.) was introduced on June 21, 1944, the companion bill in the House of Representatives being H. R. 5081. The introduction of these bills brought forth a volume of further suggestions from every quarter. As a result, with the opening of the present Congress, a revised and simplified bill was introduced (S. 7, January 6, 1945; H. R. 1203, January 8, 1945).

CONSIDERATION AND REVISION.—Much informal discussion followed the introduction of S. 7 and H. R. 1203. The House of Representatives' Committee on the Judiciary held hearings in the latter part of June 1945.

Previously, that committee and the Senate Committee on the Judiciary had requested administrative agencies to submit their views in writing. These were carefully analyzed and, with the aid of representatives of the Attorney General and interested private organizations, in May 1945 there was issued a Senate committee print setting forth in parallel columns the bill as introduced and a tentatively revised text.

Again interested parties in and out of Government submitted comments orally or in writing on the revised text. These were analyzed by the committee's staff and a further committee print was issued in June 1945. In four parallel columns it set forth (1) the text of the bill as introduced, (2) the text of the tentatively revised bill previously published, (3) a general explanation of provisions with references to the report of the Attorney General's Committee on Administrative Procedure and other authorities, and (4) a summary of views and suggestions received.

Thereafter the Attorney General again designated representatives to hold further discussions with interested agencies and to screen and correlate further agency views, some of which were submitted in writing and some orally. Private parties and representatives of private organizations also participated.

Following these discussions the committee drafted the bill as reported, which is set forth in full in appendix A. The Attorney General's favorable report on the bill, as revised, is set forth in appendix B.

II. APPROACH OF THE COMMITTEE

In undertaking the foregoing very lengthy process of consideration, the committee has attempted to make sure that no operation of the Government is unduly restricted. The committee has also taken the position that the bill must reasonably protect private parties even at the risk of some incidental or possible inconvenience to or change in present administrative operations. The committee is convinced, however, that no administrative function is improperly affected by the present bill.

THE PRINCIPAL PROBLEMS.—The principal problems of the committee have been: *First*, to distinguish between different types of administrative operations. *Second*, to frame general requirements applicable to each such type of operation. *Third*, to set forth those requirements in clear and simple terms. *Fourth*, to make sure that the bill is complete enough to cover the whole field.

The committee feels that it has avoided the mistake of attempting to oversimplify the measure. It has therefore not hesitated to state functional classifications and exceptions where those could be rested upon firm grounds. In so doing, it has been the undeviating policy to deal with types of functions as such and in no case with administrative agencies by name. Thus certain war and defense functions are exempted, but not the War or Navy Departments in the performance of their other functions. Manifestly, it would be folly to assume to distinguish between "good" agencies and others, and no such distinction is made in the bill. The legitimate needs of the Interstate Commerce Commission, for example, have been fully considered but it has not been placed in a favored position by exemption from the bill.

The committee feels that administrative operations should be treated as a whole lest the neglect of some link defeat the purposes of the bill. The chart set forth as figure 2 on page 9 emphasizes this approach of the committee.

COMPARISON WITH WALTER-LOGAN BILL.—The Walter-Logan bill, which was vetoed by the President, differed materially from S. 7 as reported. While it distinguished between regulations and adjudications, the Walter-Logan bill simply required administrative hearings for each and provided special methods of judicial review.

More particularly, in the matter of general regulations, the Walter-Logan bill failed to distinguish between the different classes of rules. It stated that rules should be issued within 1 year after the enactment of the statutory authority. It required a mandatory administrative review upon notice and hearing within a year (sec. 2), and set up a system of judicial review through declaratory judgments by the Court of Appeals for the District of Columbia within a limited time after the adoption of any rule (H. R. 6324, 76th Cong., 3d sess., sec. 3).

In the adjudication of particular cases, the Walter-Logan bill also provided for administrative hearings of any "controversy" before a board of any three employees of any agency. Decisions of such boards were to be made within 30 days and were subject to the apparently summary approval or modification of the head of the agency or his deputy. But independent commissions (not less than three members sitting) were required to hold a further hearing after any hearing by an examiner (sec. 4). A special form of judicial review was provided for any administrative adjudication (sec. 5). A long list of exemptions of agencies by name concluded that bill (sec. 7).

The present bill must be distinguished from the Walter-Logan bill in several essential respects. It differentiates the several types of rules. It requires no agency hearings in connection with either regulations or adjudications unless statutes already do so in particular cases, thereby preserving rights of judicial trials de novo. Where statutory hearings are otherwise provided, it fills in some of the essential requirements; and it provides for a special class of semi-independent subordinate hearing officers. It includes several types of incidental procedures. It confers numerous procedural rights. It limits administrative penalties. It contains more comprehensive provisions for judicial review for the redress of any legal wrong. And, since it is drawn entirely upon a functional basis, it contains no exemptions of agencies as such.

COMPARISON WITH ATTORNEY GENERAL'S COMMITTEE REPORT.—The present bill is more complete than the solution favored by the majority of the Attorney General's Committee, but less prolix and more definite than the minority proposed. While it follows generally the views of good administrative practice as expressed by the whole of that Committee, it differs in several important respects. It provides that agencies may choose whether their examiners shall make the initial decision or merely recommend a decision, whereas the Attorney General's Committee made a decision by examiners mandatory. It provides some general limitations upon administrative powers and sanctions, particularly in the rigorous field of licensing, while the Attorney General's Committee did not touch upon the sub-

ject. It relies upon independence, salary security, and tenure during good behavior of examiners within the framework of the civil service, whereas the Attorney General's Committee favored short-term appointments approved by a special "Office of Administrative Procedure."

A more detailed comparison of the present bill, with full references to the report of the Attorney General's Committee, is to be found in the third parallel column of the print issued by this committee in June 1945.

III. STRUCTURE OF THE BILL

The bill, as reported, is not a specification of the details of administrative procedure, nor is it a codification of administrative law. Instead, out of long consideration and in the light of the studies heretofore mentioned, there has been framed an outline of minimum basic essentials. Figure 2 on page 9 diagrams the bill.

The bill is designed to afford parties affected by administrative powers a means of knowing what their rights are and how they may be protected. By the same token, administrators are provided with a simple course to follow in making administrative determinations. The jurisdiction of the courts is clearly stated. The bill thus provides for public information, administrative operation, and judicial review.

SUBSTANCE OF THE BILL.—What the bill does in substance may be summarized under four headings:

1. It provides that agencies must issue as rules certain specified information as to their organization and procedure, and also make available other materials of administrative law (sec. 3).
2. It states the essentials of the several forms of administrative proceedings (secs. 4, 5, and 6) and the limitations on administrative powers (sec. 9).
3. It provides in more detail the requirements for administrative hearings and decisions in cases in which statutes require such hearings (secs. 7 and 8).
4. It sets forth a simplified statement of judicial review designed to afford a remedy for every legal wrong (sec. 10).

The first of these is basic, because it requires agencies to take the initiative in informing the public. In stating the essentials of the different forms of administrative proceedings, it carefully distinguishes between the so-called legislative functions of administrative agencies (where they issue general regulations) and their judicial functions (in which they determine rights or liabilities in particular cases).

The bill provides quite different procedures for the "legislative" and "judicial" functions of administrative agencies. In the "rule making" (that is, "legislative") function it provides that, with certain exceptions, agencies must publish notice and at least permit interested parties to submit their views in writing for agency consideration before issuing general regulations (sec. 4). No hearings are required by the bill unless statutes already do so in a particular case. Similarly, in "adjudications" (that is, the "judicial" function) no agency hearings are required unless statutes already do so, but in the latter case

the mode of hearing and decision is prescribed (sec. 5). Where existing statutes require that either general regulations (called "rules" in the bill) or particularized adjudications (called "orders" in the bill) be made after agency hearing or opportunity for such hearing, then section 7 spells out the minimum requirements for such hearings, section 8 states how decisions shall be made thereafter, and section 11 provides for examiners to preside at hearings and make or participate in decisions.

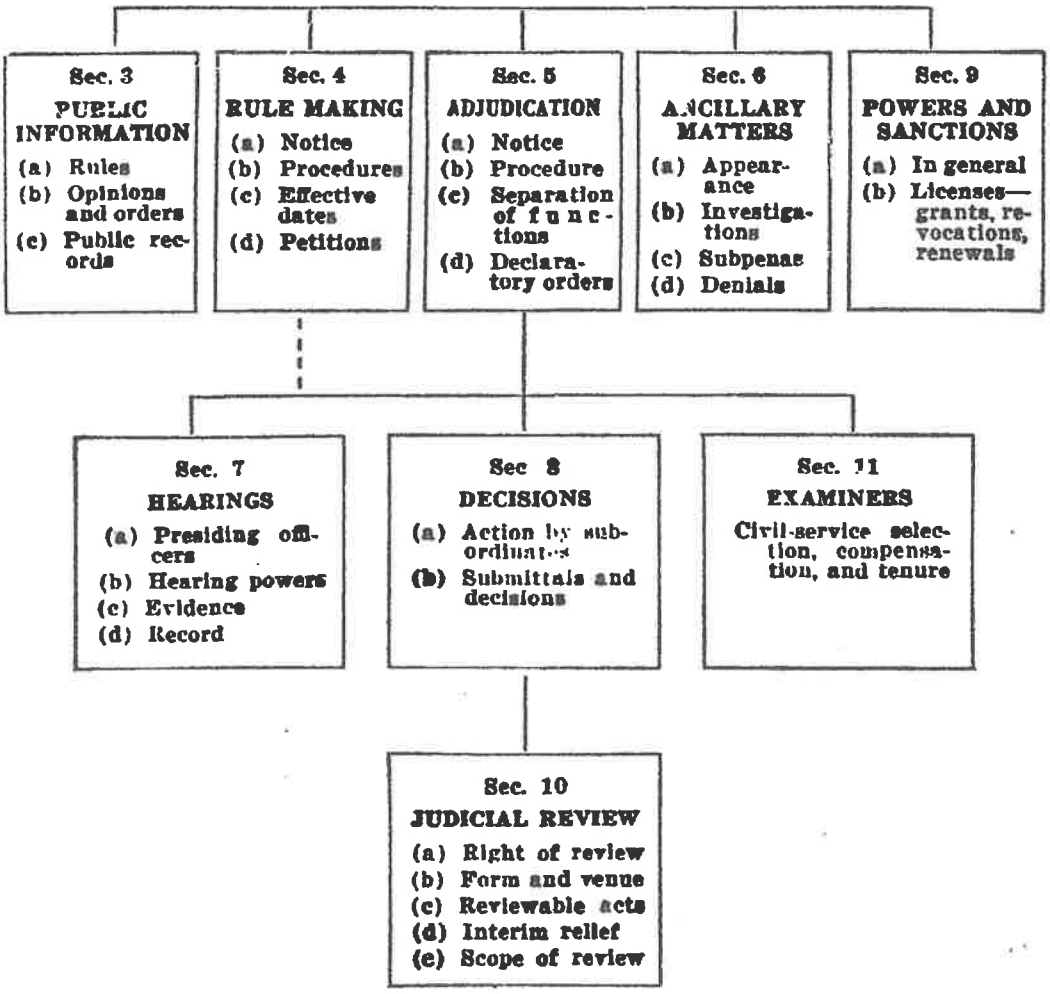
While the administrative power and procedure provisions of sections 4 through 9 are law apart from court review, the provisions for judicial review provide parties with a method of enforcing their rights in a proper case (sec. 10). However, it is expressly provided that the judicial review provisions are not operative where statutes otherwise preclude judicial review or where agency action is by law committed to agency discretion.

KINDS OF PROVISIONS.—The bill may be said to be composed of five types of provisions:

1. Those which are largely formal such as the sections setting forth the title (sec. 1), definitions (sec. 2), and rules of construction (sec. 12).
2. Those which require agencies to publish or make available information on administrative law and procedure (sec. 3).
3. Those which provide for different kinds of procedures such as rule making (sec. 4), adjudications (sec. 5), and miscellaneous matters (sec. 6) as well as for limitations upon sanctions and powers (sec. 9).
4. Those which provide more of the detail for hearings (sec. 7) and decisions (sec. 8) as well as for examiners (sec. 11).
5. Those which provide for judicial review (sec. 10).

The bill is so drafted that its several sections and subordinate provisions are closely knit. The substantive provisions of the bill should be read apart from the purely formal provisions and minor functional distinctions. The definitions in section 2 are important, but they do not indicate the scope of the bill since the subsequent provisions make many functional distinctions and exceptions. The public information provisions of section 3 are of the broadest application because, while some functions and some operations may not lend themselves to formal procedure, all administrative operations should as a matter of policy be disclosed to the public except as secrecy may obviously be required or only internal agency "housekeeping" arrangements may be involved. Sections 4 and 5 prescribe the basic requirements for the making of rules and the adjudication of particular cases. In each case, where other statutes require opportunity for an agency hearing, sections 7 and 8 set forth the minimum requirements for such hearings and the agency decisions thereafter while section 11 provides for the appointment and tenure of examiners who may participate. Section 6 prescribes the rights of private parties in a number of miscellaneous respects which may be incidental to rule making, adjudication, or the exercise of any other agency authority. Section 9 limits sanctions, and section 10 provides for judicial review.

FIGURE 2.—*Diagram of principal sections of bill*



Section 1 prescribes the title, section 2 the definitions, and section 3 the effective dates and rules of construction. In the above diagram the first row of sections sets forth the several kinds of requirements, procedures, and limitations; and the second row includes hearing and decision requirements where other statutes require a hearing. Section 10 on judicial review relates not only to decisions made after agency hearing but, in appropriate cases, to the exercise of any other administrative power or authority.

IV. ANALYSIS OF PROVISIONS

The following statements respecting each provision of the bill are designed to answer specific questions relating to language and objectives. Under each section or subsection heading there appears an italicized synopsis of the provision, followed by one or more paragraphs of analysis or special comment. A reading of all the italicized paragraphs will, therefore, afford a synopsis of the whole bill, which is reproduced at length in appendix A at page 32.

SEC. 1. TITLE.—*It is provided that the measure may be cited as the Administrative Procedure Act.*

While a short title has been deemed preferable, it may be noted that the bill actually provides for both administrative procedure *and* judicial review.

SEC. 2. DEFINITIONS.—*The definitions apply to the remainder of the bill.*

For the purpose of both simplifying the language of later provisions and achieving greater precision, general terms of administrative law and procedure are defined.

(*a*) AGENCY.—*The word "agency" is defined by excluding legislative, judicial, and territorial authorities and by including any other "authority" whether or not within or subject to review by another agency. The bill is not to be construed to repeal delegations of authority provided by law. Expressly exempted from the term "agency", except for the public information requirements of section 3, are (1) agencies composed of representatives of parties or of organizations of parties and (2) defined war authorities including civilian authorities functioning under temporary or named statutes operative during "present hostilities."*

The word "authority" is advisedly used as meaning whatever persons are vested with powers to act (rather than the mere form of agency organization such as department, commission, board, or bureau) because the real authorities may be some subordinate or semidependent person or persons within such form of organization. In conferring administrative powers, statutes customarily do not refer to formal agencies (such as the Department of Agriculture) but to specified persons (such as the Secretary of Agriculture). Boards or commissions usually possess authority which does not extend to individual members or to their subordinates.

The bill does not repeal delegations of authority which are duly authorized by existing law. This does not mean, however, that delegations are effective where other provisions of the bill require otherwise. For example, the requirement that examiners in certain instances hear cases would supersede any existing delegations to prosecuting officers to hear such cases.

Agencies composed of representatives of the parties or of organizations of the parties to the disputes determined by them are exempted because such agencies as presently operated do not lend themselves to the adjudicative procedures set out in the remaining sections of the bill. They tend to be arbitral or mediating agencies rather than tribunals.

The exclusion of war functions and agencies, whether exercised by civil or military personnel, affords all necessary freedom of action for the exercise of such functions in the period of reconversion. It has been deemed wise to exempt such functions in view of the fact that they are rarely required to be exercised upon statutory hearing, with which much of the bill is concerned, and the fact that they are rapidly liquidating. It should be noted, however, that even war functions are not exempted from the public information requirement of section 3. "Present hostilities" means those connected with the war brought on at Pearl Harbor in December 1941.

(*b*) PERSON AND PARTY.—*"Person" is defined to include specified forms of organizations other than agencies. "Party" is defined to include anyone named, or admitted or seeking and entitled to be admitted, as a party in any agency proceeding except that nothing in the subsection is to be construed to prevent an agency from admitting anyone as a party for limited purposes.*

The definition of person includes both individuals and any form of organization but advisedly excludes Federal agencies. The practice of agencies to admit persons as parties in proceedings "for limited purposes" is expressly preserved, but that exception does not authorize

any agency to ignore or prejudice the rights of the true or full parties in any proceeding.

(c) RULE AND RULE MAKING.—*"Rule" is defined as any agency statement of general applicability designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements. "Rule making" means agency process for the formulation, amendment, or repeal of a rule and includes any prescription for the future of rates, wages, financial structures, etc., etc.*

The definition of "rule" is important because it prescribes the kind of operation that is subject to section 4 rather than section 5. The specification of the activities that are involved in rule making is included in order to comprehend them beyond any possible question. They are defined as rules to the extent that, whether of general or particular applicability, they formally prescribe a course of conduct for the future rather than merely pronounce existing rights or liabilities. It should be noted that rule making is exempted from some of the general requirements of sections 7 and 8 relating to the details of hearings and decisions.

(d) ORDER AND ADJUDICATION.—*"Order" means the final disposition of any matter, other than rule making but including licensing, whether or not affirmative, negative, or declaratory in form. "Adjudication" means the agency process for the formulation of an order.*

The term "order" is defined to exclude rules. "Licensing" is specifically included to remove any possible question at the outset. Licenses involve a pronouncement of present rights of named parties although they may also prescribe terms and conditions for future observance. It should be noted, however, that licensing is exempted from some of the provisions of sections 5, 7, and 8 relating to hearings and decisions.

(e) LICENSE AND LICENSING.—*"License" is defined to include any form of required official permission such as certificate, charter, etc. "Licensing" is defined to include agency process respecting the grant, renewal, modification, denial, revocation, etc., of a license.*

This definition supplements subsection (d). Later provisions of the bill distinguish between initial licenses and renewals or other licensing proceedings. A further distinction might have been drawn between licenses for a term, such as radio licenses, and those of indefinite duration, such as certificates of convenience and necessity.

(f) SANCTION AND RELIEF.—*"Sanction" is defined to include any agency prohibition, withholding of relief, penalty, seizure, assessment, requirement, restriction, etc. "Relief" is defined to include any agency grant, recognition, or other beneficial action.*

These definitions are mainly relevant to section 9 on sanctions and powers and to section 10 on judicial review. The purpose of the subsection is to define exhaustively every possible form of legitimate administrative power or authority.

(g) AGENCY PROCEEDING AND ACTION.—*"Agency proceeding" is defined to mean any agency process defined in the foregoing subsections (c), (d), or (e). For the purpose of section 10 on judicial review, "agency action" is defined to include an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, and failure to act.*

The term "agency proceeding" is specially defined in order to simplify the language of subsequent provisions and to assure that all forms of administrative procedure or authority are included. The

term "agency action" brings together previously defined terms in order to simplify the language of the judicial review provisions of section 10 and to assure the complete coverage of every form of agency power, proceeding, action, or inaction.

SEC. 3. PUBLIC INFORMATION.—*From the public information provisions of section 3 there are exempted matters (1) requiring secrecy in the public interest or (2) relating solely to the internal management of an agency.*

The public information requirements of section 3 are in many ways among the most important, far-reaching, and useful provisions of the bill. For the information and protection of the public wherever located, these provisions require agencies to take the mystery out of administrative procedure by stating it. The section has been drawn upon the theory that administrative operations and procedures are public property which the general public, rather than a few specialists or lobbyists, is entitled to know or to have the ready means of knowing with definiteness and assurance.

The introductory clause states the only general exceptions. The first, which excepts matters requiring secrecy in the public interest, is necessary but is not to be construed to defeat the purpose of the remaining provisions. It would include confidential operations in any agency, such as some of the aspects of the investigating or prosecuting functions of the Secret Service or Federal Bureau of Investigation, but no other functions or operations in those or other agencies. Closely related is the second exception, of matters relating solely to internal agency management, which may not be construed to defeat other provisions of the bill or to permit withholding of information as to operations which remaining provisions of the section or of the whole bill require to be public or publicly available.

(*a*) RULES.—*Every agency is required to publish in the Federal Register its (1) organization, (2) places of doing business with the public, (3) methods of rule making and adjudication including the rules of practice relating thereto, and (4) such substantive rules as it may frame for the guidance of the public. No person is in any manner to be required to resort to organization or procedure not so published.*

Since the bill leaves wide latitude for each agency to frame its own procedures, this subsection requiring agencies to state their organization and procedures in the form of rules is essential for the information of the public. The publication must be kept up to date. The enumerated classes of informational rules must also be separately stated so that, for example, rules of procedure will be separate from rules of substance, interpretation, or policy. The effect of any one of the first three classifications of required rule making is that agencies must also publish their internal delegations of authority. The subsection forbids secrecy of rules binding or applicable to the public, or of delegations of authority. The requirement that no one shall "in any manner" be required to resort to unpublished organization or procedure protects the public from being required to pursue remedies that are not generally known.

(*b*) OPINIONS AND ORDERS.—*Agencies are required to publish or, pursuant to rule, make available to public inspection all final opinions or orders in the adjudication of cases except those held confidential for good cause and not cited as precedents.*

Rule making results in published material in the Federal Register as set forth in subsection (a), but in the case of adjudication there is no standard, general, and official medium of publication. Some agencies publish sets of some of their decisions, but otherwise the public is not informed as to how and where they may see decisions or consult precedents. Requiring each agency to formulate and publish a rule respecting access to their final opinions and orders will give the general public notice as to how such information may be secured. While the subsection does not mention "rulings"—which are neither rules nor orders but are general interpretations, such as the opinions of agency counsel—if authoritative, they would be covered by the fourth category in subsection (a) of this section.

(c) PUBLIC RECORDS.—*Except as statutes may require otherwise or information may be held confidential for good cause, matters of official record are to be made available to persons properly and directly concerned in accordance with rules to be issued by the agency.*

This provision supplements subsections (a) and (b). The requirement of an agency rule on the availability of official records is inserted for the same purpose as in subsection (b). In many cases, the interest of the person seeking access to the record will be determinative. Agencies should classify data in order to specify what may be disclosed and what may not; and they must in any case provide how and where applications for information may be made, how they will be determined, and who will do so. Refusals of information would be subject to the requirements of section 6 (d).

SEC. 4. RULE MAKING.—*The introductory clause exempts from all of the requirements of section 4 any rule making so far as there are involved (1) military, naval, or foreign affairs functions or (2) matters relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.*

These exceptions would not, of course, relieve any agency from requirements imposed by other statutes. The phrase "... eign affairs functions," used here and in some other provisions of ... bill, is not to be loosely interpreted to mean any function extending beyond the borders of the United States but only those "affairs" which so affect relations with other governments that, for example, public rule making provisions would clearly provoke definitely undesirable international consequences. The exception of matters of management or personnel would operate only so far as not inconsistent with other provisions of the bill relating to internal management or personnel. The exception of proprietary matters is included because the principal considerations in most such cases relate to mechanics and interpretations or policy, and it is deemed wise to encourage and facilitate the issuance of rules by dispensing with all mandatory procedural requirements. None of these exceptions, however, is to be taken as encouraging agencies not to adopt voluntary public rule making procedures where useful to the agency or beneficial to the public. The exceptions merely confer a complete discretion upon agencies to decide what, if any, public rule making procedures they will adopt in a given situation within their terms. It should be noted, moreover, that the exceptions apply only "to the extent" that the excepted subjects are directly involved.

(a) NOTICE.—*General notice of proposed rule making must be published in the Federal Register and must include (1) time, place, and*

nature of proceedings, (2) reference to authority under which held, and (3) terms, substance, or issues involved. However, except where notice and hearing is required by some other statute, the subsection does not apply to rules other than those of substance or where the agency for good cause finds (and incorporates the finding and reasons therefor in the published rule) that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

Agency notice must be sufficient to fairly apprise interested parties of the issues involved, so that they may present responsive data or argument relating thereto. The subsection governs the application of the public procedures required by the next subsection, since those procedures only apply where notice is required by this subsection. Agencies are given discretion to dispense with notice (and consequently with public proceedings) in the case of interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. This does not mean, however, that agencies should not—where useful to them or helpful to the public—undertake public procedures in connection with such rule making. The exemption of situations of emergency or necessity is not an "escape clause" in the sense that any agency has discretion to disregard its terms or the facts. A true and supported or supportable finding of necessity or emergency must be made and published. "Impracticable" means a situation in which the due and required execution of the agency functions would be unavoidably prevented by its undertaking public rule-making proceedings. "Unnecessary" means unnecessary so far as the public is concerned, as would be the case if a minor or merely technical amendment in which the public is not particularly interested were involved. "Public interest" supplements the terms "impracticable" or "unnecessary"; it requires that public rule-making procedures shall not prevent an agency from operating and that, on the other hand, lack of public interest in rule making warrants an agency to dispense with public procedure. It should be noted that where authority beneficial to the public does not become operative until a rule is issued, the agency may promulgate the necessary rule immediately and rely upon supplemental procedures in the nature of a public reconsideration of the issued rule to satisfy the requirements of this section. Where public rule-making procedures are dispensed with, the provisions of subsections (c) and (d) of this section would nevertheless apply.

(*b*) PROCEDURES.—*After such notice, the agency must afford interested persons an opportunity to participate in the rule making at least to the extent of submitting written data, views, or argument; and, after consideration of such presentations, the agency must incorporate in any rules adopted a concise general statement of their basis and purpose. However, where other statutes require rules to be made after hearing, the requirements of sections 7 and 8 (relating to public hearings and decisions thereon) apply in place of the provisions of this subsection.*

This subsection states, in its first sentence, the minimum requirements of public rule making procedure short of statutory hearing. Under it agencies might in addition confer with industry advisory committees, consult organizations, hold informal "hearings," and the like. Considerations of practicality, necessity, and public interest as discussed in connection with subsection (a) will naturally govern the agency's determination of the extent to which public proceedings

should go. Matters of great import, or those where the public submission of facts will be either useful to the agency or a protection to the public, should naturally be accorded more elaborate public procedures. The agency must analyze and consider all relevant matter presented. The required statement of the basis and purpose of rules issued should not only relate to the data so presented but with reasonable fullness explain the actual basis and objectives of the rule.

(c) EFFECTIVE DATES.—*The required publication or service of any substantive rule must be made not less than 30 days prior to its effective date except (1) as otherwise provided by the agency for good cause found and published or (2) in the case of rules recognizing exemption or relieving restriction, interpretative rules, and statements of policy.*

This subsection does not provide procedures alternative to notice and other public proceedings required by the prior subsections of this section. Nor does it supersede the provisions of subsection (d) of this section. Where public procedures are omitted as authorized in certain cases, subsection (c) does not thereby become inoperative. It will afford persons affected a reasonable time to prepare for the effective date of a rule or rules or to take any other action which the issuance of rules may prompt. While certain named kinds of rules are not necessarily subject to the deferred effective date provided, it does not thereby follow that agencies are required to make such excepted types of rules operative with less notice or no notice but, instead, agencies are given discretion in those cases to fix such future effective date as they may find advisable. The other exception, upon good cause found and published, is not an "escape clause" which may be arbitrarily exercised but requires legitimate grounds supported in law and fact by the required finding. Moreover, the specification of a 30-day deferred effective date is not to be taken as a maximum, since there may be cases in which good administration or the convenience and necessity of the persons subject to the rule reasonably requires a longer period.

(d) PETITIONS.—*Every agency is required to accord any interested person the right to petition for the issuance, amendment, or repeal of a rule.*

This subsection applies not merely to effective rules existing at any time but to proposed or tentative rules. Where the latter are published, agencies should receive petitions for modification because that is one of the purposes of publishing proposed or tentative rules. Where such petitions are made, the agency must fully and promptly consider them, take such action as may be required, and pursuant to section 6 (d) notify the petitioner in case the request is denied. The agency may either grant the petition, undertake public rule making proceedings as provided by subsections (a) and (b) of this section, or deny the petition. The taking or denial of action would have the same effect and consequences as the taking or denial of action where, under presently existing legislation, the equivalent of a right of petition is recognized in interested persons. The mere filing of a petition does not require an agency to grant it, or to hold a hearing, or engage in any other public rule making proceedings. The refusal of an agency to grant the petition or to hold rule making proceedings, therefore, would not per se be subject to judicial reversal. However, the facts or considerations brought to the attention of an agency by such a petition might be such as to require the agency to act to prevent the rule from continuing or becoming vulnerable upon

judicial review, through declaratory judgment or other procedures pursuant to section 10.

SEC. 5. ADJUDICATIONS.—*The various subsequent provisions of section 5 relating to adjudications apply only where the case is otherwise required by statute to be determined upon an agency hearing except that, even in that case, the following classes of operations are expressly not affected: (1) Cases subject to trial de novo in court, (2) selection or tenure of public officers other than examiners, (3) decisions resting on inspections, tests, or elections, (4) military, naval, and foreign affairs functions (5) cases in which an agency is acting for a court, and (6) the certification of employee representatives.*

The general limitation of this section to cases in which other statutes require the agency to act upon or after a hearing is important. All cases are nevertheless subject to sections 2, 3, 6, 9, 10, and 12 so far as those are otherwise relevant.

The numbered exceptions remove from the operation of the section even adjudications otherwise required by statute to be made after hearing. The first, where the adjudication is subject to a judicial trial de novo, is included because whatever judgment the agency makes is effective only in a prima facie sense at most and the party aggrieved is entitled to complete judicial retrial and decision. The second, respecting the selection and tenure of officers other than examiners, is included because the selection and control of public personnel has been traditionally regarded as a discretionary function which, if to be overturned, should be done by separate legislation. The third exempts proceedings resting on inspections, tests, or elections because those methods of determination do not lend themselves to the hearing process. The fourth exempts military, naval, and foreign affairs functions for the same reasons that they are exempted from section 4; and, in any event, rarely if ever do statutes require such functions to be exercised upon hearing. The fifth, exempting cases in which an agency is acting as the agent for a court, is included because the administrative operation is subject to judicial revision in toto. The sixth, exempting the certification of employee representatives such as the Labor Board operations under section 9 (c) of the National Labor Relations Act, is included because these determinations rest so largely upon an election or the availability of an election. It should be noted that these exceptions apply only "to the extent" that the excepted subject is involved and, it may be added, only to the extent that such subjects are directly involved.

(*a*) NOTICE.—*Persons entitled to notice of an agency hearing are to be duly and timely informed of (1) the time, place, and nature of the hearing, (2) the legal authority and jurisdiction under which it is to be held, and (3) the matters of fact and law asserted. Where private persons are the moving parties, respondents must give prompt notice of issues controverted in law or fact; and in other cases the agency may require responsive pleading. In fixing the times and places for hearings the agency must give due regard to the convenience and necessity of the parties.*

The specification of the content of notice, so far as legal authority and the issues are concerned, does not mean that prior to the commencement of the proceedings an agency must anticipate all developments and all possible issues. But it does mean that, either by the formal notice or otherwise in the record, it must appear that the party

affected has had ample notice of the legal and factual issues with due time to examine, consider, and prepare for them. The second sentence of the subsection applies in those cases where the agency does not control the matter of notice because private persons are the moving parties; and in such cases the respondent parties must give notice of the issues of law or fact which they controvert so that the moving party will be apprised of the issues he must sustain. The purpose of the provision is to simplify the issues for the benefit of both the parties and the deciding authority. The last sentence, requiring the convenience and necessity of the parties to be consulted in fixing the times and places for hearings, includes an agency party as well as a private party; but the agency's convenience is not to outweigh that of the private parties and, while the due and required execution of agency functions may be said to be paramount, that consideration would be controlling only where a lack of time has been unavoidable or a particular place of hearing is indispensable and does not deprive the private parties of their full opportunity for a hearing.

(*b*) PROCEDURE.—*The agency is required first to afford parties an opportunity for the settlement or adjustment of issues (where time, the nature of the proceeding, and the public interest permit) followed, to the extent that issues are not so settled, by hearing and decision under sections 7 and 8.*

The preliminary settlement-by-consent provision of this subsection is of the greatest importance. Such adjustments may go to the whole or any part of any case. The limitation of the requirement to cases in which "time, the nature of the proceeding, and the public interest permit" does not mean that formal proceedings, to the exclusion of prior opportunity for informal settlement, lie in the discretion of any agency irrespective of the facts, legal situation presented, or practical aspects of the case. It does not mean that agencies have an arbitrary choice, or that they may consult their mere preference or convenience. It is intended to exempt only situations in which, for example, (1) time is unavoidably lacking, (2) the nature of the proceeding is such that for example (as in some forms of rule making) the great number of parties or possible parties makes it unlikely that any adjustment could be reached, and (3) the administrative function requires immediate execution in order to protect the tangible and demonstrable requirements of public interest.

(*c*) SEPARATION OF FUNCTIONS.—*Officers who preside at the taking of evidence must make the decision or recommended decision in the case. They may not consult with any person or party except openly and upon notice, save in the disposition of customary ex parte matters, and they may not be made subject to the supervision of prosecuting officers. The latter may not participate in the decisions except as witness or counsel in public proceedings. However, the subsection is not to apply in determining applications for initial licenses or the past reasonableness of rates; nor does it apply to the top agency or members thereof.*

The gist of the subsection is that no investigating or prosecuting officer shall directly or indirectly in any manner influence or control the operations of hearing and deciding officers, except as a participant in public proceedings, and even then in no different fashion than the private parties or their representatives. "Ex parte matters authorized by law" means passing on requests for adjournments, continuances, filing of papers, and so forth. The exemption of applications

for initial licenses frees from the requirements of the subsection such matters as the granting of certificates of convenience and necessity which are of indefinite duration, upon the theory that in most licensing cases the original application may be much like rule making. The latter, of course, is not subject to any provision of section 5. The exemption of cases involving "the past reasonableness of rates" (if triable *de novo* on judicial review they would be exempted in any event) is made for the same reason. There are, however, some instances of either kind of case which tend to be accusatory in form and involve sharply controverted factual issues. Agencies should not apply the exceptions to such cases, because they are not to be interpreted as precluding fair procedure where it is required.

A further word may be said as to the last exemption—of the agency itself or the members of the board who comprise it. Such a provision is required by the very nature of administrative agencies, where the same authority is responsible for both the investigation-prosecution and the hearing and decision of cases. There, too, the exemption is not to be taken as meaning that the top authority must reserve to itself both prosecuting and deciding functions. To be sure it is ultimately responsible for all functions committed to it, but it may and should confine itself to determining policy and should delegate the actual supervision of investigations and initiation of cases to responsible subordinate officers.

(*d*) DECLARATORY ORDERS.—*Every agency is authorized in its sound discretion to issue declaratory orders with the same effect as other orders.*

This subsection does not mean that any agency empowered to issue orders may issue declaratory orders, because it is limited by the introductory clauses of section 5. Thus, such orders may be issued only where the agency is empowered by statute to hold hearings and the subject is not expressly exempted by the introductory clauses of this section.

Agencies are not required to issue declaratory orders merely because request is made therefor. Such applications have no greater effect than they now have under existing comparable legislation. "Sound discretion," moreover, would preclude the issuance of improvident orders. The administrative issuance of declaratory orders would be governed by the same basic principles that govern declaratory judgments in the courts.

SEC. 6. ANCILLARY MATTERS.—*The provisions of section 6 relating to incidental or miscellaneous rights, powers, and procedures do not override contrary provisions in other parts of the bill.*

The purpose of this introductory exception, which reads "except as otherwise provided in this act," is to limit, for example, the right of appearance provided in subsection (a) so as not to authorize improper ex parte conferences during formal hearings and pending formal decisions under sections 7 and 8.

(*a*) APPEARANCE.—*Any person compelled to appear in person before any agency or its representative is entitled to counsel. In other cases, every party may appear in person or by counsel. So far as the responsible conduct of public business permits, any interested person may appear before any agency or its responsible officers at any time for the presentation or adjustment of any matter. Agencies are to proceed with reasonable dispatch to conclude any matter so presented, with due regard for the convenience and necessity of the parties. Nothing in the subsection is to*

be taken as recognizing or denying the propriety of nonlawyers representing parties.

This subsection is designed to confirm and make effective the right of interested persons to appear themselves or through or with counsel before any agency. The word "party" in the second sentence is to be understood as meaning any person showing the requisite interest in the matter, since the subsection applies in connection with the exercise of any agency authority whether or not formal proceedings are available. The phrase "responsible officers", as used here and in some other provisions, both includes all officers or employees who really determine matters or exercise substantial advisory functions and excludes those whose duties are merely formal or mechanical. The third sentence does not require agencies to give notice to all who may be affected, but merely to receive the presentations of those who seek to make them. The qualifying words in the third sentence—which read "so far as the responsible conduct of public business permits"—preclude the undue harassment of agencies by numerous petty appearances by or for the same party in the same case; but they do not confer upon agencies a discretion to emasculate the subsection or preclude interested persons from presenting fully and before any responsible officer or employee their cases or proposals in full. The reference to "stop-order or other summary actions" emphasizes the necessity for an opportunity for full informal appearance where normal and formal hearing and decision requirements are not applicable or are inadequate. The requirement that agencies proceed "with reasonable dispatch to conclude any matter presented" is a statement of legal requirement that no agency shall in effect deny relief or fail to conclude a case by mere inaction.

The final sentence provides that the subsection shall not be taken to recognize or deny the right of nonlawyers to be admitted to practice before any agency, such as the practitioners before the Interstate Commerce Commission. The use of the word "counsel" means lawyers. While the subsection does not deal with the matter expressly, the committee does not believe that agencies are justified in laying burdensome admission requirements upon members of the bar in good standing before the courts. The right of agencies to pass upon the qualifications of nonlawyers, however, is expressly recognized and preserved in the subsection.

(*b*) INVESTIGATIONS.—*Investigative process is not to be issued or enforced except as authorized by law. Persons compelled to submit data or evidence are entitled to retain or, on payment of costs, to procure copies except that in nonpublic proceedings a witness may for good cause be limited to inspection of the official transcript.*

This section is designed to preclude "fishing expeditions" and investigations beyond the jurisdiction or authority of an agency. It applies to any demand, whether or not a formal subpena is actually issued. "Nonpublic investigatory proceeding" means those of the grand jury kind in which evidence is taken behind closed doors. The limitation, for good cause, to inspection of the official transcript is deemed necessary where evidence is taken in a case in which prosecutions may be brought later and it is obviously detrimental to the due execution of the laws to permit copies to be circulated. In those cases the witness or his counsel may be limited to inspection of the relevant portions of the transcript. Parties should in any case have

copies or an opportunity for inspection in order to assure that their evidence is correctly set forth, to refresh their memories in the case of stale proceedings, and to enable them to be advised by counsel. They should also have such copies whenever needed in legal or administrative proceedings.

(*c*) SUBPENAS.—*Where agencies are by law authorized to issue subpenas, parties may secure them upon request and upon a statement or showing of general relevance and reasonable scope if the agency rules so require. Where a party contests a subpena, the court is to inquire into the situation and, so far as the subpena is found in accordance with law, issue an order requiring the production of the evidence under penalty of contempt for failure then to do so.*

This provision will assure private parties the same access to subpenas as that available to the representatives of agencies. It will also prevent the issuance of improvident subpenas or action by an agency requiring a detailed, unnecessary, and burdensome showing of evidence which might fall into the hands of the party's adversaries or investigators and prosecutors (who in any event should not have access to such papers directly or indirectly). The subsection constitutes a statutory limitation upon the issuance or enforcement of subpenas in excess of agency authority or jurisdiction. This does not mean, however, that courts should enter into a detailed examination of facts and issues which are committed to agency authority in the first instance, but should, instead, inquire generally into the legal and factual situation and be satisfied that the agency could possibly find that it has jurisdiction. The subsection expressly recognizes the right of parties subject to administrative subpenas to contest their validity in the courts prior to subjection to any form of penalty for noncompliance.

(*d*) DENIALS.—*Prompt notice is to be given of denials of requests in any agency proceeding, accompanied by a simple statement of grounds.*

This subsection affords the parties in any agency proceeding, whether or not formal or upon hearing, the right to prompt action upon their requests, immediate notice of such action, and a statement of the actual grounds therefor. The latter should in any case be sufficient to apprise the party of the basis of the denial and any other or further administrative remedies or recourse he may have. A statement of the actual grounds need not be made "in affirming a prior denial or where the denial is self-explanatory." However, prior denial would satisfy the subsection requirement only where the grounds previously stated remain the actual grounds and sufficiently notify the party as set forth above. A self-explanatory denial must meet the same test; that is, the request must be in such form that its mere denial fully informs the party of all he would otherwise be entitled to have stated.

SEC. 7. HEARINGS.—*Section 7 relating to agency hearings applies only where hearings are required by sections 4 or 5.*

As heretofore stated in connection with sections 4 and 5, the bill requires no hearings unless other statutes contain such a requirement in particular cases of either rule making or adjudication. This section 7, therefore, is merely supplementary to sections 4 or 5 in the relevant cases.

(*a*) PRESIDING OFFICERS.—*The hearing must be held either by the agency, a member or members of the board which comprises it, one or*

more examiners, or other officers specially provided for in or designated by other statutes. All presiding and deciding officers are to operate impartially. They may at any time withdraw if they deem themselves disqualified and, upon the filing of a proper affidavit of personal bias or disqualification against them, the agency is required to determine the matter as a part of the record and decision in the case.

This subsection provides two mutually exclusive methods of hearing—by the agency itself (or one or more of its members) or by subordinate officers. A third kind of hearing officer recognized in this subsection is one specially provided for or named in other statutes. Whoever presides is subject to the remaining provisions of the bill. They must conduct the hearing in a strictly impartial manner, rather than as the representative of an investigative or prosecuting authority, but this does not mean that they do not have the authority and duty—as a court does—to make sure that all necessary evidence is adduced and to keep the hearing orderly and efficient. The provision for affidavits of bias or personal disqualification requires a decision thereon by the agency in, and as a part of, the case; it thereby becomes subject to administrative and judicial review. That decision might be made upon the affidavit alone, as for example, the protest might be dismissed as insufficient on its face. The agency itself may hear any relevant argument or facts, or it may designate an examiner to do so. The effect which bias or disqualification shown upon the record might have would be determined by the ordinary rules of law and the other provisions of this bill. If it appeared or were discovered late, it would have the effect—where issues of fact or discretion were important and the conduct and demeanor of witnesses relevant in determining them—of rendering the recommended decisions or initial decisions of such officers invalid. This consequence will require agencies and examiners themselves to take care that they do not sit where subject to disqualification or conduct themselves in a manner which will invalidate the proceedings.

(*b*) HEARING POWERS.—*Presiding officers, subject to the rules of procedure adopted by the agency and within its powers, have authority to (1) administer oaths, (2) issue such subpenas as are authorized by law, (3) receive evidence and rule upon offers of proof, (4) take depositions or cause depositions to be taken, (5) regulate the hearing, (6) hold conferences for the settlement or simplification of the issues, (7) dispose of procedural requests, (8) make decisions or recommended decisions under section 8 of the bill, and (9) exercise other authority as provided by agency rule consistent with the remainder of the bill.*

This subsection does not expand the powers of agencies. It is designed to assure that the presiding officer will perform a real function rather than serve merely as a notary or policeman. He would have and should independently exercise all the powers numbered in the subsection. The agency itself—which must ultimately either decide the case, or consider reviewing it, or hear appeals from the examiner's decision—should not in effect conduct hearings from behind the scenes where it cannot know the detailed happenings in the hearing room and does not hear or see the private parties.

(*c*) EVIDENCE.—*Except as statutes otherwise provide, the proponent of a rule or order has the burden of proof. While any evidence may be received, as a matter of policy agencies are required to provide for the exclusion of irrelevant and unduly repetitious evidence and no sanction*

may be imposed or rule or order be issued except as supported by relevant, reliable, and probative evidence. Any party may present his case or defense by oral or documentary evidence, submit rebuttal evidence, and conduct reasonable cross-examination. However, in the case of rule making or determining applications for initial licenses, the agency may adopt procedures for the submission of evidence in written form so far as the interest of any party will not be prejudiced thereby.

That the proponent of a rule or order has the burden of proof means not only that the party initiating the proceeding has the general burden of coming forward with a prima facie case but that other parties, who are proponents of some different result, also for that purpose have a burden to maintain. Similarly the requirement that no sanction be imposed or rule or order be issued except upon evidence of the kind specified means that the proponents of a denial of relief must sustain such denial by that kind of evidence. For example, credible and credited evidence submitted by the applicant for a license may not be ignored except upon the requisite kind and quality of contrary evidence. No agency is authorized to stand mute and arbitrarily disbelieve credible evidence. Except as applicants for a license or other privilege may be required to come forward with a prima facie showing, no agency is entitled to presume that the conduct of any person or status of any enterprise is unlawful or improper.

The second and primary sentence of the subsection is framed on the theory that an administrative hearing is to be compared with an equity proceeding in the courts. The mere admission of evidence is not to be taken as prejudicial error (there being no lay jury to be protected from improper influence) although irrelevant and unduly repetitious evidence is to be excluded as a matter of efficiency and good practice; and no finding or conclusion may be entered except upon evidence which is plainly of the requisite materiality and competence; that is, "relevant, reliable, and probative evidence." Thus while the exclusionary "rules of evidence" do not apply except as the agency may as a matter of good practice simplify the hearing and record by excluding obviously improper or unnecessary evidence, the standards and principles of probity and reliability of evidence must be the same as those prevailing in courts of law or equity in nonadministrative cases. There are no real rules of probity and reliability even in courts of law, but there are certain standards and principles—usually applied tacitly and resting mainly upon common sense—which people engaged in the conduct of responsible affairs instinctively understand and act upon. They may vary with the circumstances and kind of case, but they exist and must be rationally applied. These principles, under this subsection, are to govern in administrative proceedings.

The right of cross-examination extends, in a proper case, to written evidence submitted pursuant to the last sentence of the subsection as well as to cases in which oral or documentary evidence is received in open hearing. Even in the latter case, subject to the appropriate safeguards, technical data may as a matter of convenience be reduced to writing and introduced as in courts. The written evidence provision of the last sentence of the subsection is designed to cover situations in which, as a matter of general rule or practice, the submission of the whole or substantial portions of the evidence in a case is done in written form. In those situations, however, the provision limits

the practice to specified classes of cases and, even then, only where and to the extent that "the interest of any party will not be prejudiced thereby." To the extent that cross-examination is necessary to bring out the truth, the party should have it. Also, an adequate opportunity must be provided for a party to prepare and submit appropriate rebuttal evidence.

(*d*) RECORD.—*The record of evidence taken and papers filed is exclusive for decision and, upon payment of costs, is available to the parties. Where decision rests on official notice of a material fact not appearing in the evidence of record, any party may on timely request show the contrary.*

The "official notice" mentioned relates to the administrative practice of taking facts as shown and true though not in the record. This is done by analogy to judicial notice familiar in court procedure. Where agencies take such notice they must so state on the record or in their decisions and then afford the parties an opportunity to show the contrary.

SEC. 8. DECISIONS.—*Section 8 applies to cases in which a hearing is required to be conducted pursuant to section 7.*

Like section 7, upon which section 8 depends, this section is supplementary to sections 4 and 5 in cases in which agency action is required to be taken after hearing provided by statute and not otherwise excepted from the operation of sections 4 or 5.

(*a*) ACTION BY SUBORDINATES.—*Where the agency has not presided at the reception of the evidence, the presiding officer (or any other officer qualified to preside, in cases exempted from subsec. (c) of sec. 5) must make the initial decision unless the agency—by general rule or in a particular case—undertakes to make the initial decision. If the presiding officer makes the initial decision, it becomes the decision of the agency in the absence of an appeal to the agency or review by the agency on its own motion. On such appeal or review, the agency has all the powers it would have had in making the initial decision. If the agency makes the initial decision without having presided at the taking of the evidence, whatever officer took the evidence must first make a recommended decision except that, in rule making or determining applications for initial licenses, (1) the agency may instead issue a tentative decision or any of its responsible officers may recommend a decision or (2) such intermediate procedure may be wholly omitted in any case in which the agency finds on the record that the execution of its functions imperatively and unavoidably so requires.*

This subsection requires in effect that the officer who presided shall make the initial decision in the case, or the agency may do so, but in the latter event the officer who presided must make a recommended decision. However, the recommended decision may be supplied by a tentative agency decision or a proposed decision by its responsible officers in certain cases or, where the due and timely execution of agency functions will not permit such intermediate action, it may be omitted entirely. The parties might agree to waive such intermediate procedure in any case. The reference to an appeal or review by the agency does not cut off any further appeals to or review by any existing superior agency authorized to hear appeals or review decisions of the first agency. The agency for which the examiner or other presiding officer functions may not dispense with the recommended decision except as provided by the subsection.

The provision that on agency review of initial examiners' decisions the agency shall have all the powers it would have had in making the initial decision does not mean that the initial examiners' decisions (or their recommended decisions) are without effect. They become a part of the record in the case. They would be of consequence, for example, to the extent that material facts in any case depend on the determination of credibility of witnesses as shown by their demeanor or conduct at the hearing. Since the examiner system is made necessary because agencies themselves cannot hear cases, some device must be used to bridge the gap between the officials who hear and those who decide cases.

The alternative intermediate procedure which an agency may adopt in rule making or determining applications for initial licenses lies in the discretion of the agency. In order to simplify the bill, the exception which confers this discretion is broadly drawn. However, it may be noted that even in those cases, if issues of fact are sharply controverted or the case or class of cases tends to become accusatory in nature, sound practice would require the agency to adopt the intermediate recommended decision procedure

(*b*) SUBMITTALS AND DECISIONS.—*Prior to each recommended or other decision or review the parties must be given an opportunity to submit for the full consideration of deciding officers (1) proposed findings and conclusions or (2) exceptions to recommended decisions or other decisions being appealed or reviewed, and (3) supporting reasons for such findings, conclusions, or exceptions. All recommended or other decisions become a part of the record and must include (1) findings and conclusions, as well as the basis therefor, upon all the material issues of fact, law, or discretion presented by the record and (2) the appropriate agency action or denial.*

Ordinarily proposed findings and conclusions are submitted only to the officers making the initial decision, and the parties present exceptions thereafter if they contest the result. However, such exceptions may in form or effect include proposed findings or conclusions for the reviewing authority to consider as a part of the exceptions. "Supporting reasons" means that briefs on the law and facts must be received and fully considered by every recommending, deciding, or reviewing officer. They must also hear such oral argument as may be required by law. Where the issues of fact are serious and the case becomes one adversary in character, the agency should provide for oral argument before all recommending, deciding, or reviewing officers at least as a matter of good practice.

The requirement that the agency must state the basis for its findings and conclusions means that such findings and conclusions must be sufficiently related to the record as to advise the parties of their record basis. Most agencies will do so by opinions which reason and relate the issues of fact, law, and discretion. Statements of reasons, however, may be long or short as the nature of the case and the novelty or complexity of the issues may require.

Findings and conclusions must include all the relevant issues presented by the record in the light of the law involved. They may be few or many. A particular conclusion of law may render certain issues and findings immaterial, or vice versa. Where oral testimony is conflicting or subject to doubt of its credibility, the credibility of witnesses would be a necessary finding if the facts are material. It should also be noted that the relevant issues extend to matters of

administrative discretion as well as of law and fact. This is important because agencies often determine whether they have power to act rather than whether their discretion should be exercised or how it should be exercised. Furthermore, without a disclosure of the basis for the exercise of, or failure to exercise, discretion, the parties are unable to determine what other or additional facts they might offer by way of rehearing or reconsideration of decisions.

SEC. 9. SANCTIONS AND POWERS.—*Section 9 relating to powers and sanctions refers to the exercise of any power or authority by an agency.*

Unlike sections 7 and 8, this section applies in all relevant cases, whether or not the agency is required by statute to proceed upon hearing or in any special manner. It also applies to any power or authority that an agency may assume to exercise.

(*a*) IN GENERAL.—*No sanction may be imposed or substantive rule or order be issued except within the jurisdiction delegated to the agency and as authorized by law.*

This subsection embraces both substantive and procedural requirements of law. It means that agencies may not undertake anything which statutes or other appropriate sources of authority (such as treaties) do not authorize them to do. Where these sources are specific in the authority granted, no additional authority may be assumed. Where these sources are general, no authority beyond the generality granted may be exercised. In particular, agencies may not impose sanctions which have not been specifically or generally provided for them to impose. Thus, an agency which is authorized only to issue cease-and-desist orders may not set up a licensing system; and conversely a licensing authority may not assume to issue desist orders. A rule-making authority may not undertake to adjudicate cases, and vice versa. Of course some statutes confer upon the same agency authority to exercise more than one of these forms of regulation. An agency authorized to regulate trade practices may not regulate banking, and so on. Similarly, no agency may undertake directly or indirectly to exercise the functions of some other agency. The subsection confines each agency to the jurisdiction delegated to it by law.

(*b*) LICENSES.—*Agencies are required, with due regard for the rights or privileges of all the interested parties or persons adversely affected, to proceed with reasonable dispatch to conclude and decide proceedings on applications for licenses. They are not to withdraw a license without first giving the licensee notice in writing and an opportunity to demonstrate or achieve compliance with all lawful requirements, except in cases of wilfulness or those in which public health, interest, or safety requires otherwise. In businesses of a continuing nature, no license expires until timely applications for new licenses or renewals are determined by the agency.*

This section operates in all cases whether or not hearing is required. The requirement of dispatch means that agencies must proceed as rapidly as is feasible and practicable, rather than at their own convenience. Undue delays are subject to correction by mandatory injunction pursuant to section 10. The exceptions to the second sentence, regarding revocations, apply only where the demonstrable facts fully and fairly warrant the application of the exceptions. Willfulness must be manifest. The same is true of "public health, interest, or safety." The standard of "public * * * interest"

means a situation requiring immediate action irrespective of the equities or injuries to the licensee, but the term does not confer upon agencies an arbitrary discretion to ignore the requirement of notice and an opportunity to demonstrate compliance. However, this limitation does not apply to temporary permits or temporary licenses.

SEC. 10. JUDICIAL REVIEW.—*Section 10 on judicial review does not apply in any situation so far as there are involved matters with respect to which statutes preclude judicial review or agency action is by law committed to agency discretion.*

Very rarely do statutes withhold judicial review. It has never been the policy of Congress to prevent the administration of its own statutes from being judicially confined to the scope of authority granted or to the objectives specified. Its policy could not be otherwise, for in such a case statutes would in effect be blank checks drawn to the credit of some administrative officer or board.

The basic exception of matters committed to agency discretion would apply even if not stated at the outset. If, for example, statutes are drawn in such broad terms that in a given case there is no law to apply, courts of course have no statutory question to review. That situation cannot be remedied by an administrative procedure act but must be treated by the revision of statutes conferring administrative powers. However, where statutory standards, definitions, or other grants of power deny or require action in given situations or confine an agency within limits as required by the Constitution, then the determination of the facts does not lie in agency discretion but must be supported by either the administrative or judicial record.

(*a*) RIGHT OF REVIEW.—*Any person suffering legal wrong because of any agency action, or adversely affected within the meaning of any statute, is entitled to judicial review.*

This subsection confers a right of review upon any person adversely affected in fact by agency action or aggrieved within the meaning of any statute. The phrase "legal wrong" means such a wrong as is specified in subsection (e) of this section. It means that something more than mere adverse personal effect must be shown—that is, that the adverse effect must be an illegal effect. The law so made relevant is not just constitutional law but any and all applicable law.

(*b*) FORM AND VENUE OF ACTION.—*The technical form of proceeding for judicial review is any special proceeding provided by statute or, in the absence or inadequacy thereof, any relevant form of legal action (such as those for declaratory judgments or injunctions) in any court of competent jurisdiction. Moreover, agency action is also made subject to judicial review in any civil or criminal proceeding for enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.*

The first sentence of this subsection is an express statutory recognition of the so-called common-law actions as being appropriate and authorized means of judicial review, operative whenever special forms of judicial review are lacking or insufficient. The declaratory judgment procedure, for example, may be operative before statutory forms of review are available; and in a proper case it may be utilized to determine the validity or application of agency action. The expression "special statutory review" means not only special review proceedings wholly created by statute, but so-called common-law forms referred to and adopted by statute as the appropriate mode of

review. The exception from "prior, adequate, and exclusive * * * review" in the second sentence is operative only where statutes, either expressly or as they are interpreted, require parties to resort to some special statutory form of judicial review which is prior in time and adequate to the case.

(c) REVIEWABLE ACTS.—*Agency action made reviewable specially by statute or final agency action for which there is no other adequate judicial remedy is subject to judicial review. In addition, preliminary or procedural matters not directly subject to review are reviewable upon the review of final actions. Except as statutes may expressly require otherwise, agency action is final whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule) for an appeal to superior agency authority.*

"Final" action includes any effective agency action for which there is no other adequate remedy in any court. "Reconsideration" includes reopening, rehearing, etc.

The last clause, permitting agencies to require by rule that an appeal be taken to superior agency authority before judicial review may be sought, is designed to implement the provisions of section 8 (*a*). Pursuant to that subsection an agency may permit an examiner to make the initial decision in a case, which becomes the agency's decision in the absence of an appeal to or review by the agency. If there is such review or appeal, the examiner's initial decision becomes inoperative until the agency determines the matter. For that reason this subsection permits an agency also to require by rule that, if any party is not satisfied with the initial decision of a subordinate hearing officer, the party must first appeal to the agency (the decision meanwhile being inoperative) before resorting to the courts. In no case may appeal to "superior agency authority" be required by rule unless the administrative decision meanwhile is inoperative, because otherwise the effect of such a requirement would be to subject the party to the agency action and to repetitious administrative process without recourse. There is a fundamental inconsistency in requiring a person to continue "exhausting" administrative processes after administrative action has become, and while it remains, effective.

(*d*) INTERIM RELIEF.—*Pending judicial review any agency may postpone the effective date of its action. Upon conditions and as may be necessary to prevent irreparable injury, any reviewing court may postpone the effective date of any agency action or preserve the status quo pending conclusion of review proceedings.*

This section permits either agencies or courts, if the proper showing be made, to maintain the status quo. While it would not permit a court to grant an initial license, it provides intermediate judicial relief for every other situation in order to make judicial review effective. The authority granted is equitable and should be used by both agencies and courts to prevent irreparable injury or afford parties an adequate judicial remedy.

(*e*) SCOPE OF REVIEW.—*Reviewing courts are required to decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of any agency action. They must (A) compel action unlawfully withheld or unreasonably delayed and (B) hold unlawful any action, findings, or conclusions found to be (1) arbitrary, (2) contrary to the Constitution, (3) contrary to statutes or short of statutory right, (4) without observance of procedure required by law, (5)*

unsupported by substantial evidence upon the administrative record where the agency is authorized by statute to hold hearings subject to sections 7 and 8, or (6) unwarranted by the facts so far as the latter are subject to trial de novo. In making these determinations the court is to consider the whole record or such parts as the parties may cite, and due account must be taken of the rule of prejudicial error.

This subsection provides that questions of law are for courts rather than agencies to decide in the last analysis and it also lists the several categories of questions of law. It expressly recognizes the right of properly interested parties to compel agencies to act where they improvidently refuse to act. "Finding" and "conclusion" also mean failure to find or conclude as the law and the record may require. "Short of statutory right" means that agencies are not authorized to give partial relief where a party demonstrates his right to the whole. "Without observance of procedure required by law" means not only the procedures required by this bill but any other procedures the law may require. "Substantial evidence" means evidence which on the whole record is clearly substantial, sufficient to support a finding or conclusion under section 7 (c), and material to the issues.

The sixth category, respecting the establishment of facts upon trial de novo, would require the reviewing court to determine the facts in any case of adjudication not subject to sections 7 and 8. It would also require the judicial determination of facts in connection with rule making or any other conceivable form of agency action to the extent that the facts were relevant to any pertinent issues of law presented. For example, statutes providing for "reparation orders", in which agencies determine damages and award money judgments, usually state that the money orders issued are merely prima facie evidence in the courts and the parties subject to them are permitted to introduce evidence in the court in which the enforcement action is pending. In other cases, the test is whether there has been a statutory administrative hearing of the facts which is adequate and exclusive for purposes of review. Thus, where adjudications such as tax assessments are not made upon an administrative hearing and record, contests may involve a trial of the facts in the Tax Court or the United States district courts. Where administrative agencies deny parties money to which they are entitled by statute or rule, the claimants may sue as for any other claim and in so doing try out the facts in the Court of Claims or United States district courts as the case may be. Where a court enforces or applies an administrative rule, the party to whom it is applied may offer evidence and show the facts upon which he bases a contention that he is not subject to the terms of the rule. Where for example an affected party claims in a judicial proceeding that a rule issued without an administrative hearing (and not required to be issued after such hearing) is invalid, he may show the facts upon which he predicates such invalidity.

The requirement of review upon "the whole record" means that courts may not look only to the case presented by one party, since other evidence may weaken or even indisputably destroy that case. The requirement that account shall be taken "of the rule of prejudicial error" means that a procedural omission which has been cured by affording the party the procedure to which he was originally entitled is not a reversible error.

SEC. 11. EXAMINERS.—*Subject to the civil-service and other laws not inconsistent with this bill, agencies are required to appoint such examiners*

as may be necessary for proceedings under sections 7 and 8, who are to be assigned to cases in rotation so far as practicable and to perform no inconsistent duties. They are removable only for good cause determined by the Civil Service Commission after opportunity for hearing and upon the record thereof. They are to receive compensation prescribed by the Commission independently of agency recommendations or ratings. One agency may, with the consent of another and upon selection by the Commission, borrow examiners from another. The Commission is given the necessary powers to operate under this section.

That examiners be "qualified and competent" requires the Civil Service Commission to fix appropriate qualifications and the agencies to seek fit persons. In view of the tenure and compensation requirements of the section, designed to make examiners largely independent, self-interest and due concern for the proper performance of public functions will inevitably move agencies to secure the highest type of examiners.

The purpose of this section is to render examiners independent and secure in their tenure and compensation. The section thus takes a different ground than the present situation, in which examiners are mere employees of an agency, and other proposals for a completely separate "examiners' pool" from which agencies might draw for hearing officers. Recognizing that the entire tradition of the Civil Service Commission is directed toward security of tenure, it seems wise to put that tradition to use in the present case. However, additional powers are conferred upon the Commission. It must afford any examiner an opportunity for a hearing before acceding to an agency request for removal, and even then its action would be subject to judicial review. The hearing and decision would be made under sections 7 and 8 of this bill. The requirement of assignment of examiners "in rotation" prevents an agency from disfavoring an examiner by rendering him inactive.

In the matter of examiners' compensation the section adds greatly to the Commission's powers and function. It must prescribe and adjust examiners' salaries, independently of agency ratings and recommendations. The stated inapplicability of specified sections of the Classification Act carries into effect that authority. The Commission would exercise its powers by classifying examiners' positions and, upon customary examination through its agents, shift examiners to superior classifications or higher grades as their experience and duties may require. The Commission might consult the agency, as it now does in setting up positions or reclassifying positions, but it would act upon its own responsibility and with the objects of the bill in mind.

SEC. 12. CONSTRUCTION AND EFFECT.—*Nothing in the bill is to diminish constitutional rights or limit or repeal additional requirements of law. Requirements of evidence and procedure are to apply equally to agencies and private persons except as otherwise provided by law. The unconstitutionality of any portion or application of the bill is not to affect other portions or applications. Agencies are granted all authority necessary to comply with the bill. Subsequent legislation is not to modify the bill except as it may do so expressly. The bill would become law three months after its approval except that sections 7 and 8 take effect six months after approval, the requirements of section 11 become effective a year after approval, and no requirement is mandatory as to any agency proceeding initiated prior to the effective date of such requirement.*

The word "initiated" in the final clause of the section means a proceeding formally begun as by the issuance of a complaint by the agency (irrespective of prior charges or investigations) or of notice of a rule-making hearing. As to new cases, the effective dates provided in section 12 are deferred longer so far as sections 7 and 8 are concerned in order to afford agencies ample time to prepare and make any adjustments required in their procedures. The selection of examiners under section 11 is deferred for a year in order to permit present military service personnel an opportunity to qualify for these positions.

V. GENERAL COMMENTS

The bill is designed to operate as a whole and, as previously stated, its provisions are interrelated. At the same time, however, there are certain provisions which touch on subjects long regarded as of the highest importance. On those subjects, such as the separation of examiners from the agencies they serve, there has been a wide divergence of views. The committee has in such cases taken the course which it believes will suffice without being excessive. Moreover, amendatory or supplementary legislation can supply any deficiency which experience discloses in those cases. The committee believes that special note should be made of the following situations:

The exemption of rule making and determining initial applications for licenses from provisions of sections 5 (c), 7 (c), and 8 (a) may require change if, in practice, it develops that they are too broad. Earlier in this report, in commenting upon some of those provisions, the committee has expressed its reasons for the language used and has stated that, where cases present sharply contested issues of fact, agencies should not as a matter of good practice take advantage of the exemptions.

Should the preservation in section 7 (a) of the "conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute" prove to be a loophole for avoidance of the examiner system in any real sense, corrective legislation would be necessary. That provision is not intended to permit agencies to avoid the use of examiners but to preserve special statutory types of hearing officers who contribute something more than examiners could contribute and at the same time assure the parties fair and impartial procedure.

The basic provision respecting evidence in section 7 (c)—requiring that any agency action must be supported by plainly "relevant, reliable, and probative evidence"—will require full compliance by agencies and diligent enforcement by reviewing courts. Should that language prove insufficient to fix and maintain the standards of proof, supplemental legislation will become necessary.

The "substantial evidence" rule set forth in section 10 (e) is exceedingly important. As a matter of language, substantial evidence would seem to be an adequate expression of law. The difficulty comes about in the practice of agencies to rely upon (and of courts to tacitly approve) something less—to rely upon suspicion, surmise, implications, or plainly incredible evidence. It will be the duty of the courts to determine in the final analysis and in the exercise of their independent judgment, whether on the whole record the evidence in a given instance is sufficiently substantial to support a finding, conclusion, or other agency action as a matter of law. In

the first instance, however, it will be the function of the agency to determine the sufficiency of the evidence upon which it acts—and the proper performance of its public duties will require it to undertake this inquiry in a careful and dispassionate manner. Should these objectives of the bill as worded fail, supplemental legislation will be required.

The foregoing are by no means all the provisions which will require vigilant attention to assure their proper operation. Almost any provision of the bill, if wrongly interpreted or minimized, may present occasion for supplemental legislation. On the other hand, should it appear at any time that the requirements result in some undue impairment of a particular administrative function, appropriate amendments or exceptions may be in order.

INTERPRETATION AND ENFORCEMENT.—Except in a few respects, this is not a measure conferring administrative powers but is one laying down definitions and stating limitations. These definitions and limitations must, to be sure, be interpreted and applied by agencies affected by them in the first instance. But the enforcement of the bill, by the independent judicial interpretation and application of its terms, is a function which is clearly conferred upon the courts in the final analysis.

It will thus be the duty of reviewing courts to prevent avoidance of the requirements of the bill by any manner or form of indirection, and to determine the meaning of the words and phrases used. For example, in several provisions the expression "good cause" is used. The cause so specified must be interpreted by the context of the provision in which it is found and the purpose of the entire section and bill. Cause found must be real and demonstrable. If the agency is proceeding upon a statutory hearing and record, the cause will appear there; otherwise it must be such that the agency may show the facts and considerations warranting the finding in any proceeding in which the finding is challenged. The same would be true in the case of findings other than of good cause, required in the bill. As has been said, these findings must in the first instance be made by the agency concerned but, in the final analysis, their propriety in law and on the facts must be sustainable upon inquiry by a reviewing court.

Nevertheless, in the nature of things, for most practical purposes it is to the agencies that the Congress and the people must look for fair administration of the laws and compliance with this bill. Judicial review is of utmost importance, but it can be operative in relatively few cases because of the cost and general hazards of litigation. It is indispensable since its mere existence generally precludes the arbitrary exercise of powers or assumption of powers not granted. Yet, in the vast majority of cases the agency concerned usually speaks the first and last word. For that reason the agencies must make the first primary, and most far-reaching effort to comply with the terms and the spirit of this bill.

It is the view of the committee that this bill is not an indictment of administrative agencies or administrative processes. The committee takes no position one way or the other on these questions. By enacting this bill, the Congress—expressing the will of the people—will be laying down for the guidance of all branches of the Government and all private interests in the country a policy respecting the minimum requirements of fair administrative procedure.

The committee recommends that the bill as reported be enacted.

APPENDIXES

APPENDIX A

That this Act may be cited as the "Administrative Procedure Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) AGENCY.—"Agency" means each authority (whether or not within or subject to review by another agency) of the Government of the United States other than Congress, the courts, or the governments of the possessions, Territories, or the District of Columbia. Nothing in this Act shall be construed to repeal delegations of authority as provided by law. Except as to the requirements of section 3, there shall be excluded from the operation of this Act (1) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them, (2) courts martial and military commissions, (3) military or naval authority exercised in the field in time of war or in occupied territory, or (4) functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947, and the functions conferred by the following statutes: Selective Training and Service Act of 1940; Contract Settlement Act of 1944; Surplus Property Act of 1944.

(b) PERSON AND PARTY.—"Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies. "Party" includes any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any agency proceeding; but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes.

(c) RULE AND RULE MAKING.—"Rule" means the whole or any part of any agency statement of general applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency. "Rule making" means agency process for the formulation, amendment, or repeal of a rule and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances, therefor, or of valuations, costs, or accounting, or practices bearing upon any of the foregoing.

(d) ORDER AND ADJUDICATION.—"Order" means the whole or any part of the final disposition (whether affirmative, negative, or declaratory in form) of any agency in any matter other than rule making but including licensing. "Adjudication" means agency process for the formulation of an order.

(e) LICENSE AND LICENSING.—"License" includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission. "Licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

(f) SANCTION AND RELIEF.—"Sanction" includes the whole or part of any agency (1) prohibition, requirement, limitation, or other condition affecting the freedom of any person; (2) withholding of relief; (3) imposition of any form of penalty or fine; (4) destruction, taking, seizure, or withholding of property; (5) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (6) requirement, revocation, or suspension of a license; or (7) taking of other compulsory or restrictive action. "Relief" includes the whole or part of any agency (1) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (2) recognition of any claim, right, immunity, privilege, exemption, or exception; or (3) taking of any other action beneficial to any person.

(g) AGENCY PROCEEDING AND ACTION.—"Agency proceeding" means any agency process as defined in subsections (c), (d), and (e) of this section. For the purposes of section 10, "agency action" includes the whole or part of every agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

PUBLIC INFORMATION

SEC. 3. Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) RULES.—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization; (2) the established places and methods whereby the public may secure information or make submittals or requests; (3) statements of the general course and method by which its rule making and adjudicating functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (4) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public. No person shall in any manner be required to resort to organization or procedure not so published.

(b) OPINIONS AND ORDERS.—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases except those required for good cause to be held confidential and not cited as precedents.

(c) PUBLIC RECORDS.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

RULE MAKING

SEC. 4. Except to the extent that there is involved (1) any military, naval, or foreign affairs function of the United States or (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts—

(a) NOTICE.—General notice of proposed rule making shall be published in the Federal Register and shall include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except where notice or hearing is required by statute, this subsection shall not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) PROCEDURES.—After notice required by this section, the agency shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or argument with or without opportunity to present the same orally in any manner; and, after consideration of all relevant matter presented, the agency shall incorporate in any rules adopted a concise general statement of their basis and purpose. Where rules are required by law to be made upon the record after opportunity for or upon an agency hearing, the requirements of sections 7 and 8 shall apply in place of the provisions of this subsection.

(c) EFFECTIVE DATES.—The required publication or service of any substantive rule (other than one granting or recognizing exemption or relieving restriction or interpretative rules and statements of policy) shall be made not less than thirty days prior to the effective date thereof except as otherwise provided by the agency upon good cause found and published with the rule.

(d) PETITIONS.—Every agency shall accord any interested person the right to petition for the issuance, amendment, or repeal of a rule.

ADJUDICATION

SEC. 5. In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved (1) any matter subject to a subsequent trial of the law and the facts de novo in any court; (2) the selection or tenure of an officer or employee of the United States other than examiners appointed pursuant to section 11; (3) proceedings in which decisions rest solely on inspections, tests, or elections, (4) the conduct of military, naval, or foreign affairs functions; (5) cases in which an agency is acting as an agent for a court; and (6) the certification of employee representatives—

(a) NOTICE.—Persons entitled to notice of an agency hearing shall be timely informed of (1) the time, place, and nature thereof; (2) the legal authority and jurisdiction under which the hearing is to be held; and (3) the matters of fact and law asserted.

In instances in which private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the times and places for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(b) PROCEDURE.—The agency shall afford all interested parties opportunity for (1) the submission and consideration of facts, argument, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and (2) to the extent that the parties are unable so to determine any controversy by consent, hearing and decision upon notice and in conformity with sections 7 and 8.

(c) SEPARATION OF FUNCTIONS.—The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or the past reasonableness of rates; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

(d) DECLARATORY ORDERS.—The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty.

ANCILLARY MATTERS

SEC. 6. Except as otherwise provided in this Act—

(a) APPEARANCE.—Any person compelled to appear in person before any agency or representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel, or if permitted by the agency, by other qualified representative. Every party shall be accorded the right to appear in person or by or with counsel or other duly qualified representative in any agency proceeding. So far as the responsible conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any agency function, including stop-order or other summary actions. Every agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others before any agency or in any agency proceeding.

(b) INVESTIGATIONS.—No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person compelled to submit data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(c) SUBPENAS.—Agency subpenas authorized by law shall be issued to any party upon request and, as may be required by rules of procedure, upon a statement or showing of general relevance and reasonable scope of the evidence sought. Upon contest the court shall sustain any such subpena or similar process or demand to the extent that it is found to be in accordance with law and, in any proceeding for enforcement, shall issue an order requiring the appearance of the witness or the production of the evidence or data under penalty of punishment for contempt in case of contumacious failure to do so.

(d) DENIALS.—Prompt notice shall be given of the denial in whole or in part of any written application, petition, or other request of any interested person made in connection with any agency proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of grounds.

Hearings

Sec. 7. In hearings which section 4 or 5 requires to be conducted pursuant to this section—

(a) Presiding officers.—There shall preside at the taking of evidence (1) the agency, (2) one or more members of the body which comprises the agency, or (3) one or more examiners appointed as provided in this Act; but nothing in this Act shall be deemed to supersede the conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute. The functions of all presiding officers and of officers participating in decisions in conformity with section 8 shall be conducted in an impartial manner. Any such officer may at any time withdraw if he deems himself disqualified; and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of any such officer, the agency shall determine the matter as a part of the record and decision in the case.

(b) Hearing powers.—Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its powers, to (1) administer oaths and affirmations, (2) issue subpenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken whenever the ends of justice would be served thereby, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommend decisions in conformity with section 8, and (9) take any other action authorized by agency rule consistent with this Act.

(c) Evidence.—Except as statutes otherwise provide, the proponent of a rule or order shall have the burden of proof. Any evidence, oral or documentary, may be received, but every agency shall as a matter of policy provide for the exclusion of immaterial and unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except as supported by relevant, reliable, and probative evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses any agency may, where the interest of any party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(d) Record.—The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision in accordance with section 8 and, upon payment of lawfully prescribed costs, shall be made available to the parties. Where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

Decisions

Sec. 8. In cases in which a hearing is required to be conducted in conformity with section 7—

(a) Action by subordinates.—In cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, any other officer or officers qualified to preside at hearings pursuant to section 7) shall initially decide the case or the agency shall require (in specific cases or by general rule) the entire record to be certified to it for initial decision. Whenever such officers make the initial decision and in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, such decision shall without further proceedings then become the decision of the agency. On appeal from or review of the initial decisions of such officers the agency shall, except as it may limit the issues upon notice or by rule, have all the powers which it would have in making the initial decision. Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its function imperatively and unavoidably so requires.

(b) Submittals and decisions.—Prior to each recommended, initial, or tentative decision, or decision upon agency review of the decision of subordinate officers the parties shall be afforded a reasonable opportunity to submit for the consideration of the officers participating in such decisions (1) proposed findings and conclusions, or

(2) exceptions to the decisions or recommended decisions of subordinate officers or to tentative agency decisions, and (3) supporting reasons for such exceptions or proposed findings or conclusions. All decisions (including initial, recommended, or tentative decisions) shall become a part of the record and include a statement of (1) findings and conclusions, as well as the basis therefor, upon all the material issues of fact, law, or discretion presented; and (2) the appropriate rule, order, sanction, relief, or denial thereof.

SANCTIONS AND POWERS

SEC. 9. In the exercise of any power or authority—

(a) IN GENERAL.—No sanction shall be imposed or substantive rule or order be issued except within jurisdiction delegated to the agency and as authorized by law.

(b) LICENSES.—In any case in which application is made for a license required by law the agency, with due regard to the rights or privileges of all the interested parties or adversely affected persons and with reasonable dispatch, shall set and complete any proceedings required to be conducted pursuant to sections 7 and 8 of this Act or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements. In any case in which the licensee has, in accordance with agency rules, made timely and sufficient application for a renewal or a new license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined by the agency.

JUDICIAL REVIEW

SEC. 10. Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) RIGHT OF REVIEW.—Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) FORM AND VENUE OF ACTION.—The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(c) REVIEWABLE ACTS.—Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary, procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressly required by statute, agency action shall be final whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule) for an appeal to superior agency authority.

(d) INTERIM RELIEF.—Pending judicial review any agency is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, every reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue all necessary and appropriate process to postpone the effective date of any agency action or to preserve status or rights pending conclusion of the review proceedings.

(e) SCOPE OF REVIEW.—So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial

evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by the parties, and due account shall be taken of the rule of prejudicial error.

EXAMINERS

SEC. 11. Subject to the civil-service and other laws to the extent not inconsistent with this Act, there shall be appointed by and for each agency as many qualified and competent examiners as may be necessary for proceedings pursuant to sections 7 and 8, who shall be assigned to cases in rotation so far as practicable and shall perform no duties inconsistent with their duties and responsibilities as examiners. Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing and upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations or ratings and in accordance with the Classification Act of 1923, as amended, except that the provisions of paragraphs (2) and (3) of subsection (b) of section 7 of said Act, as amended, and the provisions of section 9 of said Act, as amended, shall not be applicable. Agencies occasionally or temporarily insufficiently staffed may utilize examiners selected by the Commission from and with the consent of other agencies. For the purposes of this section, the Commission is authorized to make investigations, require reports by agencies, issue reports, including an annual report to the Congress, promulgate rules, appoint such advisory committees as may be deemed necessary, recommend legislation, subpena witnesses or records, and pay witness fees as established for the United States courts.

CONSTRUCTION AND EFFECT

SEC. 12. Nothing in this Act shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. If any provision of this Act or the application thereof is held invalid, the remainder of this Act or other applications of such provision shall not be affected. Every agency is granted all authority necessary to comply with the requirements of this Act through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of this Act except to the extent that such legislation shall do so expressly. This Act shall take effect three months after its approval except that sections 7 and 8 shall take effect six months after such approval, the requirement of the selection of examiners pursuant to section 11 shall not become effective until one year after such approval, and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement.

APPENDIX B

OCTOBER 19, 1945.

HON. PAT MCCARRAN,
Chairman, Senate Judiciary Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR: You have asked me to comment on S. 7, a bill to improve the administration of justice by prescribing fair administrative procedure, in the form in which it appears in the revised committee print issued October 5, 1945.

I appreciate the opportunity to comment on this proposed legislation.

For more than a decade there has been pending in the Congress legislation in one form or another designed to deal horizontally with the subject of administrative procedure, so as to overcome the confusion which inevitably has resulted from leaving to basic agency statutes the prescription of the procedures to be followed or, in many instances, the delegation of authority to agencies to prescribe their own procedures. Previous attempts to enact general procedural legislation have been unsuccessful generally because they failed to recognize the significant and inherent differences between the tasks of courts and those of administrative agencies or because, in their zeal for simplicity and uniformity, they proposed too narrow and rigid a mold.

Nevertheless, the goal toward which these efforts have been directed is, in my opinion, worth while. Despite difficulties of draftsmanship, I believe that overall procedural legislation is possible and desirable. The administrative process is

now well developed. It has been subject in recent years to the most intensive and informed study—by various congressional committees, by the Attorney General's Committee on Administrative Procedure, by organizations such as the American Bar Association, and by many individual practitioners and legal scholars. We have in general—as we did not have until fairly recently—the materials and facts at hand. I think the time is ripe for some measure of control and prescription by legislation. I cannot agree that there is anything inherent in the subject of administrative procedure, however complex it may be, which defies workable codification.

Since the original introduction of S. 7, I understand that opportunity has been afforded to public and private interests to study its provisions and to suggest amendments. The agencies of the Government primarily concerned have been consulted and their views considered. In particular, I am happy to note that your committee and the House Committee on the Judiciary, in an effort to reconcile the views of the interested parties, have consulted officers of this Department and experts in administrative law made available by this Department.

The revised committee print issued October 5, 1945, seems to me to achieve a considerable degree of reconciliation between the views expressed by the various Government agencies and the views of the proponents of the legislation. The bill in its present form requires administrative agencies to publish or make available to the public an increased measure of information concerning their organization, functions, and procedures. It gives to that portion of the public which is to be affected by administrative regulations an opportunity to express its views before the regulations become effective. It prescribes, in instances in which existing statutes afford opportunity for hearing in connection with the formulation and issuance of administrative rules and orders, the procedures which shall govern such hearings. It provides for the selection of hearing officers on a basis designed to obtain highly qualified and impartial personnel and to insure their security of tenure. It also restates the law governing judicial review of administrative action.

The bill appears to offer a hopeful prospect of achieving reasonable uniformity and fairness in administrative procedures without at the same time interfering unduly with the efficient and economical operation of the Government. Insofar as possible, the bill recognizes the needs of individual agencies by appropriate exemption of certain of their functions.

After reviewing the committee print, therefore, I have concluded that this Department should recommend its enactment.

My conclusion as to the workability of the proposed legislation rests on my belief that the provisions of the bill can and should be construed reasonably and in a sense which will fairly balance the requirements and interests of private persons and governmental agencies. I think it may be advisable for me to attach to this report an appendix discussing the principal provisions of the bill. This may serve to clarify some of the essential issues and may assist the committee in evaluating the impact of the bill on public and private interests.

I am advised by the Acting Director of the Bureau of the Budget that while there would be no objection to the submission of this report, he questions the appropriateness of the inclusion of the words "independently of agency recommendations or ratings," appearing after the words "Examiners shall receive compensation prescribed by the [Civil Service] Commission," in section 11 of the bill, inasmuch as he deems it highly desirable that agency recommendations and ratings be fully considered by the Commission.

With kind personal regards,

Sincerely yours,

TOM C. CLARK, *Attorney General.*

APPENDIX TO ATTORNEY GENERAL'S STATEMENT REGARDING REVISED COMMITTEE PRINT OF OCTOBER 5, 1945

Section 2: The definitions given in section 2 are of very broad character. It is believed, however, that this scope of definition will not be found to have any unexpected or unfortunate consequences in particular cases, inasmuch as the operative sections of the act are themselves carefully limited.

"Courts" includes The Tax Court, Court of Customs and Patent Appeals, the Court of Claims, and similar courts. This act does not apply to their procedure nor affect the requirement of resort thereto.

In section 2 (a) the words "agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by

them" are intended to refer to the following, among others: National War Labor Board and the National Railroad Adjustment Board.

In section 2 (c) the phrase "the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances," etc., is not, of course, intended to be an exhaustive enumeration of the types of subject matter of rule making. Specification of these particular subjects is deemed desirable, however, because there is no unanimity of recognition that they are, in fact, rule making. The phrase "for the future" is designed to differentiate, for example, between the process of prescribing rates for the future and the process of determining the lawfulness of rates charged in the past. The latter, of course, is "adjudication" and not "rule making." (*Arizona Grocery Co. v. Atchison, Topeka and Santa Fe Railway Co.*, 284 U. S. 370.)

The definitions of "rule making" and "adjudication," set forth in subsections (c) and (d) of section 2, are especially significant. The basic scheme underlying this legislation is to classify all administrative proceedings into these two categories. The pattern is familiar to those who have examined the various proposals for administrative procedure legislation which have been introduced during the past few years; it appears also in the recommendations of the Attorney General's Committee on Administrative Procedure. Proceedings are classed as rule making under this act not merely because, like the legislative process, they result in regulations of general applicability but also because they involve subject matter demanding judgments based on technical knowledge and experience. As defined in subsection (c), for example, rule making includes not only the formulation of rules of general applicability but also the formulation of agency action whether of general or particular applicability, relating to the types of subject matter enumerated in subsection (c). In many instances of adjudication, on the other hand, the accusatory element is strong, and individual compliance or behavior is challenged; in such cases, special procedural safeguards should be provided to insure fair judgments on the facts as they may properly appear of record. The statute carefully differentiates between these two basically different classes of proceedings so as to avoid, on the one hand, too cumbersome a procedure and to require, on the other hand, an adequate procedure.

Section 3: This section applies to all agencies covered by the act, including war agencies and war functions. The exception of any function of the United States requiring secrecy in the public interest is intended to cover (in addition to military, naval, and foreign affairs functions) the confidential operations of the Secret Service, the Federal Bureau of Investigation, United States attorneys, and other prosecuting agencies, as well as the confidential functions of any other agency.

Section 3 (a), by requiring publication of certain classes of information in the Federal Register, is not intended to repeal the Federal Register Act (44 U. S. C. 301 et seq.) but simply to require the publication of certain additional material.

Section 3 (a) (4) is intended to include (in addition to substantive rules) only such statements of general policy or interpretations as the agency believes may be formulated with a sufficient degree of definiteness and completeness to warrant their publication for the guidance of the public.

Section 3 (b) is designed to make available all final opinions or orders in the adjudication of cases. Even here material may be held confidential if the agency finds good cause. This confidential material, however, should not be cited as a precedent. If it is desired to rely upon the citation of confidential material, the agency should first make available some abstract of the confidential material in such form as will show the principles relied upon without revealing the confidential facts.

Section 3 (c) is not intended to open up Government files for general inspection. What is intended is that the agencies, to the degree of specificity practicable, shall classify its material in terms of whether or not it is confidential in character and shall set forth in published rules the information or type of material which is confidential and that which is not.

Section 4. The term "naval" in the first exception clause is intended to include the defense functions of the Coast Guard and the Bureau of Marine Inspection and Navigation.

Section 4 (b), in requiring the publication of a concise general statement of the basis and purpose of rules made without formal hearing, is not intended to require an elaborate analysis of rules or of the detailed considerations upon which they are based but is designed to enable the public to obtain a general idea of the purpose of, and a statement of the basic justification for, the rules. The requirement would also serve much the same function as the whereas clauses which are now customarily found in the preambles of Executive orders.

Section 4 (c): This subsection is not intended to hamper the agencies in cases in which there is good cause for putting a rule into effect immediately, or at some time earlier than 30 days. The section requires, however, that where an earlier effective date is desired the agency should make a finding of good cause therefor and publish its finding along with the rule.

Section 4 (d) simply permits any interested person to petition an agency for the issuance, amendment, or repeal of a rule. It recognizes the reception and consideration of petitions but does not compel an agency to undertake any rule-making procedure merely because a petition is filed.

Section 5: Subject to the six exceptions set forth at the commencement of the section, section 5 applies to administrative adjudications "required by statute to be determined on the record after opportunity for an agency hearing." It is thus limited to cases in which the Congress has specifically required a certain type of hearing. The section has no application to rule making, as defined in section 2 (c). The section does apply, however, to licensing, with the exception that section 5 (c), relating to the separation of functions, does not apply in determining applications for initial licenses, i. e., original licenses as contradistinguished from renewals or amendments of existing licenses.

If a case falls within one of the six exceptions listed at the opening of section 5, no provision of section 5 has any application to that case; such a case would be governed by the requirements of other existing statutes.

The first exception is intended to exempt, among other matters, certain types of reparation orders assessing damages, such as are issued by the Interstate Commerce Commission and the Secretary of Agriculture, since such orders are admissible only as prima facie evidence in court upon attempted enforcement proceedings or (at least in the case of reparation orders issued by the Secretary of Agriculture under the Perishable Agricultural Commodities Act) on the appeal of the losing party. Reparation orders involving in part an administrative determination of the reasonableness of rates in the past so far as they are not subject to trial de novo would be subject to the provisions of section 5 generally, but they have been specifically exempted from the segregation provisions of section 5 (c). In the fourth exception, the term "naval" is intended to include adjudicative defense functions of the Coast Guard and the Bureau of Marine Inspection and Navigation, where such functions pertain to national defense.

Section 5 (a) is intended to state minimum requirements for the giving of notice to persons who under existing law are entitled to notice of an agency hearing in a statutory adjudication. While in most types of proceedings all of the information required to be given in clauses (1), (2), and (3) may be included in the "notice of hearing" or other moving paper, in many instances the agency or other moving party may not be in position to set forth all of such information in the moving paper, or perhaps not even in advance of the hearing, especially the "matters of fact and law asserted." The first sentence of this subsection merely requires that the information specified should be given as soon as it can be set forth and, in any event, in a sufficiently timely manner as to afford those entitled to the information an adequate opportunity to meet it. The second sentence complements the first and requires agencies and other parties promptly to reply to moving papers of private persons or permits agencies to require responsive pleading in any proceedings.

Section 5 (c) applies only to the class of adjudicatory proceedings included within the scope of section 5, i. e., cases of adjudication required by statute to be determined after opportunity for an agency hearing, and then not falling within one of the six excepted situations listed at the opening of section 5. As explained in the comments with respect to section 5 generally, this subsection does not apply either in proceedings to determine applications for initial licenses or in those to determine the reasonableness of rates in the past.

In the cases to which this subsection is applicable, if the informal procedures described in section 5 (b) (1) are not appropriate or have failed, a hearing is to be held as provided in sections 7 and 8. At such hearing the same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision "required by section 8" except where such officers become unavailable to the agency. The reference to section 8 is significant. Section 8 (a) provides that, in cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, an officer or officers qualified to preside at hearings pursuant to section 7) shall make the initial or recommended decision, as the case may be. It is plain, therefore, that in cases subject to section 5 (c), only the officer who presided at the hearing (unless he is unavailable for reasons beyond

the agency's control) is eligible to make the initial or recommended decision, as the case may be.

This subsection further provides that in the adjudicatory hearings covered by it no presiding officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate (except to the extent required for the disposition of ex parte matters as authorized by law). The term "fact in issue" is used in its technical, litigious sense.

In most of the agencies which conduct adjudicative proceedings of the types subject to this subsection, the examiners are placed in organizational units apart from those to which the investigative or prosecuting personnel are assigned. Under this subsection such an arrangement will become operative in all such agencies. Further, in the adjudicatory cases covered by section 5 (c), no officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. However, section 5 (c) does not apply to the agency itself or, in the case of a multi-headed agency, any member thereof. It would not preclude, for example, a member of the Interstate Commerce Commission personally conducting or supervising an investigation and subsequently participating in the determination of the agency action arising out of such investigation.

Section 5 (c), applying as it does only to cases of adjudication (except determining applications for initial licenses or determining reasonableness of rates in the past) within the scope of section 5 generally, has no application whatever to rule making, as defined in section 2 (c). As explained in the comment on section 2 (c), rule making includes a wide variety of subject matters, and within the scope of those matters it is not limited to the formulation of rules of general applicability but includes also the formulation of agency action whether of general or particular application, for example, the reorganization of a particular company.

Section 5 (d): Within the scope of section 5 (i. e., in cases of adjudication required by statute to be determined on the record after opportunity for an agency hearing, subject to certain exceptions) the agency is authorized to issue a declaratory order to terminate a controversy or remove uncertainty. Where declaratory orders are found inappropriate to the subject matter, no agency is required to issue them.

Section 6: Subsection (a), in stating a right of appearance for the purpose of settling or informally determining the matter in controversy, would not obtain if the agency properly determines that the responsible conduct of public business does not permit. It may be necessary, for example, to set the matter down for public hearing without preliminary discussion because a statute or the subject matter or the special circumstances so require.

It is not intended by this provision to require the agency to give notice to all interested persons, unless such notice is otherwise required by law.

This subsection does not deal with, or in any way qualify, the present power of an agency to regulate practice at its bar. It expressly provides moreover, that nothing in the act shall be construed either to grant or to deny the right of non-lawyers to appear before agencies in a representative capacity. Control over this matter remains in the respective agencies.

Section 6 (b): The first sentence states existing law. The second sentence is new.

Section 6 (c): The first sentence entitles a party to a subpena upon a statement or showing of general relevance and reasonable scope of the evidence sought. The second sentence is intended to state the existing law with respect to the judicial enforcement of subpenas.

Section 6 (d): The statement of grounds required herein will be very simple, as contrasted with the more elaborate findings which are customarily issued to support an order.

Section 7: This section applies in those cases of statutory hearing which are required by sections 4 and 5 to be conducted pursuant to section 7. Subject to the numerous exceptions contained in sections 4 and 5, they are cases in which an order or rule is to be made upon the basis of the record in a statutory hearing.

Section 7 (a): The subsection is not intended to disturb presently existing statutory provisions which explicitly provide for certain types of hearing officers. Among such are (1) joint hearings before officers of the Federal agencies and persons designated by one or more States, (2) where officers of more than one agency sit, (3) quota allotment cases under the Agricultural Adjustment Act of 1938, (4) marine casualty investigation boards, (5) registers of the General Land Office,

(6) special boards set up to review the rights of disconnected servicemen (38 U. S. C. 693h) and the rights of veterans to special unemployment compensation (38 U. S. C. 696h), and (7) boards of employees authorized under the Interstate Commerce Act (49 U. S. C. 17 (2)).

Subject to this qualification, section 7 (a) requires that there shall preside at the taking of evidence one or more examiners appointed as provided in this act, unless the agency itself or one or more of its members presides. This provision is one of the most important provisions in the act. In many agencies of the Government this provision may mean the appointment of a substantial number of hearing officers having no other duties. The resulting expense to the Government may be increased, particularly in agencies where hearings are now conducted by employees of a subordinate status or by employees having duties in addition to presiding at hearings. On the other hand, it is contemplated that the Civil Service Commission, which is empowered under the provisions of section 11 to prescribe salaries for hearing officers, will establish various salary grades in accordance with the nature and importance of the duties performed and will assign those in the lower grades to duties now performed by employees in the lower brackets. It may also be possible for the agencies to reorganize their staffs so as to permit the appointment of full-time hearing officers by reducing the number of employees engaged on other duties.

This subsection further provides for withdrawal or removal of examiners disqualified in a particular proceeding. Some of the agencies have voiced concern that this provision would permit undue delay in the conduct of their proceedings because of unnecessary hearings or other procedure to determine whether affidavits of bias are well founded. The provision does not require hearings in every instance but simply requires such procedure, formal or otherwise, as would be necessary to establish the merits of the allegations of bias. If it is manifest that the charge is groundless, there may be prompt disposition of the matter. On the other hand, if the affidavit appears to have substance, it should be inquired into. In any event, whatever procedure the agency deems appropriate must be made a part of the record in the proceeding in which the affidavit is filed.

Section 7 (b): The agency may delegate to a hearing officer any of the enumerated powers with which it is vested. The enumeration of the powers of hearing officers is not intended to be exclusive.

Section 7 (c): The first sentence states the customary rule that the proponent of a rule or order shall have the burden of proof. Statutory exceptions to the rule are preserved. Parties shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts. This is not intended to disturb the existing practice of submitting technical written reports, summaries, and analyses of material gathered in field surveys, and other devices appropriately adapted to the particular issues involved in specialized proceedings. Whether the agency must in such cases produce the maker of the report depends, as it does under the present law, on what is reasonable in all the circumstances.

It may be noted that agencies are empowered, in this subsection, to dispense with oral evidence only in the types of proceedings enumerated; i. e., in instances in which normally it is not necessary to see and hear the witnesses in order properly to appraise the evidence. While there may be types of proceedings other than those enumerated in which the oral testimony of the witnesses is not essential, in such instances the parties generally consent to submission of the evidence in written form so that the inability of the agency to compel submission of written evidence would not be burdensome.

The provision regarding "evidence in written form" does not limit the generality of the prevailing principle that "any evidence may be received"; i. e., that the rules of evidence as such are not applicable in administrative proceedings and that all types of pertinent evidentiary material may be considered. It is assumed, of course, that agencies will, in the words of the Attorney General's Committee on Administrative Procedure, rely only on such evidence (whether written or oral) as is "relevant, reliable, and probative." This is meant as a guide, but the courts in reviewing an order are governed by the provisions of section 10 (e), which states the "substantial evidence" rule.

Section 7 (d): The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision, in the cases covered by section 7. This follows from the proposition that sections 7 and 8 deal only with cases where by statute the decision is to be based on the record of hearing. Further, section 7 is limited by the exceptions contained in the opening sentences of sections 4 and 5; accordingly, certain special classes of cases, such as those where decisions rest solely on inspections, tests, or

elections, are not covered. The second sentence of the subsection enables the agency to take official notice of material facts which do not appear in the record, provided the taking of such notice is stated in the record or decision, but in such cases any party affected shall on timely request be afforded an opportunity to show the contrary.

Section 8: This section applies to all hearings held under section 7.

Section 8 (a): Under this subsection either the agency or a subordinate hearing officer may make the initial decision. As previously observed with respect to subsection (c) of section 5, in cases to which that subsection is applicable the same officer who personally presided over the hearing shall make such decision if it is to be made by a subordinate hearing officer. The agency may provide that in all cases the agency itself is to make the initial decision, or after the hearing it may remove a particular case from a subordinate hearing officer and thereupon make the initial decision. The initial decision of the hearing officer, in the absence of appeal to or review by the agency, is (or becomes) the decision of the agency. Upon review the agency may restrict its decision to questions of law, or to the question of whether the findings are supported by substantial evidence or the weight of evidence, as the nature of the case may be. On the other hand, it may make entirely new findings either upon the record or upon new evidence which it takes. It may remand the matter to the hearing officer for any appropriate further proceedings

The intention underlying the last sentence of this subsection is to require the adoption of a procedure which will give the parties an opportunity to make their contensions to the agency before the issuance of a final agency decision. This sentence states as a general requirement that whenever the agency makes the initial decision without having presided at the reception of the evidence, a recommended decision shall be filed by the officer who presided at the hearing (or, in cases not subject to section 5 (c), by any other officer qualified to preside at section 7 hearings). However, this procedure need not be followed in rule making or in determining applications for initial licenses (1) if, in lieu of a recommended decision by such hearing officer, the agency issues a tentative decision; (2) if, in lieu of a recommended decision by such hearing officer, a recommended decision is submitted by any of the agency's responsible officers; or (3) if, in any event, the agency makes a record finding that "due and timely execution of its function imperatively and unavoidably so requires."

Subsection (c) of section 5, as explained in the comments on that subsection, does not apply to rule making. The broad scope of rule making is explained in the notes to subsection (c) of section 2.

The second exception permits, in proceedings to make rules and to determine applications for initial licenses, the continuation of the widespread agency practice of serving upon the parties, as a substitute for either an examiner's report or a tentative agency report, a report prepared by the staff of specialists and technicians normally engaged in that portion of the agency's operations to which the proceeding in question relates. The third exception permits, in lieu of any sort of preliminary report, the agency to issue forthwith its final rule or its order granting or denying an initial license in the emergent instances indicated. The subsection, however, requires that an examiner issue either an initial or a recommended decision, as the case may be, in all cases subject to section 7 except rule making and determining applications for initial licenses. The act permits no deviation from this requirement, unless, of course, the parties waive such procedure.

Section 8 (b): Prior to each recommended, initial, or tenative decision, parties shall have a timely opportunity to submit proposed findings and conclusions, and, prior to each decision upon agency review of either the decision of subordinate officers or of the agency's tentative decision, to submit exceptions to the initial, recommended, or tentative decision, as the case may be. Subject to the agency's rules, either the proposed findings or the exceptions may be oral in form where such mode of presentation is adequate.

Section 9: Subsection (a) is intended to declare the existing law. Subsection (b) is intended to codify the best existing law and practice. The second sentence of subsection (b) is not intended to apply to temporary licenses which may be issued pending the determination of applications for licenses.

Section 10: This section, in general, declares the existing law concerning judicial review. It provides for judicial review except insofar as statutes preclude it, or insofar as agency action is by law committed to agency discretion. A statute

may in terms preclude judicial review or be interpreted as manifesting a congressional intention to preclude judicial review. Examples of such interpretation are: *Switchmen's Union of North America* v. *National Mediation Board* (320 U. S. 297); *American Federation of Labor* v. *National Labor Relations Board* (308 U. S. 401); *Butte, Anaconda and Pacific Railway Co.* v. *United States* (290 U. S. 127). Many matters are committed partly or wholly to agency discretion. Thus, the courts have held that the refusal by the National Labor Relations Board to issue a complaint is an exercise of discretion unreviewable by the courts (*Jacobsen* v. *National Labor Relations Board*, 120 F. (2d) 96 (C. C. A. 3d); *Marine Engineers' Beneficial Assn.* v. *National Labor Relations Board*, decided April 8, 1943 (C. C. A. 2d), certiorari denied, 320 U. S. 777). In this act, for example, the failure to grant a petition filed under section 4 (d) would be similarly unreviewable.

Section 10 (a): Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review of such action. This reflects existing law. In *Alabama Power Co.* v. *Ickes* (302 U. S. 464), the Supreme Court stated the rule concerning persons entitled to judicial review. Other cases having an important bearing on this subject are: *Massachusetts* v. *Mellon* (262 U. S. 447), *The Chicago Junction Case* (264 U. S. 258), *Sprunt & Son* v. *United States* (281 U. S. 249), and *Perkins* v. *Lukens Steel Co.* (310 U. S. 113). An important decision interpreting the meaning of the terms "aggrieved" and "adversely affected" is *Federal Communications Commission* v. *Sanders Bros. Radio Station* (309 U. S. 470).

Section 10 (b): This subsection requires that where a specific statutory method is provided for reviewing a given type of case in the courts, that procedure shall be used. If there is no such procedure, or if the procedure is inadequate (i. e., where under existing law a court would regard the special statutory procedure as inadequate and would grant another form of relief), then any applicable procedure, such as prohibitory or mandatory injunction, declaratory judgment, or habeas corpus, is available. The final sentence of the subsection indicates that the question of the validity of an agency action may arise in a court proceeding to enforce the agency action. The statutes presently provide various procedures for judicial enforcement of agency action, and nothing in this act is intended to disturb those procedures. In such a proceeding the defendant may contest the validity of the agency action unless a prior, adequate, and exclusive opportunity to contest or review validity has been provided by law.

Section 10 (c): This subsection states (subject to the provisions of section 10 (a)) the acts which are reviewable under section 10. It is intended to state existing law. The last sentence makes it clear that the doctrine of exhaustion of administrative remedies with respect to finality of agency action is intended to be applicable only (1) where expressly required by statute (as, for example, is provided in 49 U. S. C. 17 (9)), or (2) where the agency's rules require that decisons by subordinate officers must be appealed to superior agency authority before the decision may be regarded as final for purposes of judicial review.

Section 10 (d): The first sentence states existing law. The second sentence may be said to change existing law only to the extent that the language of the opinion in *Scripps-Howard Radio, Inc.* v. *Federal Communications Commission* (316 U. S. 4, 14) may be interpreted to deny to reviewing courts the power to permit an applicant for a renewal of a license to continue to operate as if the original license had not expired, pending conclusion of the judicial review proceedings. In any event, the court must find, of course, that granting of interim relief is necessary to prevent irreparable injury.

Section 10 (e): This declares the existing law concerning the scope of judicial review. The power of the court to direct or compel agency action unlawfully withheld or unreasonably delayed is not intended to confer any nonjudicial functions or to narrow the principle of continuous administrative control enunciated by the Supreme Court in *Federal Communications Commission* v. *Pottsville Broadcasting Co.* (309 U. S. 134). Clause (5) is intended to embody the law as declared, for example, in *Consolidated Edison Co.* v. *National Labor Relations Board* (305 U. S. 197). There the Chief Justice said: "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion (p. 229) * * * assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force" (p. 230).

The last sentence of this section makes it clear that not every failure to observe the requirements of this statute or of the law is ipso facto fatal to the validity of

an order. The statute adopts the rule now well established as a matter of common law in all jurisdictions that error is not fatal unless prejudicial.

Section 11: This section provides for the appointment, compensation, and tenure of examiners who will preside over hearings and render decisions pursuant to sections 7 and 8. The section provides that appointments shall be made "subject to the civil service and other laws to the extent not inconsistent with this act." Appointments are to be made by the respective employing agencies of personnel determined by the Civil Service Commission to be qualified and competent examiners. The examiners appointed are to serve only as examiners, except that, in particular instances (especially where the volume of hearings under a given statute or in a given agency is not very great), examiners may be assigned additional duties which are not inconsistent with or which do not interfere with their duties as examiners. To insure equality of participation among examiners in the hearing and decision of cases, the agencies are required to use them in rotation so far as may be practicable.

Examiners are subject to removal only for good cause "established and determined" by the Commission. The Commission must afford the examiner a hearing, if requested, and must rest its decision solely upon the basis of the record of such hearing. It should be noted that the hearing and the decision are to be conducted and made pursuant to the provisions of sections 7 and 8.

Section 11 provides further that the Commission shall prescribe the compensation of examiners, in accordance with the compensation schedules provided in the Classification Act, except that the efficiency rating system set forth in that act shall not be applicable to examiners.

Section 12: The first sentence of section 12 is intended simply to indicate that the act will be interpreted as supplementing constitutional and legal requirements imposed by existing law.

The section further provides that "no subsequent legislation shall be held to supersede or modify the provisions of this act except to the extent that such legislation shall do so expressly." It is recognized that no congressional legislation can bind subsequent sessions of the Congress. The present act can be repealed in whole or in part at any time after its passage. However, the act is intended to express general standards of wide applicability. It is believed that the courts should as a rule of construction interpret the act as applicable on a broad basis, unless some subsequent act clearly provides to the contrary.

O

EXHIBIT I

MEMORANDUM OF LAW - Founding Fathers Concerns About Judiciary

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
• 445 Broadway, Albany, NY. 12207-2936 •

United States Grand Jury[1] (*Status: sovereign*[2])
Tribunal, the People

- against -

United States Supreme Court, Federal Judiciary
U.S. Senate, and U.S. House of Representatives
(*Status: clipped sovereignty*)

Defendants

JURISDICTION: Court of Record[3]
Law Case No. 1776-1789-1791-2019

Administrator Grand Jury Foreman
Depository Case No. 1:16-CV-1490
• **WRIT MANDAMUS**[4]
• **ACTION AT LAW**[5] **DEMANDING A RETURN TO THE LAW**[6]
• **DECISION & ORDER**
Copied: President Trump, AG William Barr

MEMORANDUM OF LAW
FOUNDING FATHERS CONCERNS ABOUT JUDICIARY

The purpose of this Memorandum is to clarify our founding fathers concerns of the Judiciary. Men like Samuel Adams, George Mason and Patrick Henry were against the Constitution. Why? Because they did not think it put enough limits on the power of the federal government. The Founders disliked concentrated power. Colonial leader John

[1] **The UUSCLGJ** is comprised of fifty Grand Juries each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverters both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

[2] "'**Sovereignty**' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree." Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

[3] "**A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

[4] The action of mandamus is one, brought in a court of competent jurisdiction, to obtain an order of such court **commanding an inferior tribunal to do without discretion**, which the law enjoins as a duty resulting from an office, trust, or station. Rev Code Iowa, 1880, §3373 (Code 1931, §12440).

[5] **AT LAW:** [Bouvier's] This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

[6] **AT LAW:** Blacks 4th This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

Cotton stated, "*For whatever transcendent power is given, will certainly over-run those that give it. ... It is necessary therefore, that all power that is on earth be limited.*"

James Madison sums up the current dilemma in Federalist Paper #51 where he said: "*In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.*"

Therefore, "*at the Conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added.*" And on December 15, 1791 the Bill of Rights was ratified.

WHY OUR FOUNDING FATHERS WERE CONCERNED ABOUT THE JUDICIARY

Law Review Article by Lynn D. Wardle, Professor of Law
Biomedical ethics and conflict of laws policy issues

Our founding fathers never intended for judges to decide issues.[7] In the discussions about the proper role of the federal courts by the delegates to the Constitutional Convention in Philadelphia in the summer of 1787, and in the public debates about the proposed Constitution that fall, the Founders expressed widespread concern about judges taking authority beyond their lawmaking action. They were aware that because federal judges would have the last word in interpreting the Constitution, they would have the power to make illegitimate judicial decisions that would impose their (the judges') own political will instead of the will of the people (the true sovereign in the American constitutional Republic).

Specifically, the Founders, as can be read in "James Madison, Notes of Debates in the Federal Convention of 1787 Reported by James Madison," expressed concerns that the federal judges might become like "the justiciary of Aragon"[8] who, by striking down laws and imposing their own policy preferences upon the people, "became by degrees, the lawmaker."

The history of the founding of the Constitution clearly shows that both Federalists and Anti-Federalists believed that the exercise of judicial authority to create new legal

[7] Lynn D. Wardle is the Bruce C. Hafen Professor of Law at Brigham Young University. He is author or editor of numerous books and law review articles mostly about family, biomedical ethics and conflict of laws policy issues.

[8] The justiza or justiciary of Aragon has been treated by some writers as a. sort of **anomalous magistrate**, created originally as an intermediate power between the king and people, to watch over the exercise of royal authority.

policies in derogation of long-established institutions and precedents, and contrary to the due process of the political branches, was illegitimate and improper. Interestingly, most of the discussion in the Constitutional Convention came in discussions of a proposal to create a "Council of Revision" including federal judges and executive and legislative representatives. James Madison and his close ally, James Wilson, thrice proposed a Council of Revision with elected and judicial representatives to give judges power to help enact laws and to protect their position in the government. The proposal of a Council of Revision was rejected every time.

The main reasons for rejecting Madison's proposed Council of Revision was objection to getting judges involved in the process of enacting laws. For example, when it first was proposed, Mr. Pinkney from South Carolina conceded that he initially had liked the idea but now opposed it, in part because "*he was opposed to an introduction of the Judges into the business of making laws.*" Mr. Dickenson of Delaware added that "*he thought to a junction of the Judiciary to the Council, involved an improper mixture of powers.*"

John Dickenson was perhaps the most widely-respected (and probably the best-educated) lawyer to serve as a delegate to the Constitutional Convention. He was one of the few American lawyers who had formally studied law in England. After reading law in Philadelphia, he was sent to study law at Middle Temple in London, then in the Inns of Court, and finally at Westminster. So his opposition was not lightly brushed aside. Indeed, the opposition to the Council of Revision carried the day.

However, the proposal of a Council of Revision was again raised, a month later. Again, Mr. Gerry of Massachusetts vigorously opposed, arguing against giving judges a role in making the laws. A Council of Revision with judges "was liable to strong objections. It was combining and mixing together the Legislative [and] the other departments. It was establishing an improper coalition between the Executive [and] Judiciary departments." Mr. Gorham of Massachusetts also raised "two objections against admitting the Judges to share in [the power to check the legislature] which no observations on the other side seemed to obviate." Another objection was "the Judges ought to carry into the exposition of the laws not prepossessions with regard to them...."

Likewise, "Mr. Strong, of Massachusetts, thought with Mr. Gerry, of Massachusetts, that the power of making the laws was to be kept distinct from that of expounding, the

laws. No maxim was better established. The judges, in exercising the function of expositors, might be influenced by the part they had taken in framing the laws."

While the Founders rejected a Council of Revision, over the years the Supreme Court may have evolved into a de facto Council of Revision – if not a justiciary of Aragon. In April 2015, the Supreme Court heard oral argument in the Obergefell case. The main issue in the case is whether states (specifically Ohio, Michigan, Kentucky and Tennessee) may define marriage as the gender-integrating union of a man and a woman only (not allowing same-sex couples to marry).

The definition and regulation was clearly a policy issue reserved by our Constitution for the states to decide. And it is clear that the Founders of our Constitution thought that the federal judiciary should have no role in creating such marriage laws or policies. That is evident from the Founders' disparagement of a "justiciary of Aragon" and their repeated rejection of a "Council of Revision," in which judges could participate in making the laws.

In the Obergefell case, the Supreme Court considered whether it should redefine marriage for the entire nation. It is deciding whether it, the Supreme Court, will impose a very controversial substantive marriage policy upon, and in, all of the states. Ironically, it is clear that the Founders would have considered the definition of marriage to be beyond the legitimate authority of even a Council of Revision. It is clear that they would have considered such a federal judicial decree to be an act like that of the justiciary of Aragon.

Yet, in Obergefell v. Hodges, 576 U.S. 2015, a landmark civil rights case in which the Supreme Court of the United States ruled that the fundamental right to marry is guaranteed to same-sex couples by both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The 5–4 ruling requires all fifty states, the District of Columbia, and the Insular Areas to perform and recognize the marriages of same-sex couples on the same terms and conditions as the marriages of opposite-sex couples, with all the accompanying rights and responsibilities.

The following are some quotes by our founders concerning the dangers of judicial powers:

- In 1748, Baron Montesquieu, the most quoted writer by the Framers of the Constitution, warned of the dangers of uncontrolled judicial power in his "Spirit of the Laws stating:" "*Nor is there liberty if the power of judging is not separated from legislative power and from executive power. If it were joined to legislative power, the power over life and liberty of the citizens would be arbitrary, for the judge would be the legislator. If it were joined to executive power, the judge could have the force of an oppressor. All would be lost if the same ... body of principal men ... exercised these three powers.*"
- In 1772, John Adams from an oration at Braintree, Massachusetts, wrote in his notes: "*There is danger from all men. The only maxim of a free government ought to be to trust no man living with the power to endanger the public liberty.*"
- On July 11, 1787, James Madison at the Constitutional Convention stated: "*All men having power ought to be distrusted.*"
- On Sept. 17, 1796, George Washington stated in his farewell address: "*And of fatal tendency ... to put, in the place of the delegated will of the Nation, the will of a party – often a small but artful and enterprising minority. ... They are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the Power of the people and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.*"
- On September 11, 1804, Thomas Jefferson wrote to Abigail Adams: "*Nothing in the Constitution has given them (judges) a right to decide for the Executive, more than to the Executive to decide for them. ... But the opinion which gives to the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, but for the legislature and executive also, in their spheres, would make the judiciary a despotic branch.*"
- On Sept. 6, 1819, Thomas Jefferson was concerned that the judges were over reaching their authority and wrote: "*The Constitution is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.*"
- On September 28, 1820, Thomas Jefferson in a letter to William Jarvis warned of judicial despotism: "*You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy.*"... "*Our judges are as honest as other men and not more so ... and their power (is) the more dangerous, as they are in office for life and not responsible, as the other functionaries are, to the elective*

control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with corruptions of time and party, its members would become despots."

- In 1821, Thomas Jefferson warned Mr. Hammond that over time the federal government would usurped power from the states: "*The germ of dissolution of our federal government is in... the federal judiciary; an irresponsible body... working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the states.*"
- June 12, 1823, Thomas Jefferson explained to Supreme Court Justice William Johnson: "*On every question of construction, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.*"
- On July 10, 1832, President Andrew Jackson stated in his Bank Renewal Bill Veto: "*It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power.*"
- In 1835, Alexis de Tocqueville, author of "Democracy in America" warned: "The president, who exercises a limited power, may err without causing great mischief in the state. Congress may decide amiss without destroying the Union, because the electoral body in which Congress originates may cause it to retract its decision by changing its members. But if the Supreme Court is ever composed of imprudent men or bad citizens, the Union may be plunged into anarchy or civil war."
- On Dec. 7, 1835, President Andrew Jackson in his seventh annual message stated: "*All history tells us that a free people should be watchful of delegated power, and should never acquiesce in a practice which will diminish their control over it.*"
- In 1841, President William Henry Harrison warned in his inaugural address: "*The tendency of power to increase itself, particularly when exercised by a single individual ... would terminate in virtual monarchy.... The great danger to our institutions does ... appear to me to be ... the accumulation in one of the departments of that which was assigned to others. Limited as are the powers which have been granted, still enough have been granted to constitute despotism if concentrated in one of the departments.*"

- In 1857, Supreme Court Justice Roger Taney gave his infamous Dred Scott decision that slaves were not citizens, but property.
- On March 4, 1861, Abraham Lincoln in his first inaugural address stated: "*I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court.... The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made... the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of the eminent tribunal.*"
- On Nov. 19, 1863, Abraham Lincoln delivered his Gettysburg Address: "*Fourscore and seven years ago our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.*

  Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

  But in a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract.

  The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.

  It is rather for us to be here dedicated to the great task remaining before us – that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion – that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth."

- On April 5, 1881, Lord Acton in his letter to Bishop Mandell Creighton wrote: "*All power tends to corrupt and absolute power corrupts absolutely.*"
- In 1903 President Theodore Roosevelt stated: "*In no other place and at no other time has the experiment of government of the people, by the people, for the people, been tried on so vast a scale as here in our own country." Is "Government of the people, by the people, for the people" perishing from the earth?*"

And so today the abuse of powers by the judiciary continues:

- On September 5, 1999 Missouri's legislators passed a ban on partial birth abortion. Democrat Governor Mel Carnahan vetoed it. In a historic session, fifteen thousand citizens knelt in prayer around the State Capitol as the Legislature overrode his veto. Days later Federal District Judge Scott O. Wright suspended the law and five years later it is still in limbo.
- For years a bill to ban partial birth abortion worked its way through the U.S. Congress, being signed by the president Nov. 5, 2003. The next day a federal judge suspended the law for years – if not forever. In fact, 31 states passed bans on partial birth abortion, only to have un-elected federal judges suspend them.
- On November 18, 2003, even as Massachusetts Legislators were working to define marriage as between a man and a woman, four State Supreme Court Judges "ordered" the state legislature to pass a law within 180 days recognizing homosexual marriage. Deciding what laws are needed is the responsibility of the Legislative Branch. The Judicial Branch is simply to administer the laws according to the meaning the legislators had when passing the laws. Instead of "Separation of Powers," the Massachusetts Supreme Court is suffering from "Confusion of Powers." The Judicial Branch of government cannot "order" the Legislative Branch to do anything.
- The people of Arizona voted English as their official language, but federal judges overruled.[9]
- The people of Arkansas passed term limits for politicians, but federal judges overruled.[10]
- The people of California voted to stop state-funded taxpayer services to illegal aliens, but federal judges overruled.[11]
- The people of Colorado voted not to give special rights to homosexuals, but federal judges overruled.[12]
- The people of Missouri defeated a tax increase, but federal judges overruled.[13]
- The people of Missouri limited contributions to State candidates, but a federal judge overruled.[14]

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[9] 9th Circuit, Prop. 106, March 3, 1997.
[10] Sup. Ct., Term Limits v Thornton, May 22, 1995.
[11] Prop. 187, Nov. 20, 1995.
[12] Sup. Ct. Romer v Evans, 1992.
[13] 8th Circuit, Missouri v Jenkins, Apr. 18, 1990.
[14] 8th Circuit, Shrink Pac v Nixon, Jan. 24, 2000.

- The people of Missouri passed "A Woman's Right to Know." Governor Bob Holden veto it. Legislators overrode his veto, but a federal judge overruled.[15]
- The people of Nebraska passed a Marriage Amendment with 70 percent of the vote, but a federal judge overruled.[16]
- The people of New York voted against physician-assisted suicide, but federal judges overruled.[17]
- The people of Washington voted against physician-assisted suicide, but federal judges overruled.[18]
- The people of Washington passed term limits for politicians, but federal judges overruled.[19]
- The people of Montana voted by an overwhelming 74 percent to define a marriage as between one man and one woman, but federal judge Brian Morris overruled. Republican Rep. Steve Daines stated an *"unelected federal judge" had ignored Montanans' wishes."*[20]

"Immense effort goes into the legislative process, political campaigns, registering voters, getting to polls, voting, swearing in, introducing bills, debating bills, voting on bills, overriding vetoes yet this is all an exercise in futility if only a few unelected judges can invalidate the entire process."[21] Have Americans "ceased to be their own rulers"? Have Americans "resigned their government into the hands of the eminent tribunal"? Have we become an American oligarchy? Has "government of the people, by the people, for the people" perished?

Our children are falsely taught America is a democracy, when in fact we are a constitutional republic. But, in actuality, America is functioning as an oligarchy, a rule by a few unelected federal judges. Webster's 1828 Dictionary defines "oligarchy" as: "*A form of government in which the supreme power is placed in a few hands; a species of aristocracy.*" People must not give in to "a practice which will diminish their control over" the delegated power of the Judicial Branch, lest Americans find themselves pledging, not "to the Republic, for which it stands," but to a new American Oligarchy.

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[15] U.S. District Judge Scott O. Wright, Sept. 11, 2000.
[16] U.S. District Judge Joseph Batallion, May 12, 2005.
[17] 2nd Circuit, April 2, 1996.
[18] 9th Circuit, March 6, 1996.
[19] Sup. Ct., Term Limits v Thornton, May 22, 1995.
[20] Associated Press, Nov. 19, 2014 Republican Rep.
[21] Bill Federer Published: www.wnd.com 11/18/2018.

Finally, a conspiracy was perpetrated by the Federal Judiciary when it claimed the existence of a tax court under Article I, when no such authority exists. [*see court role and structure at uscourts.gov.*[22]] The federal judiciary in collusion with the Federal Reserve and other subversives have provided for the weaponization of the IRS to enslave the People by providing for the existence of a "pseudo tax court" claiming that Congress created a tax court under Article I Section 8 Clause 9 which states "*Congress shall have power to constitute tribunals inferior to the Supreme Court.*"

Said clause for creating tribunals is governed by the judicial powers we ordained under Article III Section 1[23] and Section 2[24] where we vested the Federal Judiciary with judicial power in law and equity arising under this Constitution and the laws of the United States as follows:

We vested congress under Article I Section 8 Clause 9[25] with the power to constitute tribunals inferior to the Supreme Court. Congress acted upon this power and wrote:

> **28 U.S. Code § 132:** Creation and composition of district courts: (a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district. (b) Each district court shall consist of the district judge or judges for the district in regular active service. Justices or judges designated or assigned shall be competent to sit as judges of the court. (c) Except as otherwise provided by law, or rule or order of court, the judicial power of a district court with respect to any action, suit or proceeding may be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

The aforesaid 28 U.S. Code §132 provide for only District Courts of Record whose jurisdiction is under Natural Law. And, Equity Courts whose jurisdictions are under U.S. Titles that administrates federal agencies, bureaucrats, commercial activities and to all cases affecting ambassadors, public ministers, consuls, admiralty, and maritime jurisdiction, and controversies to which the United States shall be a party; all of which have no jurisdiction over the People.

Congress wrote no other U.S. Codes, nor did we give them the power to, that created courts other than U.S. District Courts of Record and Equity. And as for USC Title 26

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[22] https://www.uscourts.gov/about-federal-courts/court-role-and-structure.

[23] **Article III Section 1:** The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.

[24] **Article III Section 2:** The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States.

[25] **Article I Section 8 Clause 9**: "*Congress shall have power to constitute tribunals inferior to the Supreme Court.*

which is not positive law, states no jurisdiction, and at best would have administrative authority for the aforesaid fictions and not People.

Furthermore, the People explicitly prohibited direct tax under Article I Section 9 Clause 4 and therefore there can be no tax court because there can be no direct tax.[26] "*The 16th Amendment does not justify the taxation of persons or things previously immune. It was intended only to remove all occasions for any apportionment of income taxes among the states. It does not authorize a tax on a salary.*"[27] "*In construing federal revenue statute, Supreme Court gives no weight to Treasury regulation which attempts to add to statute something which is not there.*"[28] "*Congress cannot by any definition* (of income in this case) *it may adopt, conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully expressed.*"[29]

IT SHOULD BE NOTED that there have been instances where the United States Supreme Court trespassed on God's jurisdiction thinking they can change His Laws. Two examples that immediately come to mind are abortion and marriage. They think they can legalize murder via abortion and change the nature of marriage where God said: "*From the beginning of the creation God made them male and female. For this cause shall a man leave his father and mother, and cleave to his wife; And they twain shall be one flesh: so then they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder.*" **- Mark 10:6-9**

IN CONCLUSION: Our founding fathers believed it to be necessary that all power that is on earth be limited and never intended for Judges to decide issues. They did not trust the judiciary and accused them early on of over reaching their authority. Jefferson claimed that they twist and shape the Constitution into any form they please and warned us of judicial despotism, and reminded us that they are as honest as other men and not more so.

Under Article III Section 1 judges hold their offices during good behavior which means "obedience to the Law of the Land," a/k/a Constitution. Therefore, judges can be

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[26] **Article I Section 9 Clause 4:** No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.
[27] Evans V. Gore, 253 U.S. 245.
[28] United States v. Calamaro, 354 U.S. 351 (1957), 1 L. Ed. 2d 1394, 77 S. Ct. 1138 (1957).
[29] Eisner v. Macomber, 252 U.S. 189.

removed for defiance to the Constitution via impeachment under Article II Section 4[30]. And, if Congress cannot find the backbone to impeach, We the People will remove bad behavior judges via indictment under the 5th Amendment[31] and/or alter the Federal Judiciary under the Peoples unalienable "*right to alter and institute new servants*"[32] codified by the People in the Declaration of Independence Preamble.

Moreover elected and appointed judges can be prosecuted if they act under the color of law, conspire against the Rights' of the People in violation of 18, USC 241[33] and 42 USC 1985(3)[34], conspire under color of any law, statute, ordinance, regulation, or custom in violation of 18, USC 242[35], or neglects to prevent said conspiring of rights under 42 USC 1986.[36]

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[30] **Article II Section 4:** The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

[31] **Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.

[32] **Declaration of Independence:** Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter [or abolish] it, and to institute new [Servants] government.

[33] **18, USC 241; CONSPIRACY AGAINST RIGHTS:** If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same.

[34] **42 USC 1985(3); CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS:** Depriving persons of rights or privileges: If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

[35] **18, USC 242; DEPRIVATION OF RIGHTS UNDER COLOR OF LAW:** Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

[36] **42 USC 1986; ACTION FOR NEGLECT TO PREVENT:** Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed,

Judges who consistently rule, in equity courts, without regard for the Constitution and American Jurisprudence should be impeached for bad behavior. And, any judge administrating a court of law on behalf of the Kings bench, a/k/a Petit Jury is to proceeds as Magistrate and is not to make any rulings. And, likewise if a judge seizes authority from a Jury they too should be impeached for bad behavior and prosecuted.

SEAL August 14, 2019

Grand Jury Foreman

shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefore, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.