The Constitution That Never Was

How the American People have been CONNED by Lawyers

Ralph Boryszewski

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The United States Bill of Rights

The First Congress submitted to the states for ratification the following ten rights selected from a host of rights demanded by the people in the conventions of 1788. These rights were to be a direct check by the people on the three departments of government that were to be formed and put into motion by the terms of the Constitution. On December 15, 1791 these rights took command as the new, ultimate and supreme law of the land, and the officials and judges of the U.S. and in every state are to be bound by oath or affirmation to support these rights, *anything in the Constitution or laws of the United States to the contrary notwithstanding.*

I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

II

A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public

danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

VI

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

VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

VIII

Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government.

- Thomas Jefferson, Proposal Virginia Constitution, June 1776
- 1 Thomas Jefferson Papers, 334 (C. J. Boyd, Ed., 1950).

Acknowledgments

This book has become a reality because so many of you have in essence asked: What can we do the bring about fewer laws and more order? Others have given me a lot of their time and labor in helping with the book. I greatly appreciate this.

In particular, I want personally to recognize the hard work and unselfishness of the most faithful who have helped me over the last eight years.

My wholehearted thanks to Robert E. Kesel, a political science teacher at East High School, now retired. It was veteran and patriot Bob who assisted me in challenging wrongdoers in the many departments of government, local, state and federal. Bob, like myself, donated thousands of dollars and endless time in pursuing our quest for an honest and just government without any thought of seeking personal gain. In fact, for helping and standing by me, Bob, was first warned and then lost his long-held summer position as Captain of Monroe County's 100 lifeguards.

I am indebted to Bob for all his good efforts. One in particular stands out. I had asked Bob to review the first thirty pages of this book to see if my writing was on track. Interrupting him once I stated apologetically, "Bob, in this book I knock the Constitution a little bit." He looked at me real seriously and retorted, "If anyone can do it, it is you. You have convinced me the Constitution has not well-served the people. Tear it apart and expose it for what it is." I have followed Bob's advice. I hope you will come to agree with it.

My sincere thanks to Doris Schubert who first spent four years urging me to start this book and for her great service the last seven years in donating her time and efforts typing 2800 pages on my computer, which is enough for eight additional books! She also did an outstanding job in proofreading and in voluntarily providing many other services.

Greatly appreciated is the continuing assistance of Mary Virgo and Jane Hoag for their help in the tedious tasks of research, proofreading and for many

additional acts of consideration, kindness, and helpfulness to me.

My grateful thanks to Patricia Neill who made available to me many books from libraries far and near that greatly assisted our research. I am also very much pleased in the way she helped lay out this book and for introducing me to the wonderful world of the computer.

My appreciation to Jeanne Boryszewski for her varied experience in the business world and her positive encouragment to me that my call for direct action in reforms will be followed by many people who sense inevitable chaos if they continue to listen to leaders who use the Constitution only to serve their own advantage.

Greatly appreciated is the expertise of Ronald Scott von Feldt, author of *America in depression: the coming economic collapse.*

Scott has taught me to be more assertive when writing for and urging public support for essential reforms, so that the leaderless people will feel compelled to pick up the cudgel and follow through.

All of us here are hoping that this book is the beginning of opening the minds and stiffening the backs of the American people by letting them know they have been suckered and taken in by corrupt impostors who have robbed our children and us of our heritage.

DEDICATED TO

The intimidated misled American taxpayer who can now emancipate himself, but only if he is willing to accept that he has been deceived by the terms of the Constitution and recognizes that having lived under it, he cannot truly defend it as being sacred nor in his best interest.

This book provides the author's findings and opinions based on research and analysis of the Constitution as shown herein.

This information is given as a legal service because it exposes the fraud of the establishment and employment of the U.S. Constitution, which is used by lawyers as the basis of the American legal system. Lawyers, who take the Constitutional oath when admitted to the bar, become themselves engaged in the unauthorized practice of law for which they prosecute others. The American Bar Association is a private associatioin of lawyers. It has no business to dictate the requirements for admission to legal practice in the United States. By their actions, they have destroyed the concept of a Republican form of government for their system requires judges, districts attorney, and others to be lawyers. All public offices in all three branches of government are open to lawyers. Only those who fully conform to the dictates of the American Bar Association can become first-class citizens. All other people are denied a voice in the judicial system as judges, prosecutors, etc., making all non-lawyers second-class citizens.

Is it any wonder why the average American feels helpless and frustrated by court-made rules and decisions? In all civilizations, why must the great majority be pushed to the brink before they open their minds to the dangers that surround them?

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I Need Your Help!

For fear of being sued, no publisher would dare to print and distribute my books. I will publish this first book by myself. It will deplete my life savings and it would be a shame if I am unable to inform you and prove to you that lawyers and judges have indeed from the beginning organized to plunder, pillage and rob the American people. At this time, I request donations, one or two dollars, from any of you who has suffered an injustice under our system or those of you who believe that lawyers in their official capacity are a dangerous threat to the separation of powers and to an efficient and honest government. Every dollar donated, plus the money received from the sale of this book, will be used to publish my second book, *The American Bench and Bar—A History of Organized Crime*, which, almost finished, awaits your financial help. Please send donations and letters in support to the Foundation for Rights, PO Box 17699, Rochester N.Y., 14617. I will also be able to send you vital information when we commence our national alertograms.

Name _____

Street _____

City _____ State ___ Zip _____

Comments?

Introduction

In August 1969 about ten of us retired from the Rochester, New York Police Department. A Committee from the American Legion was present to honor those who were veterans of World War II. The Commissioner of Police presented each of us a Certificate of Appreciation. Here is how mine read:

IN RECOGNITION OF 27 YEARS
Loyal and Faithful service as a member of
THE POLICE DEPARTMENT
OF THE CITY OF ROCHESTER, NEW YORK
RALPH BORYSZEWSKI
IS HEREBY HONORABLY DISCHARGED
John A. Mastrella, Commissioner of Police

This brought back memories of my first days on the Department. I was young, proud, and eager to prove myself, but like most people unexposed to the "real" world and politically quite naive. My parents who had immigrated to America around 1910 had instilled in my two sisters and myself the virtues of honesty, justice, dedication, love of country, hard work, and cleanliness. Never did I realize that my quest for honesty and justice as a police officer was to cause me, my family, and my friends grief in many ways. I lost earned civil service promotions because of the politicians who run the states and cities. When you head the civil service promotion list, you can be passed over until the list expires, or even placed on trumped-up charges and suspended. They managed to do all of this to me when promotional appointments came up. Later on in my police career, I used the Constitution to go on the offensive. City officials then begged and even attempted to bribe me to take promotions. I had the satisfaction of refusing all of them.[1]

At the moment of my retirement, my thoughts took me back to the many times of speaking up to judges, districts attorney, and defense lawyers and finally challenging the entire system of criminal jurispudence. This earned me the hatred of the judiciary and changed the course of my entire life because I

[1] City Manager, Seymour Scher; Chief of Police, William Lombard

had to prove clearly that their laws and system did not serve justice and were in violation of basic rights.

The state legislature, composed of a majority of lawyers, was also abusing its authority in enacting laws that encouraged litigation. I realized that I had a real challenge and would have to get to basics by studying the United States Constitution and the New York State Constitution in depth. In case after case, abuse after abuse, I saw the vital importance of maintaining a proper separation of powers. After forty-seven years of research, I found that our federal and state constitutions could not work without a strict and guarded separation of powers.

I had made many arrests, alone or in conjunction with other police officers or detectives, which led to convictions for the crimes of murder, rape, robbery, sodomy, serious assaults with dangerous weapons, grand larceny, burglary, etc. Beyond my concern for the immediate families of the victims, I sensed that these crimes were small in comparison to the crimes past and present committed by the American bench and bar against the American people.

This book will show how the judiciary has managed to unlawfully secure great wealth and power from the very beginning, starting with the Constitutional Convention of 1787. The American people have gotten an erroneous and distorted version of what actually went on at that convention. Of the fifty-five men assembled in Philadelphia, a majority of thirty-four were lawyers; these lawyers were working for a constitution and government to serve themselves, not the people. In 1787, the common people were suspicious of the delegates who had deliberated in secret and who had not provided a Bill of Rights for protection from the powerful national government that they had established. Amos Singletary, a former soldier in the War for Independence, was elected a delegate to the Massachusetts ratifying convention. He was typical of the many people who opposed the Constitution. On one occasion, he addressed the chair:

> Mr. President...if any body had proposed such a constitution as this in that day [Revolutionary era], it would have been thrown away at once...These lawyers, and men of learning, and moneyed men, that talk so finely, and gloss over

> matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all of us little folks....[2]

Amos Singletary's prophetic warnings were accurate. The lawyers, by stealth and violation of their trust, have become the "managers of our Constitution" and have taken complete command over our federal, state and local governments. A separation of powers has never been maintained, therefore no meaningful system of checks and balances can work among the three branches of government. This book will show common and frequent abuses to the Bill of Rights by the consolidated federal judiciary. Lawyers, under this consolidation, have turned the Bill of Rights upside down. Instead of the Bill of Rights being a check upon the Constitution and its officials, the Constitution and its managers become a check upon the peoples' Bill of Rights.

George Washington, Father of his Country, and James Madison, Father of the Constitution were masters of rhetoric. The reader should take note both men did not practice what they preached.

On September 24, 1789, President Washington signed "An Act to establish the Judicial Courts of the United States." This is better known as the "Judiciary Act of 1789." It consisted of twenty-one pages containing over 8,000 words in fine print. It established the Supreme and inferior courts and gave them authoritarian controls—the power of contempt; the right to make its own rules; the right to apply "common law remedy where the common law is competent to give it."

The Constitution accepted and ratified by the people in June, 1788 did not authorize Courts to have the power of contempt nor the right to make its own rules. The Constitution did not once mention the term "common law." If it did, the people would have rejected it at once. Early Americans had long suffered under the tyranny of the hated Common Law, but the self-seeking founding lawyers serving in the First Congress were determined to impose the Common Law upon the American legal system. A Senate Committee, dominated by lawyers, secretly worked for months behind locked doors to accomplish this goal.

[2] Amos Singletary, quoted in *The Massachusettes Ratifying Convention, Elliot's Debates*, vol. 2, pp. 101-02.

But the introduction of the whole body of English law into our courts would not be consistent with the republican principles of the new Constitution.

In all fairness, the First Judiciary Act should have been submitted as an amendment to the Constitution which would have to be ratified by the people. The lawyers knew the people would have quickly rejected it so instead Congress presented the all-inclusive judiciary bill to President Washington, who obliged by signing and passing it off as a law.

The First Judiciary Act was a bold secretive usurpation of power planned and carried out by the First Congress and President Washington. That broadly written law then became the basis for all other usurpations that would follow.

In his Farewell Address, eight years after this daring usurpation, President Washington had the temerity to warn the people with the following rhetoric:

> If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates.—But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Madison warned rhetorically in #47 of *The Federalist Papers*:

> The preservation of liberty requires that the three great departments of power should be separate and distinct.

However, Madison did not once speak out against his fellow lawyers who engaged in "The accumulation of all powers, legislative, executive, and judiciary in the same hands," which he warned "may justly be pronounced the very definition of tyranny."

Washington and Madison strongly opposed a "second" constitutional convention in which the people could have drafted their own Constitution. Yet both took part in the drafting and amending of the document they later stated was the People's Constitution.

Our rights and freedom depend on each American becoming better informed. This book tells exactly what you must do to end this judicial oligarchy that poses as a Constitutional republic.

Prologue

The system is rigged. You can't win by joining a political party or forming a new party. During the last one-hundred years the two major parties have discouraged many voters because they have made it very difficult to obtain ballot line access for those who oppose the status quo. Why then should we support members of either major party who make it difficult for us in seeking change?

For years I have been voting for and supporting minor party candidates. People ask why do I always pick a loser and waste my vote? I make those poor soul's think twice when I tell them: "No I am picking a winner who will lose. But you, my friends, have been picking losers who always win." So each year the people have lost by picking "winners" who have corrupted and bankrupted our country. But your vote always enriches the "winners" and their respective parties. Both parties are still in power to prevent the real changes that the people are so desperately seeking—term limits, fiscal restraints, speedy removal of the corrupt, and pervasive unauthorized foreign involvements.

If you wish to have honest and a most efficient government, follow the unfailing instructions and advice presented in this book.

I have filed petitions and taken action against Presidents, Congressmen, Governors, State Legislators and of course, U.S. Supreme Court Justices, New York Court of Appeal Justices, Special Prosecutors and others. My first book exposes certain officials. In time, with additional books, all other officials whom I have challenged will be exposed as unfit to hold office.

I urge all people when you see public wrongs or an injustice, to petition the person or governmental body who has official jurisdiction. Follow through, keep dates and records of your actions. Publish in a pamphlet the facts and the action taken or not taken and distribute them when the person is seeking to be re-elected. If a good many of you do this, the public will soon learn of those who must be gotten out of office, or better yet, indicted and incarcerated.

When this book is published those whom I have exposed will run for cover. If you are serving on a Grand Jury, seek out and indict them. If the District Attorney impedes you in any way, indict him for obstructing justice.

End this legal nightmare in which impostors have been making you follow the commands of *The Constitution That Never Was*—Ralph Boryszewski.

Chapter 1

Our Political Courts

At the Constitutional Convention the founding lawyers created a political rather than a constitutional court by granting Congress the power to ordain and establish the Supreme and inferior courts, to raise and lower the number of justices on the Supreme Court when it was politically expedient to do so, and to determine exceptions to the Supreme Court's appellate jurisdiction.

In this chapter, I will take you on an excursion through American history, beginning with the misguided and devious founding of political courts in the late 1700s, through contentious events following the civil war, up to America's unconstitutional involvement in WWI, even to our present day corrupt political judicial system. Let's begin with an overview of an unbroken record of corruption by members of the Supreme Court.

For twelve years, from 1789 to 1801, the American people were subjected to the abuse of those political courts and the corrupt Supreme Court Justices who ruled them. During that time Chief Justice Jay ran for election as Governor of New York while still on the bench. Cushing, while on the High Court, ran for Governor in Massachusetts. When Writs of Arrest were issued against him, Supreme Court Justice Wilson evaded arrest in Pennsylvania by exchanging circuits with his colleague, Justice Iredell of North Carolina. Justice Bushrod Washington openly campaigned in support of Charles C. Pinckney for the Presidency. Even when the Supreme Court lacked a quorum, Justice Chase actively campaigned for the re-election of President Adams and neglected the business of the court. Chief Justice Marshall, in violation of the separation of powers, simultaneously held both a judicial and a high executive office. He manipulated both for political gain. In political charges to Grand and Trial Juries, Justices Paterson and Chase vented their partisan views and obtained indictments and convictions under the detested Sedition Law, in violation of the freedoms of speech and press. While holding the office of Chief Justice, Ellsworth also served as an envoy to France—providing one service but receiving two salaries.

In the election of 1800 the American people had had enough. They rejected the Federalists and elected Jefferson to the Presidency and his Republican supporters to Congress.

In an attempt to retain control of at least one branch of the national government before the new administration took office, the Federalist-dominated Congress passed the Judiciary Act of February 13, 1801. In addition to new district courts, the Act created sixteen new circuit judges, along with a host of clerks and marshals. The political character of the Judiciary Act was made evident by the provision which reduced the number of Supreme Court Justices from six to five. That was a deliberate political attempt to deprive Jefferson, the incoming President, of making an appointment to the Court. The Judiciary Act of 1801 ensured that the federal judiciary would be a stronghold for the departing Federalists, but they knew that the Jeffersonian forces would try to repeal the Act of 1801. The repeal would no doubt have been challenged in the Supreme Court where the five Federalist Justices would have denied it on the ground that the newly appointed Judges "shall hold their offices during good behavior." Jefferson and his Republican Congress had two options. They could have followed the precedent of the previous Federalist Congress by changing the number of Supreme Court Justices from five to eleven, which would have given them the controlling vote to allow for the repeal. However, the enlargement of the Supreme Court would not have gone over too well with the people, so the Republicans used another tactic. Immediately after passing the Repeal Law, an amendatory act was passed which abolished the June and December terms of the Supreme Court (created by the Act of 1801) and which restored the old February term but not the old August term. By this legislative tactic an adjournment of the Court was enforced for fourteen months, from December, 1801 to February, 1803. The constitutional system was ineffective and unworkable operating with only two departments, legislative and executive. At this point the Constitution should certainly have been scrapped.

The first time a Supreme Court was not available to the people was from March 1789 to February of 1790, an eleven-month period. This was brought about by the founding lawyers who lied to the people in the ratifying conventions by telling them that under the terms of the new Constitution there were to be three departments of government—legislative, executive and judicial. They had also assured the people that each department would always be available to the people or the states as a check upon the other departments.

The Constitution in itself did not provide for a proper separation of powers, because it authorized the Congress, a legislative body, to control judicial

proceedings by decreasing or increasing the membership of the Supreme Court in order to get a desired number of Justices, who would then decide favorably on political questions. The Constitution was also in violation of the separation of powers because it authorized the Congress to control appellate jurisdiction to the Supreme Court whenever a pressing political question presented itself. Justice to the individual could be denied by this political court even when the court was present and capable of doing business, as will be shown by the case of William H. McCardle.

The McCardle Case

Immediately after the Civil War, Congress used its legislative and judicial powers to keep the President and the Supreme Court in subservient positions. In April, 1866 President Johnson nominated Attorney General Henry Stanbery to fill a recent vacancy on the Supreme Court. Instead of acting on his nomination, Congress passed a bill reducing the number of Justices in the Court from ten to seven. The bill, which became law over Johnson's veto, prevented yet another appointment opportunity upon the death of Justice Wayne in 1867. The Congress didn't want Johnson to appoint any Justices to the Supreme Court who presumably would have supported his views on the unconstitutionality of the Reconstruction Acts. Had other Justices retired or died, Congress could have again reduced the membership of the Supreme Court to prevent the President from making any appointments. The Supreme Court was, and is, a political court. It has been used by Congress to thwart proper Bill of Rights or constitutional process for political purposes.

William H. McCardle, a Mississippi newspaper editor, was being held in custody by the military under authority of the Reconstruction Acts. McCardle filed a petition for a writ of *habeas corpus* in the Circuit Court for Southern Mississippi. He alleged unlawful restraint and challenged the validity of the Reconstruction statutes. The writ was issued. After a hearing the prisoner was remanded to the custody of the military authorities. McCardle then appealed to the Supreme Court. The Supreme Court should have acted speedily in the interest of justice to set him free, declaring the Reconstruction Acts to be both in violation of the Bill of Rights and the Habeas Corpus Act of 1863. This act directed that federal authorities bring all political prisoners before Grand Ju-

ries and release those not indicted.

The Supreme Court heard arguments on the merits of McCardle's case and took it under advisement. This was a deliberate delaying tactic by a political Court. It gave Congress the opportunity to enact a statute withdrawing appellate jurisdiction from the Supreme Court in certain *habeas corpus* proceedings. Thus the Court proceeded to dismiss the appeal for want of jurisdiction and McCardle remained wrongfully imprisoned.

Both Congress and the Supreme Court had refused to recognize that when the Bill of Rights was adopted, it had become "the supreme law of the land," for the Congress could "make no law" in prohibiting or abridging guaranteed rights. Nor could Congress make an exception to a Bill of Rights guarantee that "No person shall be held to answer for a capital, or otherwise infamous crime unless on a presentment or indictment of a Grand Jury." Any knowledgeable Grand Jury was duty-bound to send a presentment to the Congress, the President, the Courts, and to the public at large that McCardle, a civilian, was not under indictment and should not be held by either military or civilian authority.

If Congress and members of the Supreme Court failed to heed the presentment by reversing their actions, and the President refused to issue an order to free McCardle, then they all would have been involved in a crime against the people. The Grand Jury could have indicted these officials under the overall authority of the Ninth Article of the Bill of Rights which commands that, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." **That means that the people on a Grand Jury have the power to indict for acts manifestly subversive to powers specified in the Bill of Rights. Conduct clearly destructive or dangerous to the liberty of the people need not be specifically defined by statute.**

The people had a President who had been looking to the people for help and approval. The President vetoed the Reconstruction Act because it violated the Bill of Rights, but Congress overrode his veto. At the time McCardle was wrongfully jailed, the people on any Grand Jury could have directed a presentment to the President, Congress and the people informing all that President Johnson was correct in vetoing the Military Reconstruction Act. The presentment could have warned the Congressional leaders that they were subject to

indictment for violating the Bill of Rights.

Johnson left office in March 1869 and in April, Congress enacted a statute increasing the number of Justices on the Supreme Court to nine, knowing new appointments would be made by President Grant, whom the radicals controlled.

The Legal Tender Act of 1862

Another notorious manipulation of a Supreme Court decision should have demonstrated that the highest court could not serve the people honestly. On February 7, 1870 the Supreme Court in *Hepburn v. Griswold* declared the Legal Tender Act of 1862 unconstitutional. This statute had made "greenbacks," the fiat money issued during the Civil War, legal tender in payment of debt. On that same day President Grant, who had disapproved of that decision, nominated Joseph P. Bradley and William Strong to the Supreme Court. Both of the new Justices were known to have believed that the Legal Tender Act was constitutional and were now to join forces with the three Justices Miller, Swayne, and Davis who had previously dissented with the decision. Thus, before the enlarged Court *Hepburn v. Griswold* was overturned by a majority of five to four.

We Need a Constitutional Court, Not a Political Court!

It should now be obvious that the number of Supreme Court Justices must be fixed by the terms of the Constitution. The number of justices on the Court must not be determined by a Congress or President so that its decisions can be used to settle political issues to the detriment of the Constitution. Two provisions of the Constitution must be amended. The first is Article III section 1 which presently reads, "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." This should be amended so that membership of the Court will be permanently set by the Constitution. I suggest the following wording:

> The judicial power of the United States shall be vested in one Supreme Court to consist of a Chief Justice and four Associate Justices any three of whom shall be

> a quorum. The jurisdiction of the inferior courts is to be limited to the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies. In other cases (except those dealing with the Bill of Rights) the causes should be tried in the State courts with the right of appeal to the Supreme Court.

The second change must be made to clause 2 of section 2 of Article II which presently reads, " . . . he shall nominate, and by and with the advice and consent of the Senate shall appoint . . . judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law . . . ." This last phrase is unconstitutional. That is why it was hidden by placing it out of context in the Executive Article of the Constitution where it would be little noticed. All of this was in violation of the separation of powers, for it authorized the legislative department to establish the judicial department and thus to control the Supreme Court.

There was a reason for this underhandedness. The founding lawyers regarded inferior courts as a vital link to the Supreme Court for maintaining federal supremacy. The people feared a strong central government and were opposed to the establishment of the lower federal courts. That was why the Judicial Article of the Constitution was written in a broadly worded passage that left much to be later determined by the Congress. If terms of the Judicial Article had been clearly spelled out, the people would have quickly rejected the entire document.

The Amending Process: Controlled by Congress, Not the People

The states sent fifty-five delegates to the Constitutional Convention. Thirty-four of the fifty-five were lawyers and they held the controlling votes. The majority of those lawyers were determined to form a judicial system they would dominate. They knew, however, that abuses would inevitably arise under the new court system and the people would propose amendments to limit or abolish the inferior courts. The lawyers from the South also reasoned that as the population increased the people in time would also propose an amendment to end slavery. So they planned to preserve both slavery and the courts that were yet to be established.

The lawyers drafted Article V of the Constitution. Under its terms, they placed the Congress in control of the amending process and made sure the people would never be able to propose and pass any amendment to reform the judicial system, abolish slavery, or make any other pertinent or necessary change. Their system worked. It took a Civil War to end slavery, and perhaps it will take a revolution to end our corrupt judicial system. The lawyers had but one thing to do in order to put their system into motion—trick the people into believing that lawyers were expert in the law and could best serve in the Congress. As a result, lawyers have been elected to and have controlled every Congress from the first to the present. They even made sure all amendments proposed by the Congress would first have to clear their Judiciary Committees where every member is a lawyer.

It was the foremost intention of the founding lawyers to exclude the people from participating in the amending process. The people have never been able to propose an amendment, no matter how much it was desired. The legislatures of two-thirds of the states must apply to Congress to call for a convention for proposing amendments. It is only at such a convention that the people may propose amendments. The states have often tried, but such a convention has never been called. If a convention is finally called and people do get their first opportunity to propose an amendment, it must be "ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress . . . ." In other words, if the people in a constitutional convention propose an amendment favorable to the people, the Congress can choose that it be submitted to the state legislatures for ratification, where it could be rejected.

In 1933, Congress proposed repeal of the Prohibition Amendment and only in that one case did they call upon the people in ratifying conventions to determine if intoxicating liquors could again be legally sold in the United States. From 1789 to 1994, the people have never been allowed to directly propose any amendment for the purpose of ending constitutional inadequacies, but have been allowed to ratify on that one occasion in 1933 for a social change.

The founding lawyers realized the powers and duties of the federal courts would have been very limited if left to the determination of the states or the people. If the states were to ratify the Constitution, they would have insisted

that the Judicial Article be complete before it could be ratified. To circumvent the states, the founding lawyers claimed the people as the sovereign authority and that all power was derived from them. The delegates said the people, not the states, must accept or reject the Constitution as their instrument of government. The lawyers then provided in Article VII that Conventions in the various states were to ratify. The lawyers also provided by the terms of Article V that the people in ratifying conventions were to be limited to either the accepting or rejecting the Constitution as written. That is, take it regardless of its flaws, or reject it.

At times the Federalists in some of the ratifying conventions feared the Constitution would be rejected. Some of them then encouraged their state conventions to submit proposed amendments along with their vote for ratification. Thus many of the conventions submitted amendments, including some to limit the jurisdiction of the federal courts. However, the First Congress, to which many Federalists were elected, kept all such amendments under wrap. Nineteen members of that small First Congress of eleven states had previously served in the Philadelphia Convention.

The Constitution was the product of the states and not of the people. The Constitution wrongfully embodies the principle of direct action by the national government upon the inhabitants, since the enactments of Congress are law directly impinging upon the people, and not the states, who were still bound to the Confederation.

The people had no input in making the Constitution. Therefore, the people then, as well as today, could not rightfully be asked to obey what was forced upon them by a convention of states who had elected delegates for the sole purpose of making changes that would better govern the Confederation.

The states, not the people, had sent its fifty-five delegates to the Philadelphia Convention. It was the responsibility of the states to accept or reject the proposal framed by the delegates.

Simply put—the people were without jurisdiction to ratify the Constitution because it was not made by delegates duly elected by the people. The people had suffered many wounds and deaths in winning a war that finally separated them from the tyranny of a powerful central government. Therefore, the whole people, not the states, were entitled to a real Constitutional Convention. They could have worked with fellow delegates from all thirteen states in which they

all had vital common interests. First, they would have adopted a Bill of Rights, which the states in convention had unanimously rejected. Second, they would have established a national court but would have greatly limited its powers. Third, they would have provided workable means by which the people, not the government, could have proposed and adopted amendments to end governmental abuses. Fourth, the people, most importantly, could have exerted enough influence to put an immediate end to the shameful practice of slavery. The states of Georgia and South Carolina might have resisted but would have succumbed rather than be left abandoned in a hostile world.

Many people and some of the state ratifying conventions had demanded a second convention. Washington and Madison were the strongest opponents to that idea. While the ratifying conventions were in session, newspapers were publishing private letters obtained from Washington in which he advocated ratification, and if it seemed necessary, the submission of amendments after ratification so they "may be adopted in a peaceable manner without tumult or disorder." By calling for amendments after ratification, Washington and Madison were being dishonest with the American people. In the Philadelphia Convention they both heard delegates state that under the provisions contained in Article V, the people would be unable to make amendments once the Constitution was put into motion.

On Saturday, September 15, 1787, Madison, in his Convention notes had written: "Col. Mason thought the plan of amending the Constitution exceptionable and dangerous. As the proposing of amendments is in both the modes to depend in the first immediately, and in the second, ultimately, on Congress, no amendment of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he believed would be the case." On Friday, August 31, 1787, Madison and Washington had also heard Mason declare: "that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet decided brought to a decision . . . Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention." On Saturday, September 15, 1787, Madison and Washington were also present

when: "Mr. Randolph made a motion importing 'that amendments to the plan might be offered by the State Conventions, which should be submitted to and finally decided on by another general Convention.' Should this proposition be disregarded, it would he said be impossible for him to put his name to the instrument . . . ."[1]

Upon successfully cajoling the people in ratifying conventions to accept the Constitution and to submit their proposed amendments to the First Congress, the founding lawyers had achieved their goal. The First Congress was itself to serve as a second constitutional convention for Madison and eighteen other former delegates who had previously attended the Philadelphia Convention. Most of the delegates to this "second Constitutional Convention" were intending, along with President Washington, to assume sovereign powers. **They would reject all of the proposed amendments from the state ratifying conventions that insisted upon limiting the judicial power of the federal courts.** For example, the ratifying convention of Virginia proposed an amendment which was to take from Congress the power to create federal courts inferior to the Supreme Court, other than courts of admiralty. The New York Convention submitted an amendment which was to limit the jurisdiction of the inferior courts of the United States to the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies. Two of the state conventions had proposed amendments which would have prohibited a judge of the Supreme Court from "holding any other office under the United States, or any of them." There were many other excellent proposals too numerous to state here but Congress rejected all of them. Congress, acting without authority as a constitutional convention, drafted a lengthy amendment to complete the Judicial Article of the Constitution. This amendment was called the Judiciary Act of 1789. However, Congressmen knew that neither the people nor the states would ratify that proposed amendment. Instead they asked President Washington to sign it into law. In order not to call attention to this law, Congress, at about the same time, released the Bill of Rights as amendments to be ratified by three-fourths of the states. Their ploy worked. All attention was immediately shifted to the Bill of Rights. The people believed that Congress had kept its word. The pro-

[1] *Documentary History of the Constitution of the United States of America*, Washington, D.C, Department of State, 1900, vol. 3, p. 659 and 759.

posed amendment to the Judicial Article of the Constitution was instead passed relatively unnoticed as a law.

The reader who examines the Constitution will find that the Judicial Article stands today as incomplete as it was in 1787 when it was presented to the people for ratification. The Judicial Article did not provide a viable Supreme Court with an established and therefore unchangeable number of justices so that the First Congress in its first order of business could have confirmed those appointed. The judges could then have been sworn as a court to sit in judgment of the constitutionality of the first or any subsequent legislative act.

The people in ratifying conventions had recognized the Supreme and inferior courts as hearing bodies that would be immediately available to extend their judgments in "all cases in law and equity, arising under this Constitution"

The courts thus ratified by the people could not be changed into adversarial courts except by an amendment to the Constitution. This was never done. The Jay Court consequently was without the jurisdiction to claim that the advice of its Court would not be available except in cases brought before it "in due judicial course." The reader will learn more about this self-serving judicial expression in other chapters.

The First Judiciary Act unlawfully established the offices of Attorney General and U.S. Attorneys because only then could our courts pretend to become adversarial courts rather than the hearing bodies that they were.

The American people had fought and won the War for Independence in order to escape from the corrupt English court system. But in less than ten years, the same antiquated system was forced upon them.

The Espionage Act of 1917

Prior to April 1917, the United States government was engaged in an undeclared war with Germany. Our government was shipping contraband goods to England, which was engaged in a war with Germany. The United States could have informed the allied powers that we had goods for purchase but they would have to be picked up in our ports by their ships. Instead, the Congress armed all American merchant vessels that were delivering goods through war zones.

President Wilson, not satisfied with that, condemned the German submarine policy as "warfare against mankind," and got the Congress to declare war. However, section 8 of Article I limits the Congress in its war powers, which are to be used only to "repel invasions," and "for the common defense of the United States." Section 4 of Article IV further provides that "the United States shall protect each of them [the states] against invasion." Finally, the general principles of the Constitution declared in its preamble that the people are only to "provide for the common defense." Congress and the President ignored the Constitution and commanded the people to attack the "enemy" thousands of miles from our shores. The Congress and the President were clearly violating the Constitution by engaging in a foreign war.

Congress, in order to continue the war and to cover up its unconstitutional activities held the Bill of Rights in abeyance with the help of its political Court. It began by passing the Selective Service Act in May, 1917. In the following month it passed the Espionage Act of 1917. Two principal provisions of the Espionage Act were in direct violation of the First Article of the Bill of Rights. "Congress shall make no law . . . abridging freedom of speech and press . . . ."

According to one section, it was a felony to obstruct enlistment and recruiting services or to convey false statements with intent to interfere with military operations. The other section established postal censorship under which treasonable or seditious material could be banned from the mails.

Freedom of Speech and the Press

Our political courts had early on intruded into matters concerning basic rights that were left to the exclusive judgment and charge of the people. The Supreme Court has ruled on various occasions that free speech and press are not absolute rights. The government does not have authority to curtail basic rights by making such a broad general rule. The people on juries are the only authorized protectors of rights. Each ruling must be determined on an individual basis, first by a Grand Jury free of the influence of any government officials. The Trial Jury in any Bill of Rights case must also reject any influence from the judge including his charge to the jury. In his charge to a jury the judge instructs the members as to what principles of law they should apply in reaching a decision. In this charge, the instructing judge must follow the rul-

ings of the Supreme Court that free speech and press are not absolute rights. Under this system, the judges and lawyers had early on wrongfully assumed control over the Bill of Rights.

One should keep in mind that the United States government, on many occasions, was a lawbreaker getting our country involved in unconstitutional wars. No matter what reason the government sets forth for its involvement in wars, it cannot declare war until an invasion of our shores is actually threatened by a military force. Congress had plenty of time during the war in Europe (1914-17) to propose amendments to the Constitution so that our nation could go on the offensive, but they knew the people would reject any such proposed changes. The Selective Service Act of 1917 was also unconstitutional. There was no need or authority to conscript men into the military. To conscript them to invade a foreign country was unconscionable.

In Schenck vs. United States, Schenck was convicted of conspiracy to violate the Espionage Act of June 15, 1917. Schenck had expressed his right of free speech and press by printing and circulating a document stating that it was the rightful duty of those called to refuse to serve in the military when that military was used in defense of a foreign government.

James Madison in the *Federalist Papers* warned us that "the accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny." In the same paragraph of #47, Madison stated, "In order to form correct ideas on this important subject, it will be proper to investigate the sense in which the preservation of liberty requires that the three great departments of power should be separate and distinct."

However, when both Congress and the Supreme Court are dominated by lawyers in violation of the separation of powers, the people on Grand and Trial Juries must take effective action to prevent unchecked tyranny by the judiciary. The Grand Jury should have told the U.S. Attorney that Congress and the President were violating the Constitution; that they were engaged in an offensive war on foreign soil; and that Schenck was right in protesting the war actions of our officials. In case a Grand Jury failed to take action to protect basic rights, a Trial Jury could have refused to convict Schenck, or any other citizen, who protests the actions of a criminal government.

The Espionage Act of 1917 was in Conflict with the Bill of Rights

In *Schenck vs. U.S.*, Schenck's conviction under the Espionage Act was upheld by the Supreme Court in 1919. During World War I about two thousand other cases involving the Espionage Act were brought before the lower federal courts. Article 6 of the Bill of Rights commands the accused shall have "the right to a speedy and public trial by an impartial jury . . . ." The government invariably violates all three provisions. Trials are not speedy; most take a year or more, and some trials are not made public. Worst of all, Juries cannot be impartial because the government presents only one side of the issue. It did not inform the various juries that under the Espionage Act the government itself was the real lawbreaker. The government first engaged in an undeclared war and later in a declared war on foreign soil, both in violation of the Constitution.

When the Constitution was presented to the people it did not include conscription. The people would have rejected such power over the individual by a central government. People at that time had a great fear of a strong central government. The Constitution gives Congress the power to declare war, but only in providing for the common defense of protecting the states "against invasion." All persons (men, women and children) would voluntarily fight to protect their lives, liberty and property against an army of invading foreigners! Conscription wasn't a requirement under the Constitution. The Constitution states, "the Congress shall have the power to raise and support armies," meaning the Congress could raise an army of volunteers with equipment and provisions and deploy them where best necessary in offensive actions against an invading army. This would leave the state militias to protect the home fronts. The American Revolution was fought and won in a six-year war during which the Congress under the Articles of Confederation did not have the power of conscription.

The Congress that passed the Military Conscription Act in 1917 was in violation of both the Constitution and Bill of Rights. It was without authority to conscript men to fight in a war in defense of foreign governments. In order to discourage healthy dissent, the Congress passed the Espionage Act. That Act, with its subsequent amendments, could have been called the Sedition Act

of 1918, which was in violation of the Bill of Rights making it a crime to speak out against the unlawful acts of Congress.

Eugene V. Debs

The Socialist Party of America at its convention in St. Louis (April 1917) correctly denounced the war and counselled party members to oppose it. Party leader Eugene V. Debs was angry over the many convictions for sedition and bitterly assailed the administration for its prosecution of persons charged with sedition. One movie producer was convicted for showing a film of the American Revolution to an audience of civilians. On June 20, 1918 Debs was indicted by a federal Grand Jury for a violation of the Espionage Act only four days after he had urged the audience to "resist militarism wherever found." The Espionage Act adopted on June 15, 1917, included certain provisions for military and postal censorship; the amendment to that act, which became law on May 16, 1918 was more comprehensive. On June 20, 1918 Debs was indicted by a federal Grand Jury for a violation of an amendment to the Espionage Act, for which Debs was convicted and sentenced to ten years in a federal penitentiary. On appeal the U.S. Supreme Court, a political court, upheld the verdict on March 10, 1919.

Shortly thereafter Debs became a prisoner in the federal penitentiary at Atlanta. There were many petitions and letters of protest, so by order of President Harding on Christmas Day, 1921, Debs was released but his citizenship was not restored. The government was satisfied it had frightened people until the war was concluded. Debs was no longer a threat; his health was broken and he would spend many months in a sanitarium until he died in 1926. Whether we agree with Debs' political philosophy or not he was an American who suffered imprisonment for the crime of speaking out against the actions of a criminal government.

Debs' biggest trouble was caused by a jury that did not honor or uphold the Bill of Rights. It would have been different if the jury had been properly informed at the trial that: lawyers, in command of both Houses of Congress, had passed the Military Conscription Act in May of 1917 so that American men could be forced to become soldiers in order to protect foreign nations against invasion. When strong protests were registered by many Americans

against conscription and engagement in a foreign war, the lawyers passed the Espionage Act. The Conscription and Espionage Acts could not become law until President Wilson affixed his signature. President Wilson, a lawyer, was also the Chief Executive Officer who had been engaged in an unconstitutional war.

Upon taking office, President Wilson appointed a host of U.S. attorneys, along with Thomas Watt Gregory, his Attorney General. All of the above executive department members were lawyers. President Wilson also appointed three justices to the U.S. Supreme Court. Those three plus the six others were also all lawyers.

The Espionage Act was passed, enforced and adjudicated by lawyers who controlled the legislative, executive and judicial departments of government in violation of the separation of powers. The lawyers in Congress deliberately enacted a law in violation of Article 1 of the Bill of Rights. The President and all the other lawyers in the Justice Department enforced that law by influencing Grand Juries to indict those who spoke or wrote in opposition of an unconstitutional war. Worst of all they influenced Grand and Trial Juries to act "patriotically" in support of a war by convicting those who spoke out against the unconstitutional actions of Congress and the President. The lawyers on the Supreme Court ignored the Constitution and Bill of Rights by affirming the conviction of those Americans who spoke out against constitutional and Bill of Rights abuses.

Jury Powers and Influence on Freedom of Speech and Press

Only the people who serve on Grand and Trial Juries have the power to set limits on the right to determine whether one's speech or publishing rights were inappropriately exercised. Each case must be judged individually and every jury must reject any attempts by the government to infringe or abridge basic freedoms. The jury also has the jurisdiction to set the punishment for anyone they convict for violation of speech or press. If Congress is prohibited from making any law that abridges freedom of speech or press, then Congress cannot set the punishment for a law it cannot make. The jury alone has the power to convict and establish the punishment for libel or slander. Fines should be payable to the party harmed instead of to lawyers. Judges and lawyers have abused the Bill of Rights by making libel a profitable legal racket.

The Ten Bill of Rights are Articles, not Amendments

The rights enumerated in the Bill of Rights are not amendments to the Constitution. They do not amend anything in the Constitution. It is a separate document and the people's check on the Constitution. People should refer to them as the First Article or the Fifth Article of the Bill of Rights and not as the First or Fifth Amendment to the Constitution. Get used to the saying "I took my Fifth Article right to remain silent" not the Fifth Amendment right. The Bill of Rights list absolute rights that protect the people from the government. For example, freedom of speech and freedom of the press can protect persons who commit libel or slander. They also protect persons who would deliberately obstruct the nation in its war efforts. They protect people who incite others to riot or those who would cry "fire" in a crowded theater. Each protects people from punishment by the government, but they do not protect them from the people.

Each violator must be given the opportunity to explain the reason for his conduct directly to the people on Grand Juries that are free of all governmental influence. If the Jury indicts the person charged he has the second opportunity of explaining in detail to a Trial Jury the reason for his action.

For example, when I was the president of the police union in Rochester, New York, I urged all police organizations in the state not to heed the rulings of the Supreme Court in following *Miranda*. This could be construed by the government that I was inciting others to resist or overthrow the existing government. In a sense I was, but the Grand and Trial Jury would have heard me. Nobody should stop me from presenting all the evidence necessary (including this book) to make my case.

If arrested, I could then have presented all of my evidence and answered directly the questions of jury members without interference from the U.S. Attorney or judge. I am sure that the majority of the people on the Jury would have been convinced that I had no intent to commit a crime. They would have heard my point that the lawyers and judges who run our government are too often the violators of basic rights. If we have to follow the government's rulings on rights, then we have lost those rights.

The Facts Favor the People and the Truth

The Constitution that was ratified on June 21, 1788 did not provide for our most basic rights—speech, press, liberty, property and most importantly, the right to keep and bear arms to resist the tyranny that would arise under such a poorly devised plan of government.

The majority of the people in the ratifying conventions wisely refused their consent unless they could submit a list of basic rights to the First Congress. These rights would come under the direct jurisdiction of the sovereign people who were not to be questioned or second-guessed by any judge in any decision.

The original Constitution, in its seven articles, contained a mere plan of government that was to come under the jurisdiction of Constitutional officials who were only granted limited powers. Therefore the Constitutional oath taken by all members of the new government was limited to honoring and protecting only the first five articles of the Constitution and nothing else.

When the Bill of Rights became effective it was in fact a restriction on the Constitution, not an amendment to it. For example, Article I of the Constitution states, "All legislative powers herein granted shall be vested in a Congress of the United States." In 1791, Congress was limited by Article 1 of the Bill of Rights which states in part that Congress would make no law abridging freedom of speech or press. Federal judges were likewise limited in their jurisdiction by the Bill of Rights. In its powers to place limitations on the Congress, Courts and the Presidency, the Bill of Rights replaced the Constitution as "the supreme law of the land." The judicial power of the Courts was limited in its jurisdiction to making judgments in certain Constitutional matters and these judgments must never second-guess or override the people in their decisions as Grand and Trial Jurors. The people are the sovereign authority and as Grand and Trial Jurors must always have independent command of Bill of Rights powers.

Resistance by the bench and bar is today centered on the issue of jury nullification. A war is being waged by the people against a corrupt judiciary. On this issue the American people must once again establish that the people are

The Peoples' Response Can Bring About Copyright Reforms

Whenever any judge proclaims the Constitution as "the supreme law of the land" use this book to help in writing letters to the editor to challenge that lie. That is what this book is about. The judiciary is incapable of facing the truth. I know because I have openly challenged judges and lawyers on many occasions and found them inadequate in their defense of their claims. Lawyer officials who have threatened me with libel don't follow through when I inform them that they are lying impostors. A judge refused to hold me in contempt of court even when I repeated my contemptuous statement before a television audience. They are all bluffers who are incapable of defending their lies if you confront them with the facts presented in this book.

As Grand and Trial Jurors you will be in a perfect position to reject the Constitution. Instead uphold the Bill of Rights, the people's document, as the supreme law of the land by virtue of being the inalienable and indefeasible check upon the Constitution and all its officials.

the sovereign authority and that their Bill of Rights is the supreme law of the land. In many previous cases, juries have clearly established the right of jury nullification,[2] which is vital in establishing supremacy of the Bill of Rights. The judiciary must not be allowed to keep the people in ignorance of this important power. There is much at stake and we must demonstrate to the judges that the Bill of Rights is separate from and supreme over the Constitution.

There are many other ways in which we the people can strengthen our positions. We must challenge all Constitutional issues that are in contradiction to the Bill of Rights. Most people aren't even aware of the many limitations placed upon our rights and liberties. For example, let us here briefly take up one such issue dealing with freedom of press.

Copyrights

When an author makes the decision to write about a particular subject, the author should have the legal right to publish another author's writings on the same subject (giving the original author credit) after a seventeen-year copyright period has elapsed.

It isn't "necessary and proper" for Congress to make the duration of a copyright good for the author's life and fifty years after his death. This is an abridgement of freedom of the press and an obstacle to the free use and expression of the printed word. Clause 8 of section 8 of Article I states, "the Congress shall have the power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Patents, which do not infringe on free press or speech, can be held for only seventeen years. Copyrights should similarly be limited. The people on juries should refuse to honor copyrights of longer duration. Lawyers and judges must be prevented from engaging in unwarranted litigation over issues that concern the people and their rights.

Certainly fifty or one hundred years is not a limited time. Copyrights to authors should be of the same duration as patents are to inventors, seventeen years, and the copyright, like the patent should not be renewable.

[2] See Appendix A for more on Jury Nullification.

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Chapter 2

The Great Significance of the Oath of Office

An article by Joseph McNamara which appeared in the September 18, 1967 issue of the *New York Daily News* addressed the issue of oath of office in which Rep. Emanuel Celler, in the following three paragraphs, stressed its vital importance:

> Asked if he thought Representative-elect Adam Clayton Powell of Harlem would be seated, Celler said he didn't know but that it was unfortunate that the district has no representative.
>
> "Powell is duly elected, in the special election, but until a man takes the oath of office, he's not a Congressman," Celler noted. He spoke on WOR-TV's *New York Report.*
>
> He said Powell should come to Washington and present himself to Congress to be sworn in.

Representative Celler was absolutely correct in stating "until a man takes the oath of office, he's not a Congressman." All members of Congress must take their oath of office before they can conduct any business whatsoever.

The First Congress, which met in Federal Hall in New York City on March 4, 1789 did not have a quorum in either house. Each House adjourned from day to day until April 1st for the House and April 6th for the Senate. On All Fool's Day, the House discovered it could not be sworn into office. With all of their devious planning, the founding lawyers failed to provide for a Congressional oath of office. They, like Adam Clayton Powell, were duly elected but "until a man takes the oath of office, he's not a Congressman." Since they were not Congressmen and could not do any business they should have granted the wish of the people who had been seeking a second constitutional convention. They also had another choice. They could have called upon the people to elect delegates to the Continental Congress. As late as May of 1789 the people of Rhode Island had done so. The First Congress decided to bluff it out. However, every act or resolution passed by either House was illegal. Its acts couldn't be considered constitutional because a workable constitution did not exist; nor could they, for the lack of an oath, put the unworkable Constitution into motion.

There was trouble in achieving a quorum and many advantages were taken. New York had not elected its senators but they were included in the number necessary to make a quorum. That also was illegal. There were twenty-two senators and fifty-nine representatives at the first session of the First Congress, eighty-one men in all.

The House of Representatives, which achieved a quorum on April 1, 1789 proceeded to organize. Its first act was to elect a Speaker. But those Representatives were not under oath and could not carry on any business. On the 6th, the House put the wagon before the horse and agreed on an oath to be taken by its members. On April 8th, Richard Morris, Chief Justice of the State of New York, administered the oath ordered on April 6th to the thirty-four members then present.

The founding lawyers had erred in not providing in the text of the Constitution an oath of office to be taken by every House and Senate member **before** they enter on the duties of their respective offices. If a man is not a Congressman he cannot perform any duty commanded by the terms of the Constitution.

When the Senate reached its quorum on April 6, 1789, it organized and elected by ballot John Langdon president for the "sole purpose of opening and counting the votes for President of the United States." Article II section 1 clause 2 states: "The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the [electoral] votes shall then be counted . . . ."

John Langdon could not open and count the votes because no one in either House had taken a qualifying oath of office. Washington could not be informed of the number of votes that he had received nor could he be declared to be the President; nor could he assume the office of President nor carry out any executive function. On May 5 the Senate, still not under oath, passed the bill on oaths, "Ordered, That the Secretary carry the aforementioned bill to the House of Representatives, together with the amendments, and address the Speaker in the words following: "SIR: The Senate have passed the bill, entitled An act to regulate the time and manner of administering certain oaths, with amendments, to which they desire the concurrence of your House."[1]

[1] *History of the Formation of the Union Under the Consitution*, published by the United States Constitution Sesquicentennial Commission, p. 244.

The first act of Congress provided for the oath. It was signed on June 1st by Washington. Washington could not legally sign the Oath Bill. He was not President of the United States because the Senate, not being under oath, could not legally open the ballots, count them and then declare him President. All the officers under this corrupt new government were openly violating the Constitution. John Adams had taken his seat on April 21st and assumed the duties of Vice President. He did not take his oath of office until June 3rd. The oath taken by the Vice President was a creation of Congress, which itself had not properly taken an oath.

Article II section 1 clause 7 of the Constitution commands that:

> Before he [the President] enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Washington allowed the Chancellor of the State of New York to administer the above oath in which Washington swore he would preserve, protect and defend the Constitution of the United States. Upon taking the oath Washington proceeded to the Senate chamber housed in Federal Hall and delivered his inaugural address on April 30th before a Senate body that was operating outside the Constitution. Washington ignored the Constitution. Instead of preserving, protecting and defending it, he cooperated with the Senate and House and signed on June 1st their Oath Bill which they enacted while not under oath. Where was the Supreme Court that was promised the American people that was to sit in judgment of those in the legislative and executive departments who would violate the Constitution? Since April 7th, behind locked doors, a Senate committee was engaged in creating a Supreme and inferior Courts, but the people would not have access to such courts until February of 1790. That gave the founding lawyers plenty of time to put themselves in command of the Constitution so that they could consolidate all powers to serve their own interests without a court present in which the people could challenge such outrageous conduct.

Our Presidents, Congressmen, and judges have been lying to the American people. They have been telling us our Constitution is a sacred document and

we have been blessed with freedom and liberty. Nonsense. It cursed us with slavery, and its resulting 14th Amendment has been used to plague this nation. We have obtained our Constitution piecemeal. It has never been capable, even to this day, of standing on its own and providing its three basic services. Carefully examine the third Article and the Amendments to the Constitution and you will see that the Judicial Article does not contain a visible or viable constitutional court that can be put into motion to serve the people.

As a result, during the last two hundred years we have suffered slavery, wars, corruptions of every kind and constantly mounting crime because we the people have never closely examined "The Constitution That Never Was" so that we can realize it is also, as Lysander Spooner[2] claimed, "The Constitution of No Authority."

The Executive Power is Exclusively that of the President—It Cannot be Shared

Article II of the Constitution authorizes "The executive power shall be vested in a President of the United States." As an elective officer of the people, the President is directly responsible to them for enforcing the laws.

The Department of Justice was established by an Act of June 22, 1870 (16 STAT. 162; 5 U.S.C. 291), with the Attorney General at its head. Prior to 1870 the Attorney General was a member of the President's Cabinet, but not the head of a department. The office was created under authority of the Judiciary Act of September 24, 1789, as amended (1 STAT. 92, 16 STAT. 162; 5 U.S.C. 291).

Congress was without the authority to create the office of Attorney General. It was limited by the terms of section 1 of Article III to establishing only the Supreme and inferior Courts of the United States. Because the Constitution did not list a specified number of Supreme Court Justices to be immediately appointed by the President and confirmed by the Senate before any legislative act could be enacted, Congress was without any authority.

No appointed officer (call him or her Attorney General or whatever) can be authorized by Congress to invoke executive power. Congress can provide an FBI or army of marshals to be used at the direction of the President to enforce

[2] Spooner (1808-87), an honest lawyer, clearly explained in his treatise (1869) that posterity was not legally bound to the Constitution adopted 80 years previously.

the law. If the President fails to do a good job in enforcing the law, the people can refuse to re-elect him. An appointed officer who refuses or fails to properly enforce the law is not beholden to the people.

There was great danger to Americans when Congress moved the Attorney General, his immediate assistants, and all attorneys for the government into the Justice Department, which they claim is an arm of the executive department. In this so-called Justice Department, the Attorney General would take over administration of all federal Grand Juries. In their permanent positions of authority, these attorneys would also assume command over what witnesses appear before Grand and Trial Juries. As a result, Attorneys General and their assistants covered up a great deal of official corruption.

One example was Attorney General Harry M. Daugherty, who received payments from people who had violated prohibition statutes. He also failed to prosecute members of the Veteran's Bureau who were involved in paying graft. Obviously, facts in the Daugherty Case were not properly presented to a Jury by the Justice Department. Daughtery was acquitted on charges of conspiracy to defraud the United States government. If this were vaudeville, it would be a comedy. **Our constitutional government put criminals in command of the enforcement of the criminal law.**

The First Congress Assumed Itself a Constitutional Convention

Early on Americans wanted another Constitutional Convention. Their call was not heeded. Instead, nineteen of the former members of the Philadelphia Convention were in the First Congress and the twentieth, Washington, was the President who had signed into law an act by the First Congress which formed the Supreme Court. In reality it was not an act. It was an amendment to section 1 of the Judicial Article of the Constitution. An amendment did not require the President's signature. The second and all subsequent Congresses to the present day should never have been elected because the Constitution was defective. It was unratifiable because it did not contain an oath of office for Congressmen, or a Supreme Court in which the Justices were defined and their number actually stated.

It was ironic when a much later Congress denied Adam Clayton Powell his seat in the 90th Congress. A select committee of that Congress had recom-

mended a $40,000 fine as punishment. It charged Powell had "wrongfully and willfully" misused $46,000 and "improperly maintained" his wife on his office payroll. Congress was without authority to deny Powell his seat by arbitrarily determining his guilt and punishment. Removal from office can only be accomplished by impeachment. "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."

The First Congress fraudulently allowed itself to continue functioning under a Constitution that was inoperable. All subsequent Congresses to the present day have been allowing this fraud to continue. In denying the constitutional facts, the First and all subsequent Congresses have falsely assumed the right to be seated where unlawfully they have been appropriating powers, salaries and pensions to which they never were entitled.

A Separation of Powers Must be Established

It's the usual story. Lawyers get away with it because they have always been in command of the Congress, the Courts and the executive departments. Who is to check them? They always speak so eloquently about a separation of powers but we seldom see this theory put into play.

We have instead listened to federal judges, attorneys for the United States and an Attorney General who have saddled us with a constitutional burden under which they relentlessly continue to rule. The Attorney General and attorneys for the United States are impostors. Their offices were created by law, but the Constitution does not assign them a position or duty that they are called upon to perform.

Congress was given the power to establish the Supreme and inferior Courts but only judges hold offices therein. The independence of the people who serve on Grand and Trial Juries must be preserved if they are to be a proper Bill of Rights check upon the government. Juries must resist the presence of U.S. Attorneys who would usurp the Jury power. The Attorney General should not be allowed to perform any duties in any department. These impostors, with the help of the Supreme Court, have corrupted our Jury system. Every man and woman who sits on a Grand or Trial Jury must resist these corruptions and indict and convict these lawyers if they persist. All citizens and voters have a

duty to support all Grand and Trial Jurors who speak out against corruption and injustice. Voters who blindly pull levers in the voting booth are wasting their time. Even if they manage to elect a man or woman of their choice to the federal or state legislature, that newly elected official is immediately surrounded by the lawyers who control the legislative process. The poor souls who vote have never been told that their first duty as voters is to maintain a separation of governmental powers.

A separation of powers can be achieved if people vote all lawyers out of Congress and never elect any others. If the people get most of the lawyers out of Congress, we will be able to see good results immediately. Lawyers in Congress seldom impeach corrupt judges; therefore impeachment has become a scarecrow. A Congress dominated by nonlawyers will quickly impeach and convict the corrupt in all departments of the government. Keeping the government honest should be the first duty of Congress. A House and Senate free of lawyers could propose a constitutional amendment to create a constitutional court to replace the present so-called Supreme Court. The present Supreme Court is a political court which, as I have shown, can be readily manipulated. It cannot claim it has judicial power since it was never approved nor ratified by the American people.

During the last two centuries there have been two major political parties on the scene. The party that promises the most reasonable changes for reform generally wins. When reforms are slow in coming, people then organize a third political party. Many sincere and honest citizens become involved and work diligently for their own party candidates. Most of these candidates have been lawyers. **Lawyers have dominated every Congress since 1789.** Most of our Presidents have also been lawyers. Presidents appoint all Supreme and inferior Court Judges with the advice and consent of the Senate. **The Constitution does not require that a federal judge be a lawyer. However, since 1789 every Judge picked by a President and confirmed by the Senate has been a lawyer.**

Our lawyer-controlled Congress frequently demonstrates its arrogance. What follows will show how it violates the Constitution in order for Congressmen to further enrich themselves at the public's expense.

The 27th Amendment: The Pay Amendment

Article I section 6 clause 1 states: "The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the Treasury of the United States." In order to prevent Congressmen from arbitrarily increasing its salaries, the ratifying conventions of New York, Virginia and North Carolina included among the amendments they proposed a provision that "no alteration of the existing rate of compensation should at any time take effect before the next election of Representatives." In the First Congress Madison proposed and the Congress approved the following amendment: "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." This proposition failed to receive the approval of enough states to secure its adoption. The pay amendment gathered dust for the next 200 years. But in recent years some people, angered over self-serving Congressional pay raises, have organized and fought back. I offered money and support to the Project 1789 Committee to Protect the Family. This organization was alerting the various state legislatures to complete the ratifying process first commenced in 1789. On May 7, 1992 the Michigan legislature became the thirty-eighth state to approve the pay amendment, which then became the 27th Amendment to the Constitution. On May 18, the Amendment was declared to be valid by the United States Archivist and thus has been a part of the U.S. Constitution since May 7th. On January 18, 1994 I received a letter from Project 1789 urging me to support a lawsuit that they believe will force Congress to obey the new Congressional Pay Amendment. Congress had received a cost of living adjustment (COLA) and took a $4,144 pay raise before "an election of Representatives . . . intervened." In their letter to me, Project 1789 complained that the Congress was

> IN DEFIANCE of America's newest Constitutional amendment—the amendment *you* helped pass . . . . In order to force Congress to obey the 27th Amendment to the U.S. Constitution, we helped file a lawsuit in federal court . . . But, just as I feared, the politicians found a judge that was sympathetic to their cause. He ruled that COLAs were not pay raises and not subject to the Congressional Pay Amendment. We immediately filed an appeal with the Federal District Court of Appeals in the District of Columbia. Our case should come to trial in the next few

> months . . . . Congress hates bad publicity. They especially hate it when they get bad publicity about their pay raises. That is why they decided not to take an automatic pay raise in 1994. But as I explained to you in my last letter, they are only doing this to look good. They only decided not to take a pay raise because 1994 is an election year. They are desperately hoping that you will forget about their pay raises. They hope you don't care that they are fighting us in court to overturn the 27th Amendment to the United States Constitution. They hope you will forget so that they can get re-elected to their cushy jobs.

I did my best in helping this group to get the states to complete ratification of the 27th Pay Amendment. But I will not continue to contribute one penny to the lawyers who quietly have taken over the direction of Project 1789 and are now seeking $26,500 to pay the cost for "our appeal." Project 1789 continues:

> But unless I immediately have your 1994 "Pledge of Support" the politicians will win this crucial court battle.
>
> But we cannot let that happen. We must defend the United States Constitution. If we let the politicians get away with breaking the new 27th Amendment to the Constitution, then they'll be able to get away with anything.

We the ordinary working people are not obligated to defend the U.S. Constitution because we do not hold a legislative, executive or judicial office and therefore we have not been sworn (or affirmed) to faithfully support, defend and discharge all duties incumbent on us. However, every lawyer admitted to the practice of the law whether before the state or federal bar is sworn to honor and support the U.S. Constitution. How then does the lawyer or lawyers for Project 1789 dare to ask or accept $26,500 for an appeal to a higher court? Like most organizations that attempt to fight a corrupt government, Project 1789 got off to a good start in getting the states to complete ratification of the 1789 Pay Amendment. However, it has been my experience to discover that honest, sincere citizens are, for the most part, not knowledgeable enough to deal with the sophistry of lawyers who will take them on a long and delayed circuitous course, empty their pockets, and render solutions that will not be satisfactory. The lawyers who have been assisting Project 1789 must freely and willingly defend and honor the Constitution by exposing the Federal District Court Judge who "ruled that COLAs were not pay raises and not subject to the

Congressional Pay Amendment." Neither the Constitution nor the 27th Amendment contain the words "pay raises." The Constitution states: "The senators and representatives shall receive a compensation for their services to be ascertained by law."

A Pay Commission in 1993 gave every member of Congress a $4,144 pay raise which the Commission declared was a cost-of-living adjustments (COLA). Call it what you wish. It was "compensation for their services" which had "to be ascertained by law." The word ascertain is derived from the Latin *certus* or fixed, meaning that all official compensation shall be decided and fixed by law. The $4,144 COLA was not decided and voted upon by Congress and a Pay Commission cannot be delegated the authority to make any law.

In accepting the automatic pay raise of $4,144 in 1993 and rejecting it in 1994, Congress had made a decision which proves that the Pay Commission is not truly empowered to automatically grant additional compensation. Congress, the law making body, decided independently in 1994 on what was to be the final decision of the Pay Commission. The Project promoters must call upon the American Bar Association and all other bar associations whose members are required to take an oath to support the Constitution before they can hold and enjoy their judicial office of honor, trust and profit. The American Bar Association's oath in part states:

> I DO SOLEMNLY SWEAR:
>
> I will support the Constitution of the United States and the Constitution of the State of . . .
>
> I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the Judge or jury by any artifice or false statement of fact or law . . . I will never reject from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice,
>
> SO HELP ME GOD.

There you have it. Lawyer members of the American Bar are under oath, sworn to help the "defenseless" and "oppressed" American people. In their oath they have agreed that they will not delay a cause for money. Is it truthful or honorable for members of the Bar to allow a judge in violation of the canons

of judicial ethics to "accept inconsistent duties" or to "incur obligations, pecuniary or otherwise, which will in any way interfere . . . with his devotion to the expeditious and proper administration of his official functions" (Canon 24). Judges are dependent upon the Congress for their benefits and pay raises. If the judges do not obey Congress, they could not in return expect a pay raise from Congress. The Constitution was defective in this matter of mutual back scratching between the departments of government, for the perennial issue of a pay raise has always provoked antagonism. The matter could have been easily settled constitutionally if Congress was originally given the power to propose a pay raise for any department of the government which could then be confirmed by a vote of the people at the next Congressional elections. We were never given this way of satisfactorily raising the compensation of our public officials, so we must resolve constitutional problems by forcing all public officials to honor their oaths of office. They have most certainly not done so in the past.

Every American can, at this time, test the honesty of our constitutional system and the lawyers who run it by insisting that the enforcement of compensation to Senate and House members most closely follow the terms of Article I section 6 clause 1 and Amendment 27, recently made a part of the Constitution. The people should call upon all other United States officials to live up to their oath to defend the Constitution.

In each department of the U.S. government, the following named individuals have at least twice taken the oath of office to support and honor the Constitution:

Thomas Foley, long before his election to the House, had taken his first constitutional oath of office when he was admitted to the practice of law. As an officer of the court he holds a judicial position of honor, trust and profit under the United States. As Speaker of the House he also held a key legislative position of power. George Mitchell, a lawyer and Majority Leader of the Senate, had also taken two oaths and held two sworn offices each of which was to be a constitutional check upon the other. The same can be said about Al Gore, a lawyer, President of the Senate, and Vice President of the United States. The majority of the members of the House and Senate are also lawyers, thus holding a judicial and a legislative office.

We should question these dangers wherein Congress and its leaders consist

of such a large proportion of members who are sworn attorneys in the Courts. Dare we trust men to enact laws who practice on them in another department? The Constitution in Article I section 6 clause 2, last part commands that "no person holding any office under the United States shall be a member of either House during his continuance in office." Why hasn't the executive or judicial department put an end to this constitutional abuse when a separation of powers is not maintained? It is your duty as a voter to see that a separation of powers is always maintained. **Don't elect lawyers to legislative bodies.**

The Importance of a Separation of Powers Stressed

In the executive department, William Jefferson Clinton had taken his constitutional oath to become a lawyer previous to the oath he took when he became President. The President appointed Janet Reno as his Attorney General and her thousands of lawyer assistants in the Justice Department, who have also taken their second oath of office.

In the judicial department, nine men and women who had previously taken their oath to become lawyers, again take their second oath to assure that "The judicial power of the United States shall be vested in [their] Supreme Court."

We have the power of one department exercised by the same hands which possess the power of another department and repeated by a third! For over 200 years the fundamental principles of a free Constitution have been subverted in that there cannot be true constitutional checks and balances without a separation of powers.

The preservation of liberty requires that the three departments must be separate and distinct. If they are not, the resulting tyranny must be resisted and openly attacked by brave and intelligent people whenever they serve on Grand and Trial Juries. Jurors must maintain their independence by resisting the intrusion of lawyers and judges who continue to pervert the Bill of Rights as they have already done with the Constitution. The people must always remember that the rights contained in the Bill of Rights are inherent and inalienable, separate and apart from the Constitution, and supreme over it.

The Constitution was a Criminal Act

Lawyers and judges are impostors who have achieved their powers through usurpation. The lawyers were tripped by a constitution of their own making. It did not provide a constitutional oath of office for members of the legislative and judicial departments, which has to be taken **before** they could enter any office or assume a single power or duty. The key word **before** was never taken into consideration by the members of the First Congress. The members of both Houses at different times claimed a quorum to do business, picked their leaders and officers, counted the electoral vote and declared who was the President, picked committees and commenced in the lawmaking process, all **before** they had taken an oath of office. Thus the First Congress put an uncompleted plan of government into motion. The Constitution was a crime against the American people because it was used to deceive and harm them.

One might ask can a plan of government, the Constitution, be a crime? Of course it can. Under this plan blacks were enslaved. Later, under the Fugitive Slave Law, if a free person in a free state gave an escaping slave a drink of water, he too was jailed. The Bill of Rights at the least was supposed to protect the free person who had given the panting slave the drink. Those rights plainly stated "No person shall be . . . deprived of life, liberty, or property without due process of law," which at the least means indictment and conviction by Juries.

The lawyers and judges completely ignored the Bill of Rights. They never wanted the people to have those rights in the first place so they continued to uphold the crime—the Constitution—which they still claimed was "the supreme law of the land."

The Constitution in Article I section 8 clause 18 claims that "The Congress shall have the power—To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers, vested by this Constitution in the government of the United States, or in any department or officer thereof." When the above was agreed upon in Convention on September 17, 1787 Congress may have had the right to wholly determine

what laws were necessary and proper for the people. But the people in the ratifying conventions resisted. They insisted upon a Bill of Rights. With the adoption of those rights in December, 1791, the people had imposed many limitations on the new government, and therefore Article I section 8 clause 18, better known as the "necessary and proper" clause, had to be amended. Congress was no longer to "have the power to make all laws which [they deem] necessary and proper." Article 1 of the Bill of Rights greatly limited Congress in its law-making power. Article 2 of the Bill of Rights also limited the law-making powers of Congress.

Militias and the Right to Keep and Bear Arms

Most people think the phrase "a well regulated militia, being necessary to the security of a free State" implies that an outside or foreign power is the threat that should be most feared by the people. Not so. "The security of a free State" is generally threatened by the government within. Therefore, in a free state, the right of the people to keep and bear arms, should especially be guarded. The easiest way to infringe on this most basic of rights is to permit the central government to disparage the power contained in Article 2 of the Bill of Rights. **We must educate the people to stop believing that the articles of the Bill of Rights are amendments to the Constitution which would make their meaning subject to judicial interpretation or constitutional repeal.** The truth is that the Bill of Rights can be a direct check by Juries on the actions of Congress, the President and the Courts. This being the case, the officers of the three departments of government must hold the Bill of Rights in the highest reverence. If the officers of the government respect the intended purpose of the Bill of Rights as a direct check upon the federal government, they cannot in good faith be bound by oath to support the Constitution as "the supreme law of the land." The checker, not the checked, is the supreme authority and all of our public servants must continually be made aware of it.

The Constitutional Convention established in clause 15 of section 8 of Article I, a provision "for calling forth the militia to execute the laws of the Union" and to "suppress insurrections." In clause 16 the Convention stated that "Congress shall have the power to provide for organizing, arming, and disciplining the militia and for governing such part of them as may be em-

ployed in the service of the United States. . . . " The Convention also provided that "The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States." Note that the militia would not be able to carry out its primary duty of protecting "the security of a free State" if it submitted to being called "to execute the laws of the Union" and to "suppress insurrections." Congress is without the power to limit the three direct basic checking powers of the people contained in the Bill of Rights. They are the peoples' militia and their Grand and Trial Juries. If Congress would be allowed the powers contained in Article I section 8 clause 16 of "disciplining the militia," the entire concept of the Bill of Rights and freedom for the people would be destroyed by a body (Congress) to which the people only granted limited powers.

In 1798 the federal government engaged in hostile acts toward France. Many Americans were upset because the French people had helped us win our war for independence. They believed that a war against Great Britain would better suit our purpose, for the British navy was impressing our seamen and the British land forces were inciting Indians to massacre men, women and children in new settlements. In July, 1798 the government passed the Sedition Act, which made it a high misdemeanor, punishable by fine and imprisonment, to oppose execution of the national laws; to prevent a federal officer from performing his duties; and to aid or attempt "any insurrection, riot, unlawful assembly, or combination." A fine of $2,000 and imprisonment of up to two years was mandated for persons convicted of publishing "any false, scandalous and malicious writing" bringing into disrepute the United States government, Congress, or the President. Many of the people became very angry and committed acts of defiance against the federal government. Congress at that time didn't call "forth the militia to execute the laws of the Union, [and] suppress insurrections" as provided in clause 15 of section 8 because it knew the militia from the various states would not respond in support of their Sedition Act, which was in violation of the Bill of Rights. Under Article I section 8 Congress has the power "to declare war" "to raise and support armies" and "to provide and maintain a navy" but no one would volunteer to serve in the army or navy of the United States in an unpopular war. Historians never gave credit to the armed and brave men of the state militias who prevented a war at that time by openly demonstrating their contempt against the federal government for its

belligerence towards France.

With the adoption of the Bill of Rights as a direct check in the hands of the people and the states, it was necessary that clause 15 of section 8 of the Constitution be repealed. Congress could no longer call forth the militia, which according to Article 2 of the Bill of Rights was "necessary to the security of a free State." The militia was not to be deployed by the central government, which is itself often a threat to the liberties of the people.

Furthermore, the militia, as a check in the hands of the people of the individual states as provided by Article 2 of the Bill of Rights could not be "called into the actual service of the United States" where "The President shall be [their] commander in chief" for that would also entail the "organizing, arming, and disciplining the militia" as directed by Congress. This action would render the states defenseless, and they would be at the mercy of the federal government. The states created the federal government so that it could serve them, not the other way around. With the adoption of the Bill of Rights, it was essential that both clause 16 of section 8 of Article I and a part of clause 1 of section 2 of Article II be repealed. If Congress and the President were empowered to discipline and govern the militia that "may be employed in the service of the United States," then the militia could purposely be made unavailable for the protection of the rights of the people and the security of a free state, guaranteed by Article 2 of the Bill of Rights. The army and navy commanded by the federal government were intended to protect us from an outside force. The states and their militia were intended to protect us from tyranny and dangers from within. As a last resort from foreign dangers, the militias within each state would protect its own people.

If things were working properly the Texas state militia should have helped defend the Branch Davidians against the federal forces of the BATF and FBI—trained and guided by military advisers using military weapons and tanks, a clear case of the army being used against citizens. One student stopped a column of tanks in Tiananmen Square in China. In Waco the tanks went through the wall and ejected a gas reserved for wartime use and incinerated eighty-six men, women and children. And our country has been critical of the Chinese government's civil rights violations!

In most matters the federal government was to be separate and apart from the state government. The people originally insisted that the federal govern-

ment was to be very limited in its authority. The militia was never meant to be "called into the actual service of the United States." The lawyers who dominated the federal government had a different slant. They wanted more power but they needed money to gain it. In 1790, Congress levied a direct excise tax upon whiskey. This caused a great deal of unrest, for whiskey was the farmer's principal medium to market his surplus grain. When the farmers threatened to resist payment of the tax, Congress enacted a law which authorized the President to call out the militia in case of an insurrection. The strongest resistance to the tax was centered in western Pennsylvania. Washington issued a proclamation commanding all insurgents to submit to federal authority. Upon their failure to do so he proceeded to call out 13,000 militiamen mostly from Pennsylvania. The threatened insurrection then quickly came to an end.

In time many men who were a part of the militia refused to help when it became apparent that the central government was attempting to enlarge upon its own powers to the detriment of the people in the states. When Congress declared war in June, 1812, the General Assembly of Connecticut condemned the war. In New Hampshire there was official protest against "rash, and ruinous measures." The Massachusetts House of Representatives responded by issuing an "Address to the people" in which they declared the war against the public interest and asserted that "there be no volunteers except for defensive war."

The Governors of Connecticut and Massachusetts refused to furnish their respective militias to the federal government. The New York State militia even refused to reinforce American troops who had crossed the Niagara River to engage Canadians in combat "on the grounds that their military service did not require them to leave the state."[3]

In all of these actions, the leaders of the people and their militias were properly following the Bill of Rights. By remaining in their respective states where their immediate strength is at all times necessary, a free people will always enjoy "the security of a free State." History has repeatedly shown that central governments pose a greater threat to its own people than do outside forces. That was the reason why the people in the ratifying conventions had

[3] Richard B. Morris, *Encyclopedia of American History,* p. 142-43.

insisted that their right "to keep and bear arms shall not be infringed." With arms always in their possession, the people in the various areas and communities could form into militias.

To be effective in its purpose the militia had to have leaders previously chosen by those same militiamen. To fight Indians or others, those leaders had to organize the various groups as military teams and then fix or adjust the time, amount and rate of fire power so that it could effectively be directed at the enemy and not other teams who could be in the line of fire. This is what is meant by the term "a well regulated militia." Those who think themselves expert constitutionalists are in great error when they tell you that the central government must ensure that "a well regulated militia" is always on standby. Not true. The militia was intended by the people to resist any outside force, including the federal government, if it violated either the Bill of Rights or the Constitution.

In America the militia was and still is today any armed force regulated or otherwise that could be called upon to repel any outside force that encroached upon the rights and liberties of the people or who would invade "the security of a free State." To accomplish this, the people must never let any government deprive them of their **absolute right** "to keep and bear arms." It's an absolute right because the rights, liberties and freedoms enumerated in all of the other provisions in the Bill of Rights are meaningless if any government, foreign or domestic, could intrude upon a free people. It is important to state here that the Bill of Rights merely lists and guarantees rights all persons have that are inherent in the human condition. It does not grant them. In the case of the Second Article it is clear that the phrase "shall not be infringed" recognizes a pre-existing right not to be tampered with.

The National Guard, which later came into being, cannot be part of the militia. It is an organized, equipped and trained force in each of the individual states and is supported in part by the federal government. The Guard becomes a definite component of the U.S. Army upon being called into active federal service where, unlike the militia, it is subject to federal command.

The lawyers who control our federal and state governments cunningly devised the following oath that must be taken by all members of the Army and Air National Guard:

> I _____ do solemnly swear or affirm that I will support and defend the Constitution of the United States and the State of _____ against all enemies foreign and domestic and that I will bear true faith and allegiance to the same and I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me according to law and regulations. So help me God.

Any member of the National Guard who takes the above oath cannot be a member of the true militia and in fact can become an enemy to the American people, for he is agreeing with our corrupt federal judiciary that "This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land." In taking the above oath, members of the National Guard have been deceived. They swear under oath to support and defend a mere plan of government (the Constitution) and to officials of the three departments of government who were granted only limited powers to execute the plan. All members of the armed forces and all police and peace officers are likewise deceived when they take similar oaths to support and defend the Constitution as the supreme law of the land.

When American and South Vietnamese forces crossed Cambodian borders (April 1970), the U.S. government was escalating an undeclared war millions of American people had long protested. When the students at Kent State University in Ohio protested, the National Guard was called in to "restore order." During a confrontation on May 4th, four students were killed by National Guardsmen. Those Guardsmen were wrongfully sworn to support and defend the Constitution against all enemies foreign and domestic. In taking that oath they also agreed to "obey the orders of the President of the United States . . . and the orders of the officers appointed over them according to law and regulations."

In entering Cambodia, President Nixon and the generals under his command were stretching American forces and resources. This was all done in secret from the American people and perhaps most of Congress. **The only way that taking an oath can be made meaningful is to punish those who violate it.** President Nixon should have been impeached, convicted, and disqualified from again holding office. The generals involved should have been dismissed from the service and made to forfeit their pensions and other benefits. The American

people must insist that Constitutional restraints and punishments be implemented.

President Nixon was the commander in chief. He was deceiving the American people while conducting an undeclared war in violation of the Constitution. He was the President, who, in violation of the separation of powers, counseled the Supreme Court not to review the case presented to that Court by Massachusetts against the Congress and the President for waging an undeclared war which did not "provide for the common defense and general welfare of the United States."

Nixon had promised the people during his campaign that he was going to end the war; instead he escalated it. The Constitution states that "The Congress shall have the power" to "provide for the common defense and general welfare of the United States." Congress unconstitutionally funded an aggressive war thousands of miles from our shores. For over ten years President Nixon and his predecessors were in violation for carrying on an undeclared war. Millions of Americans rightfully opposed that war and 250,000 of them left their jobs and families to march in protest on Washington. When Massachusetts, the only state that lived up to its responsibilities, boldly stated it was not going to send their sons to fight in an undeclared war, it appealed to the Supreme Court for a ruling. The Supreme Court then had a perfect opportunity to honor the Constitution, but turned its back on the people and the Constitution by refusing to hear the case. It had original jurisdiction, which then made all three branches of our corrupt government in serious violation of the Constitution.

The Importance of an Oath to the Bill of Rights

All persons who are about to become a member of the U.S. armed forces, the National Guard, the reserves, etc., should not take an oath to support and defend the Constitution. In that oath, every military officer and enlisted man swears to "obey the orders of the President of the United States . . . and the orders of the officers appointed over them according to law and regulations." Officers and enlisted persons of the United States armed forces must not be under oath to back officials who violate the Constitution. If they are in the service of their country they have the one common purpose, "to provide for

the common defense and general welfare of the United States." This can better be done by an oath to honor and support the Bill of Rights. The American forces in Vietnam did not defend our shores from the people in Vietnam. The expenditure of thousands of lives and billions in dollars was not for the general welfare of the United States. It is claimed by qualified persons that the U.S. government abandoned seven hundred American prisoners of war in Vietnam as they abandoned others in another undeclared war in Korea.

The Power of Divide and Conquer

Persons in the military are just as deserving of Bill of Rights protections as the rest of us. They should not have to honor and protect the basic rights of the people if these same rights are denied to them. Every enlisted person and non-commissioned officer must be entitled to a speedy and public trial by a jury of his peers. This could be done any place but on a battlefield. Commissioned officers likewise must be tried by their peers.

The U.S. Military Code of Justice made in pursuance of the Constitution and laws must be held as **unBillofRightable** [a word I've coined that should be substituted for unconstitutional whenever the Bill of Rights is violated] because instead of keeping the American people united it separates them into two classes, one civilian and one military. A corrupt government can use the military to subjugate the rest of us and the people be made to conform to its will. Neither the President nor Congress can rightfully declare the existence of "public danger" as described in Article 5 of the Bill of Rights in order to suspend Grand Jury protections of the people, civilian or military. Since most of our wars have been unconstitutional, it is the government which has posed the greatest "public danger" to all of us.

The states are without the authority to submit its militia, the people, to the direct command of the federal government, which could then place such civilians under the U.S. Military Code. This deprives civilians of Grand and Trial Jury protections for voluntarily coming to the aid of their country. The people of the various states do not have to fear the true militia. What they have to fear most is a central government that refuses to be limited in its powers even when commanded by the Constitution.

Under the U.S. Military Code, the everyday enforcement of the conduct of all military personnel from general to private was placed in the hands of lawyers who serve in the military as judges, judge advocates (prosecutors), and provost marshals. Therefore, "the militia of the several States" must refuse their assistance whenever "called into the actual service of the United States" for they will not truly be under the command of the President. The President has instead become a puppet of the judicial oligarchy.

Andrew Johnson proved this to be true. He was disciplined and broken because he insisted upon being President of the United States and its commander in chief. Johnson's story is discussed in another chapter.

The paramount danger is that both the civilian and military powers are in the hands of the lawyers. That means we cannot take an immediate stand since they have reduced us to the status of subject and can again get us to warring among ourselves as they did from 1861 to 1865. We must methodically educate each other to vote to rid Congress and every state legislature of all lawyers and then start to undo the many obstacles they have placed in our path since we took that wrong turn in 1787.

Our freedoms and inalienable rights are protected by the Bill of Rights. The people must swear only to defend, honor and preserve the Bill of Rights. The people never had an obligation to honor, support and defend the Constitution which first enforced slavery and then the conscription of our men for aggression or for protection of foreign governments. We must use the proper oath of office as a means of re-establishing our rightful authority to maintain control of our own government. We cannot do this until we first establish and support the following tenets:

- The Bill of Rights is not and never was an amendment to the Constitution. **It did not effectively amend a single article or provision of the Constitution.** Amendments to the Constitution itself should have been made at that time because the Bill of Rights and the Constitution were in drastic contradiction to each other.
- The Bill of Rights was intended by the people to be direct checks upon constitutional officials. "The Congress shall make no law . . . abridging the freedom of speech," etc. The judicial and executive departments were likewise

commanded by the terms of the Bill of Rights to obey "the rights of the people."

■ The Bill of Rights is a direct check by the people upon the Constitution. As a check upon the Constitution, the Bill of Rights is superior to it. The people must take an oath to uphold only the Bill of Rights.

■ An individual must never take the constitutional oath, for if he swears to uphold the Constitution, he places himself at the disposal of the judges, congressmen and executive officers, federal, state and local. All of those officers swear and are wrongfully bound by their oath that the Constitution "shall be the supreme law of the land."

With the adoption of the Bill of Rights in December of 1791, clauses 2 and 3 of Article VI of the Constitution would for the most part have to be amended. If a person takes an oath to honor and obey the Constitution he cannot be assured of his Bill of Rights protections, for in the final analysis the government, through its judges, will decide to what degree how much right a person is entitled. For myself, I would want the people on a jury to whom I could honestly present my case to make any such decision. I certainly don't want a judge or anyone else to be present who has been sworn and bound to obey the Constitution as the supreme law of the land. The Constitution was conceived, adopted and maintained through the fraudulent actions of judges and lawyers. We can't let those impostors continue to mess up our rights to liberty and justice.

We must call for the taking of the rightful oath of office for all persons in the military and police because we depend on them to protect us.

The Importance of Juries

We must start educating our officers, non-commissioned officers, enlisted members of the military and police to reject the Constitutional oath, replacing it with a single oath to honor, support and defend only the peoples' Bill of Rights. Those rights guarantee all of us our freedoms and justice. The Constitution guarantees impostors the right to continue to claim that they are the supreme and sovereign authority and we the people are their subjects. This is clearly unjust, but they have been getting away with it for over two hundred years.

Who will stand with me and reject the oath as given when you are called upon to be a juror? Men and women who have faced dangerous odds on battlefields meekly cower as jurors when herded before judges and officers of the court. Stand tall. Tell the judge "I will not honor the oath just given to me in that I must accept the law as given by the judge." Then add, as I did, "most often the judges, even those on the U.S. Supreme Court can't agree on the meaning of the law. How then can they satisfactorily explain the law to a jury?" No law can be honest or just if it takes so much to arrive at its meaning. You can tell the judge that you will instead take the oath to honor, support and defend the Bill of Rights. Of course, the judge will not permit such an oath for it will undermine his usurped powers. The judge is sworn and bound to uphold the Constitution as "the supreme law of the land."

With the adoption of the Bill of Rights, the people on juries should have immediately organized by swearing to honor and defend the Bill of Rights as a check so that Congress could "make no law . . . abridging the freedom of speech or of the press . . . ." Article 9 of the Bill of Rights states: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means that according to Article 8 of the Bill of Rights jurors themselves must set fines and impose punishment on those they convict. The jury alone must determine what is an "excessive" fine and what constitutes "cruel and unusual" punishment for the particular person they have judged to be guilty.

The Sedition Act

If the jurors had sworn from the beginning to uphold the Bill of Rights as they applied equally to all persons, the Bill of Rights would long ago have been recognized as the "supreme law of the land." The first opportunity came about when the United States waged an undeclared naval war with France from 1798 to 1800. In waging war, Congress and the President were violating the Constitution. The corrupt Supreme Court remained silent instead of defending the Constitution. Congress and the President were waging an undeclared war against the wishes of the protesting people. They added insult to injury by passing a series of laws to suppress the people. The worst of them was the Sedition Act. A fine up to $2,000 and imprisonment not exceeding two years

were provided for those convicted of publishing "any false, scandalous and malicious writing" with the intent to defame the government, Congress or the President.

In engaging in an undeclared war, Congress and the President were the lawbreakers. The people had every right to resist the government. Those people who were arrested for being in violation of the Sedition Act had to be judged by a jury who could have invoked Article 8 of the Bill of Rights and stated that their arrest and confinement was a cruel and unusual punishment inflicted upon law abiding persons who were not guilty of committing any crime. The jury had the authority to declare that a fine of even a penny was "excessive" and that all fines paid must be returned.

The Sedition Act of 1798 was as phony as the Constitution itself. The Act states that if persons conspire together to oppose any measure of the government of the United States which impedes the operation of any federal law or if any person counsels or advises a person to resist the performance of his trust or duty (such as a sailor or sailors engaged in an undeclared war against France) he "shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment . . . [not] exceeding five years."

No court of the United States can be allowed to have jurisdiction over any Bill of Right issue. The government could arrest a citizen who has the right to speak freely to his fellow citizens by telling them not to give military aid to the government wherein Congress and President have violated the Constitution by carrying on an undeclared war. The Supreme Court became a party to this law breaking when its individual members refused to "faithfully and impartially discharge and perform all the duties incumbent on me . . . " as provided in their oath of office. More treachery is contained in section 3 of that Sedition Act which in brief states "That if any person shall be prosecuted under this act . . . .the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases."

An impartial jury must not tolerate being "under the direction" of a political court. The leaders of the Congress, the President and members of the Supreme Court should themselves have been on trial under the direction and judgment of a jury of sovereign citizens.

The Sedition Act was in violation of Article 1 of the Bill of Rights. The people were trying to arouse fellow citizens to resist the federal government. The Bill of Rights states that juries of people independent of the government are the only effective means of enforcing basic rights that could be denied by the government. Instead the people allowed those arrested by the government to be tried in the federal courts.

According to the Constitution "The judicial power shall extend to all cases in law and equity, arising under this Constitution [and of] the laws of the United States . . . " The Court could have declared that the Sedition Act was in violation of the Bill of Rights. The Supreme Court did not do this; it instead allowed its Justices, Chase and Paterson in particular, to conduct trials under the Sedition Act, in a partial manner in which counsel and witnesses were browbeaten.

In the case of James Callender, a Virginian who wrote a pamphlet criticizing the administration, Chase boasted before the trial that he would show Virginians the difference between liberty and licentiousness of the press. He then refused to permit Callender's counsel to challenge the constitutionality of the law or offer proof. This virtually brought about an automatic conviction by a jury that was placed "under the direction of the court." The Sedition Act of 1798 was unquestionably **unBillofRightable**.

Remember, the Constitution is simply a plan of government in which the three departments are assigned limited powers and checks upon each other. The Bill of Rights was demanded as a direct protection to prevent a Congress and a President from abusing citizens while the Supreme Court looks on. In order to successfully accomplish a direct check the people had to have Bill of Rights Grand and Trial Jury bodies completely independent of the government.

In order to successfully accomplish a direct check, the people had to have Bill of Rights Grand and Trial Juries completely independent of the government. Courts of the United States only have jurisdiction over cases "arising under this Constitution" and "the laws of the United States" that are made for the limited operation of constitutional process. Article 8 of the Bill of Rights gives the jury (the people) not a judge (the government) the right to determine if a fine of five thousand dollars is "excessive" and imprisonment for up to five years is "cruel and unusual punishments inflicted" on persons for trying to stop a criminal government from committing crimes against the people.

Chapter 3

The True Law of the Land: The Bill of Rights

The Bill of Rights is Separate and Supreme

One of the basic precepts in this book is that the Bill of Rights is separate and supreme from the Constitution and is the final check over the Constitution and its officers. This Bill of Rights check is administered directly by people on Grand and Trial Juries. The following are examples as to why the Bill of Rights is supreme.

Article 1 of the Bill of Rights places a limitation (or check) on the law making power of Congress. "Congress shall make no law . . . abridging the freedom of speech, or the press, etc."

Article 4 of the Bill of Rights places a limitation (or check) on the executive power commanded by the President and those who assist him. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated."

Article 7 of the Bill of Rights places a limitation (or check) on the judicial power in that " . . . no fact tried by a jury shall be otherwise re-examined in any court of the United States."

The Bill of Rights places direct checks on the members of the legislative, executive and judicial departments of government. The members of the legislative, executive and judicial departments are without the authority to place checks on the peoples' Bill of Rights. At the Constitutional Convention a motion was made and seconded that a Bill of Rights be adopted. The lawyers unanimously rejected the Bill of Rights. At the ratification conventions, the people insisted that the Constitution be rejected unless a Bill of Rights was delivered.

The lawyers at the Convention placed the supremacy provision in clause 2 of Article VI: "This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land." The Constitution and the laws of the United States can not be "the supreme law of the land" if they can be set aside by the people on Grand and Trial Juries for not being in conformity with the peoples' Bill of Rights.

In using this power over the federal government the people in time would begin to question the authenticity of the claim made in clause 2 of Article VI. A law enacted by Congress cannot "be the supreme law of the land" if the people on a Bill of Rights Jury[1] refuse to convict the person who was charged with breaking that law. Under the Bill of Rights, twelve people have more power than the Congress and the President who enacted and signed the law. A law enacted by Congress must be taken off the books if the people on a jury repeatedly nullify it.[2] "The senators and representatives . . . and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States" could have been challenged to stop them from taking an oath to support the Constitution as "the supreme law of the land." Once the Bill of Rights became the peoples' direct and independent check upon the Constitution, both the Constitution and the laws of the United States "made in pursuance thereof" could no longer be claimed to "be the supreme law of the land." **That is why Madison and his fellow lawyers, who dominated the Philadelphia Convention, unanimously rejected the proposition that the Constitution be prefaced with a Bill of Rights.**

The Bill of Rights did not amend the Constitution. The Bill of Rights should have been listed and returned to the recalled state ratifying conventions for their immediate approval as a separate document. The people who had attended the ratifying conventions were not sure they would enjoy life, liberty, and property without a written guarantee to protect them from encroachments of the federal government. To this end, one hundred twenty-four amendments

[1] By definition, Bill of Rights Jury is one that guarantees a speedy and public trial by an impartial jury (peers). The accused must be informed of the nature and cause of the accusation and be confronted by the witnesses againt him. The Jury (not the judge) is to see that the accused has compulsory process for obtaining witnesses in his favor and the assistance of counsel. Only a lay person, who has not taken the oath that binds him to the supremacy of the Constitution and the rules of the Court must serve in defense of the accused. A Bill of Rights Jury must be independent of all governmental influence and control.

The Constitution (Article III) guarantees only that "The trial of all crimes . . . shall be by jury; and such trial shall be in the State where the said crimes shall have been committed."

[2] For more on jury nullification, see Appendix A.

were proposed by the seven conventions which demanded protections from abuses that might arise under the Constitution. The Bill of Rights should have been prefaced to the Constitution with a message somewhat like that of Virginia's Bill of Rights, which reads:

> A Declaration of Rights made by the people [of the United States] in the exercise of their sovereign powers, which rights are inherent and inalienable and pertain to the people and their posterity, as the basis and foundation of government.

The people in the state conventions would have been more familiar with the Bill of Rights they had previously sent to the First Congress and could have re-examined it and any proposed amendments with a much more critical eye. The people would have responded much faster. However, James Madison in the House along with Oliver Ellsworth in the Senate and their fellow lawyers did not want an immediate response. They needed time. So they sent the Bill of Rights to the state legislatures for ratification. In those state legislatures there were many Federalists who tied up the Bill of Rights for more than twenty-seven months before approving them. This gave President Washington ample time to appoint justices to the Supreme and inferior Courts as well as an Attorney General, clerks, marshals and attorneys for the United States to whom the Senate could quickly give approval. During this time the First Congress quickly established the salaries of the various officials who would then draw Grand and Trial Juries into their judicial vortex.

When the Bill of Rights was finally ratified on December 15, 1791, the federal courts had already taken the first step in reducing the Bill of Rights from being an effective independent check on all three departments of government. This was accomplished because the people were not aware of the fact that when the Bill of Rights was ratified, the people on Grand and Trial Juries were empowered to check the laws of Congress that infringe on the basic rights of the people, acts of the President and his underlings who infringe upon the basic rights of the people, and decisions of the Supreme and inferior Courts that infringe on decisions of Grand and Trial Juries.

The 14th Amendment

One of the most important issues ever presented to the Court was the challenge that the 14th Amendment was not legally enacted. The Supreme Court declined to hear the issue and based its refusal on the ground of avoiding a political question. As shown earlier, the Supreme Court was a political court and if anything was only fit to hear and review political questions. Historically, the Supreme Court was equally responsible with the Congress for the unlawful passage of the 14th Amendment. That is why the Court avoided its responsibility to speak out in defense of the Constitution when the military imposed the unlawful ratification in the Southern States. The Supreme Court was and still is violating the basic tenet of our form of government in that a separation of powers must always be maintained so that checks and balances for the protection of the people would always be available. The Supreme Court didn't speak out against the radical lawyers who dominated the 39th Congress. Eighty-five percent of that Senate body were lawyers. Every member of the Supreme Court was a lawyer. Andrew Johnson, the President, was not a lawyer. But in his Cabinet lawyers were undermining the executive authority which Congress, through the military, was misusing in order to achieve ratification of the 14th Amendment.

If the Congress could hamstring the President and use the military to enforce the ratification of unconstitutional Amendments, what was the purpose of having a Supreme Court if it would not defend the Constitution? There is no question the 14th Amendment is invalid. It was forcefully adopted and ratified at gunpoint because the Supreme Court repeatedly allowed many constitutional abuses to go unchallenged.

The Supreme Court was aware that Congress, on June 16, 1866, passed the 14th Amendment and sent it to the states for ratification. The 14th Amendment declared that Negroes were "citizens of the United States and of the States wherein they reside." This Amendment was not ratified by the states until July 28, 1868, which was more than two years after the Civil Rights Act of April 9, 1866. That Act had already unconstitutionally granted Negroes citizenship. Congress passed the first three Reconstruction Acts; these Acts gave the military the power to register Negroes, who were not citizens, to vote. When the

time came for the vote on the 14th Amendment, it was these Negroes who voted for its ratification. The proposing, passing and ratifying of the 14th Amendment was all unconstitutionally achieved.

The Supreme Court and Its Rules

When ratification of the 14th Amendment was coerced by the hands of the military, the Supreme Court had a duty to speak out and enforce the provisions of Article III section 2 clause 1, which commands that the "Judicial power shall extend to all cases in law and equity, arising under this Constitution." The judges should have spoken out that the 14th Amendment was unlawfully ratified. White citizens of the South were forced at gunpoint to stand aside and allow blacks to vote well before the 14th Amendment was ratified.

The Supreme Court didn't speak out against the brazen unconstitutionality of the 14th Amendment because the Court was obeying its own rule that it would avoid any expression of judicial opinion "except in cases brought before them in due judicial course."

When the Constitution was ratified in 1788, it was said that the Court had "neither Force nor Will, but merely judgment."[3] The Supreme Court is expected to use that judgment in defense of the Constitution it is sworn to uphold. Article I section 5 clause 2 of the Constitution states, "Each House may determine the rules of its proceedings." The Constitution doesn't grant the unelected Supreme Court the power to make its own rules because there would be no place to challenge a bad rule especially if the Supreme Court pays more heed to its rules than it does to a serious constitutional violation.

On July 18, 1793 Hamilton, with the permission of President Washington, had drawn up a series of twenty-nine questions, which sought the opinion of the Justices, and submitted them to the Supreme Court. The Supreme Court consisted of Wilson, Paterson, Blair, Jay, Iredell and Cushing. Washington, Hamilton, Wilson, Paterson, and Blair had all attended the Philadelphia Convention. Jay, Iredell and Cushing had attended their states' ratifying conventions. All were Federalists. On August 8, 1793 the six justices on the Jay Court

[3] Hamilton, *The Federalist Papers*, #78.

voted unanimously not to submit answers or opinions to the twenty-nine questions presented to them. Their rule, which is still strictly observed to this day, declared that the courts would always avoid any expression of judicial opinion except in cases brought before them in "due judicial course." What was meant by due judicial course, was later described by Justice Miller as the "power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision."[4]

No court action could be taken during that critical two-year period after the Civil War ended. The federal courts were kept closed in the South because Chief Justice Salmon Chase had become an ally to the radical Congress. Since Southerners were purposely denied "due judicial course," the Chase court was therefore obligated to speak out in defense of the Constitution that was being flouted by Congress.

The Supreme and Inferior are Hearing Courts, Not Adversarial Courts

Judges refuse to recognize that the Constitution only authorized the Supreme and inferior Courts to be hearing bodies. The Judicial Article does not provide for U.S. Attorneys for the government nor an Attorney General to conduct adversarial proceedings before the Supreme Court. Government Attorneys and adversarial proceedings came from English law. The judges may claim, under Article II section 2 clause 3, that "he [the President] shall have powers, with the advice and consent of the Senate . . . " to appoint "ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law. . . ." But neither the Attorney General nor a U.S. Attorney is authorized to administer any constitutional function whatsoever. And most importantly, neither must be allowed to coexist with or to participate in any Grand or Trial Jury functions. The claim by the Supreme Court in its Rule 7(c) that an indictment or information "shall be signed by the attorney for the government" is an outright fabrication. This gives a non-Constitutional officer, a creature of Congress, the power to negate

[4] *History of the Formation of the Union Under the Constitution*, p. 428. Published by the United States Sesquicentennial Commission.

the checking powers of the Bill of Rights. The checking powers of the Bill of Rights belong solely and exclusively to the sovereign people.

The people ratified the Supreme and inferior Courts as hearing bodies believing they would have easy and frequent access to judge and jury. **Such hearing bodies once established could not be changed by law into adversarial courts in which newly created U.S. attorneys would engage defense lawyers in judicial proceedings.** However, with the passage of the First Judiciary Act, the courts became a profit-making establishment where the wealthy benefit under a system paid for by the masses who, for the most part, cannot afford "justice" obtained in adversarial proceedings.

The 14th Amendment, which was passed under the threat of the military, then ratified by the force of the military, became the instrument that enlarged the authority of the federal judiciary and fraudulently deprived the people of their real powers as Grand and Trial Jurors.

The judicial usurpations achieved under the 14th Amendment were gradually accomplished so as not to alarm anyone. This enabled the lawyers in their various constitutional capacities to turn the Bill of Rights from being a check over the federal government into a check upon the states and its people. That was a very clever trick. The American people allowed themselves to become subjugated by the federal judiciary.

By using their Bill of Rights check over the federal government, the people must begin to question the authenticity of the claim made in clause 2 of Article VI which states, "This Constitution . . . shall be the supreme law of the land." First question: Can the Constitution or a law enacted by Congress "be the supreme law of the land" if the people on a Bill of Rights Jury refuse to convict the person who was charged with breaking the law? No. Under the Bill of Rights, twelve people have more power than Congress and the President who enacted and signed the law. A law enacted by Congress becomes inoperable if the people on a jury repeatedly nullify it. Second question: Can "the senators and representatives . . . and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States" be challenged to stop them from taking an oath to support this Constitution? Yes. With the passage and ratification of the Bill of Rights,

the Constitution could no longer be claimed to be "the supreme law of the land." That is why Madison and his fellow lawyers, who dominated the Philadelphia Convention, unanimously rejected the proposition that the Constitution be prefaced with a Bill of Rights.

Lawyers: The Greatest Threat to Constitutional Government

The people should repeatedly be informed that lawyers have always been our biggest enemy. When they seek public office they always laud the people by stating that the people are the supreme authority and the source of all power, however, once they get into any elective or appointive position of authority they attempt to limit the powers possessed by the people.

For example, at the Convention in Philadelphia, on September 12th, the following delegates, all nonlawyers, attempted to preface the Constitution with a Bill of Rights, which would constantly inform officials in each of the three departments of government that certain limitations have been placed upon them. This would better enable the people to keep the government under their control.

> Mr. Williamson observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it.
>
> Mr. Gorham. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.
>
> Mr. Gerry urged the necessity of Juries to guard against corrupt Judges. He proposed that the committee last appointed should be directed to provide a clause for securing the trial by Juries.
>
> Col. Mason perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, and would second a Motion if made for the purpose. It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours.
>
> Mr. Gerry concurred in the idea and moved for a Committee to prepare a Bill of Rights.
>
> Col. Mason 2nd the motion.[5]

[5] *Documentary History of the Constitution of the United States 1786-1870*, vol. 3, pages 734-35.

The lawyers in command of the Convention refused to adopt a Bill of Rights. The people in Conventions retaliated stating they would not ratify the Constitution without a Bill of Rights. The founders urged the people to sign and in return promised the First Congress would send forth a Bill of Rights, which was to be approved by the States.

When the Bill of Rights was adopted in 1791, it commanded that no person shall "be deprived of life, liberty, or property without due process of law." Negroes were recognized by the Supreme Court as persons, yet that Court upheld the Fugutive Slave Law of 1793, which provided that fugitives escaping from one state to another could be seized by the owner or his agent and brought before a federal or state court within the state. The Act put the responsibility for the return of slaves upon both federal and state courts, which made all judges official agents for federal law enforcement. But the judges, in carrying out their hideous constitutional assignment, were in violation of "the supreme law of the land"—the Bill of Rights.

Again, judges of the state and federal governments could have prevented the inevitable break up of the federal government in 1861 if they had respected the Bill of Rights. The Constitution itself was responsible for the debacle because of its claim that the Constitution "shall be the supreme law of the land." The Bill of Rights commanded basic rights for all. The Constitution commanded slavery for many and only limited powers to the so-called free people. The two documents are not compatible. Judges who uphold the Constitution as the supreme law of the land are at the same time telling the people if and when they are entitled to Bill of Rights protections. **All powers dealing with basic rights are retained or reserved to the people on Grand and Trial Juries and are not appealable to any court.**

"Due process of law" and "the equal protection of the laws," both clauses of the 14th Amendment, were intended to blend the Constitution into the Bill of Rights, uniting both so that "the judicial power" would then "extend to all cases in law and equity arising under this Constitution." However, in order to be an effective check, the Bill of Rights must always be separate from and supreme over the Constitution where they can be directly administered by the people. The Bill of Rights is inalienable—and cannot be amended. The Supreme Court has called upon the 14th Amendment to put the restrictions of the Bill of Rights on the states. Armed with this interpretation the federal govern-

ment could and has intruded upon the police powers of the states enabling consolidation into a federal law enforcement juggernaut. This was good for the lawyers and judges but bad for the people and the states.

State judges, Districts Attorney, the Attorney General and defense attorneys all take an oath to support the U. S. Constitution as "the supreme law of the land." They have been blindly following the Supreme Court and in many cases violating their own state constitutions in doing so. It doesn't end there. Our state legislatures are controlled by lawyers under oath to obey and support the federal Constitution. These lawyers have overturned the Constitution and Bill of Rights, overrun our Grand and Trial Jury system and forced people to submit to injustice after injustice in the name of *Mapp*, *Gideon*, *Escobedo*, and *Miranda*. Things have gotten out of hand. Criminal gangs are now entrenched. We cannot expect reforms because the criminals of the American Bench and Bar will continue to run our justice system. The system is so corrupt that lawyers who are a part of the system evidently aren't even aware of it.

Two former Presidents of the American Bar Association agree as they comment on Lyman Garber's book, *Of Men, and Not of Law*:

> Loyd Wright:
>
> Mr. Lyman A. Garber has written a very timely expose, well documented and consistent throughout. The facts and documentation are so complete that every lawyer as well as every citizen, concerned with what is going on to disrupt our form of government, should read it over and over. *Of Men, and Not of Law* shows beyond any question, how the judicial department of our government has usurped and eroded our republican form of government.
>
> Frank E. Holman:
>
> Every American lawyer and every layman interested in good government should read this book. It is entirely readable, even by laymen. I recommend it as one of the most revealing exposes of judicial usurpation yet produced.[6]

Most of the above abuses stem from the 14th Amendment. A few honest judges have warned us of the treacherous provisions contained therein. Here, in part, is an address by Chief Justice Walter Clark of North Carolina before the Law Department of the University of Pennsylvania, April 2, 1906.[7]

[6] Quoted on the dust jacket of Garber's book.

[7] Reprinted in the *Congressional Record*, July 31, 1966.

A power without limit, except in the shifting view of the court, lies in the construction placed upon the fourteenth amendment, which passed, as everyone knows solely to prevent discrimination against the colored race, has been construed by the court to confer upon it jurisdiction to hold any provision of any statute whatever "not due process of law." This draws the whole body of the reserved rights of the States into the maelstrom of the federal courts, subject only to such forbearance as the Federal Supreme Court of the day, or in any particular case, may see fit to exercise. The limits between State and Federal jurisdiction depend upon the view of five men at any given time; and we have a government of men, and not a government of laws, prescribed beforehand.

At first the court generously exempted from its veto the police power of the several States. But since then it has proceeded to set aside an act of the Legislature of New York restricting excessive hours of labors, which act had been sustained by the highest court in that great State. Thus labor can obtain no benefit from the growing humanity of the age, expressed by the popular will in any State if such statute does not meet the view of five elderly lawyers, selected by influences naturally antagonistic to the laboring classes and whose training and daily associations certainly can not incline them in favor of restrictions upon the power of the employer.

The preservation of the autonomy of the several States and of local self-government is essential to the maintenance of our liberties, which would expire in the grasp of a consolidated despotism. Nothing can save us from this centripetal force but the speedy repeal of the fourteenth amendment or a recasting of its language in terms that no future court can misinterpret.

The vast political power now asserted and exercised by the court to set aside public policies, after their full determination by Congress, can not safely be left in the hands of any body of men, without supervision or control by any other authority whatever. If the President errs, his mandate expires in four years, and his party as well as himself is accountable to the people at the ballot box for his stewardship.

If Members of Congress err, they, too, must account to their constituents. But the Federal Judiciary hold for life and, though popular sentiment should change the entire personnel of the other two great departments of government, a whole generation must pass away before the people could get control of the judiciary, which possesses an irresponsible and unrestricted veto upon the action of the other departments—irresponsible because impeachment has become impossible, and if it were possible it could not be invoked as to erroneous decisions unless corruption were shown.

> The control of the policy of government is thus not in the hands of the people, but in the power of a small body of men not chosen by the people, and holding for life.

We have a choice. We must reject all rules of the impostor judges, themselves the product of *The Constitution That Never Was*, and affirm the superiority of the Bill of Rights.

Chapter 4

The Constitution of No Authority

From 1774 to 1787, lawyers dominated the Congress and the various state legislatures. They were an intimate group who worked to make the law serve their own interest. This put the legal profession at great political advantage over all other professions, for during those first years they met both in Congress and socially where they discussed ideas for the establishment of a strong central government. The people everywhere were fearful of such ideas as they had fought and won the war for liberty against another strong central government in England.

The lawyers in charge of the Continental Congress were undeterred. In February, 1781 they submitted to the states an amendment vesting in Congress the power to levy a duty of five percent on imported goods. This and other similar amendments were rejected by the states. Under the Confederation, the federal government had no means of enforcing obedience to its laws because they operated upon states and not upon their inhabitants. You cannot imprison a state if it breaks the law. If an attempt is made to seize its goods, a state's militia can repel the action. The lawyers had a plan—they would make the national government operative upon individuals instead of states. If a person defied the law he could be imprisoned or have a levy placed upon his property until he conformed.

The lawyers had power and the backing of the wealthy. They dominated Congress and converted most of its merchants and land-owning members to the Federalist cause for a strong central government. Most of the Federalists had been serving interchangeably for years, either in the national or state legislatures where they had also been encouraging the establishment of a strong central government. A dramatic change from a government of states to a government of people could only be brought about by a Constitutional Convention. To accomplish their plan, the Federalists in the Congress and various state legislatures would have to resort to subterfuge.

On February 21, 1787 Congress called for a Convention "for the sole and express purpose of revising the Articles of Confederation." Twelve states responded and sent fifty-five delegates to a Convention in Philadelphia for that purpose. Thirty-four of those fifty-five delegates were lawyers and most of

them were to become the leading supporters of the Federalist cause.

The Convention that met in Philadelphia in 1787 could not be called a Constitutional Convention because the delegates were not elected by the people nor did the people have any input into the constitutional matters discussed there. Lawyers dominated that Convention and their efforts were directed to establishing a legal dynasty in America beneficial mainly to themselves. Lawyers gave the newly proposed national government jurisdiction over the individual citizen instead of the states. The goal of the Convention was to make the union strong by preserving slavery through coercion over individuals in the free states by requiring the return of runaway slaves. Additionally, the conscription laws coerced the individual to engage in never ending wars of aggression in foreign lands.

The state of Rhode Island refused to send delegates because it did not wish to revise the Articles of Confederation which plainly stated: " . . . the articles of this Confederation shall be inviolably observed by every state, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States and be afterwards confirmed by the legislature of every State." The delegates at the Convention should have disbanded since they could not meet the required unanimity necessary for an alteration to the Articles of Confederation.

The Federalists in the Convention instead abandoned the Confederation and pretended they were the elected delegates of the people. They decided to draft a Constitution in the people's name. There was nothing to stop them. The people had no means through which they could effectively communicate or engage in a concerted action to thwart these tactics. The Federalists had planned well for they were in control of the Convention, twelve state legislatures, and the Continental Congress.

The Convention operated behind locked doors to keep its business secret from the people but not from its allies in the Congress and state legislative bodies. After signing the Constitution in Philadelphia in September, Madison, King, Gorham, Johnson, Langdon, Gilman, Blount, Few and Butler returned to New York City where they promptly resumed their Congressional seats. On the 26th of September it was evident that the Constitution was not a revision of the Articles of Confederation and should have been rejected. Congress was obli-

gated to obey the Articles of Confederation, the agreement signed by all of the thirteen states, and not a new one signed by only nine states. The preamble of the new Constitution proposed by the Convention which stated "We the people of the United States . . . do ordain and establish this Constitution . . . ." was in itself a fraud for the people were denied the right to elect their own delegates to the Convention in Philadelphia. Congress was therefore without authority to send the Constitution to the legislature of each state for submission to special ratifying conventions. The state legislatures were also without jurisdiction to conduct the election of people to ratifying conventions, since the Constitution was the work of agents of the states and not duly elected delegates of the people. The people of that day should have refused jurisdiction to ratify the Constitution as the masses were disfranchised by strict property qualifications. In *An Economic Interpretation of the Constitution of the United States*, Charles A. Beard states:

> . . . not more than 5 percent of the population in general or in round numbers, 160,000 voters expressed an opinion one way or another on the Constitution . . . we may reasonably conjecture that of the estimated 160,000 who voted in the election of delegates, not more than 100,000 men favored the adoption of the Constitution at the time it was put into effect - about one in six of the adult males."[1]

We must not allow ourselves to be tied for eternity by the votes of 100,000 men who were either very wealthy or gullible dupes who followed those false leaders over two hundred years ago.

The people have listened to those who extolled the virtues of the Constitution while lawyers continued to extract great wealth and benefits from a government founded on lies and deceptions. Most of the "educated" people ignored men like Lysander Spooner, a lawyer of rare exception, who looked for truth and justice, not wealth and self-aggrandizement. In his *Essay on the Trial By Jury* (1852), Spooner warned the people about the corruptive influence that rendered the Jury ineffective in its true purpose. In another treatise he explained to the people that ours was a Constitution of no authority.[2]

[1] Charles A. Beard, *An Economic Interpretation of the Constitution of the United States*, page 250.

[2] Lysander Spooner, *No Treason: The Constitution of No Authority*, 1869.

No Treason
The Constitution of No Authority

I.

The Constitution has no inherent authority or obligation. It has no authority or obligation at all, unless as a contract between man and man. And it does not so much as even purport to be a contract between persons now existing. It purports, at most, to be only a contract between persons living eighty years ago. And it can be supposed to have been a contract then only between persons who had already come to years of discretion, so as to be competent to make reasonable and obligatory contracts. Furthermore, we know, historically, that only a small portion even of the people then existing were consulted on the subject, or asked, or permitted to express either their consent or dissent in any formal manner. Those persons, if any, who did give their consent formally, are all dead now. Most of them have been dead forty, fifty, sixty, or seventy years. *And the Constitution, so far as it was their contract, died with them.* They had no natural power or right to make it obligatory upon their children. It is not only plainly impossible, in the nature of things, that they *could* bind their posterity, but they did not even attempt to bind them. That is to say, the instrument does not purport to be an agreement between any body but "the people" *then* existing; nor does it, either expressly or impliedly, assert any right, power, or disposition, on their part, to bind anybody but themselves. Let us see. Its language is:

We, the people of the United States (that is, the people *then existing* in the United States), in order to form a more perfect union, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves *and our posterity*, do ordain and establish this Constitution for the United States of America.

It is plain, in the first place, that this language, *as an agreement,* purports to be only what it at most really was, viz., a contract between the people then existing; and, of necessity, binding, as a contract, only upon those then existing. In the second place, the language neither expresses nor implies that they had any intention or desire, nor that they imagined they had any right or power, to bind their "posterity" to live under it. It does not say that their "posterity" will, shall, or must live under it. It only says, in effect, that their hopes and motives in adopting it were that it might prove useful to their posterity, as well as to themselves, by promoting their

union, safety, tranquility, liberty, etc.

Suppose an agreement were entered into, in this form:

We, the people of Boston, agree to maintain a fort on Governor's Island, to protect ourselves and our posterity against invasion.

This agreement, as an agreement, would clearly bind nobody but the people then existing. Secondly, it would assert no right, power, or disposition, on their party, to compel their "posterity" to maintain such a fort. It would only indicate that the supposed welfare of their posterity was one of the motives that induced the original parties to enter into the agreement.

When a man says he is building a house for himself and his posterity, he does not mean to be understood as saying that he has any thought of binding them, nor is it to be inferred that he is so foolish as to imagine that he has any right or power to bind them, to live in it. So far as they are concerned, he only means to be understood as saying that his hopes and motives, in building it, are that they, or at least some of them, may find it for their happiness to live in it . . . .

So it was with those who originally adopted the Constitution. Whatever may have been their personal intentions, the legal meaning of their language, so far as their "posterity" was concerned, simply was, that their hopes and motives, in entering into the agreement, were that it might prove useful and acceptable to their posterity; that it might promote their union, safety, tranquility, and welfare; and that it might tend "to secure to them the blessings of liberty." The language does not assert nor at all imply, any right, power, or disposition, on the part of the original parties to the agreement, to compel their "posterity" to live under it. If they had intended to bind their posterity to live under it, they should have said that their object was, not "to secure to them the blessings of liberty," but to make slaves of them; for if their "posterity" are bound to live under it, they are nothing less than the slaves of their foolish, tyrannical, and dead grandfathers.

It cannot be said that the Constitution formed "the people of the United States," for all time, into a corporation. It does not speak of "the people" as a corporation, but as individuals. A corporation does not describe itself as "we," nor as "people," nor as "ourselves." Nor does a corporation, in legal language, have any "posterity." It supposes itself to have, and speaks of itself as having, perpetual existence, as a single individuality.

Moreover, no body of men, existing at any one time, have the power to create a perpetual corporation. A corporation can become practically perpetual only by the voluntary accession of new members, as the old ones dies off. But for this voluntary accession of new members, the corporation necessarily dies with the death of those who originally composed it.

Legally speaking, therefore, there is, in the Constitution, nothing that professes or attempts to bind the "posterity" of those who established it . . . .

II.

The ostensible supporters of the Constitution, like the ostensible supporters of most other governments, are made up of three classes, viz.: 1. Knaves, a numerous and active class, who see in the government an instrument which they can use for their own aggrandizement or wealth. 2. Dupes - a large class, no doubt - each of whom, because he is allowed one voice out of millions in deciding what he may do with his own person and his own property, and because he is permitted to have the same voice in robbing, enslaving, and murdering others, that others have in robbing, enslaving, and murdering himself, is stupid enough to imagine that he is a "free man," a "sovereign"; that this is "a free government"; "a government of equal rights," "the best government on earth," and such like absurdities. 3. A class who have some appreciation of the evils of government, but either do not see how to get rid of them, or do not choose to so far sacrifice their private interests as to give themselves seriously and earnestly to the work of making a change.

III.

The payment of taxes, being compulsory, of course furnishes no evidence that any one voluntarily supports the Constitution.

1. It is true that the *theory* of our Constitution is, that all taxes are paid voluntarily; that our government is a mutual insurance company, voluntarily entered into by the people with each other; that each man makes a free and purely voluntary contract with all others who are parties to the Constitution, to pay so much money for so much protection, the same as he does with any other insurance company; and that he is just as free not to be protected, and not to pay tax, as he is to pay a tax, and be protected.

But this theory of our government is wholly different from the practical fact. The fact is that the government, like a highwayman, says to a man: "Your money, or your life." And many, if not most, taxes are paid under the compulsion of that threat.

The government does not, indeed, waylay a man in a lonely place, spring upon him from the roadside, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery on that account; and it is far more dastardly and shameful.

The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your

money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber. He has not acquired impudence enough to profess to be merely a "protector," and that he takes men's money against their will, merely to enable him to "protect" those infatuated travellers, who feel perfectly able to protect themselves, or do not appreciate his peculiar system of protection. He is too sensible a man to make such professions as these. Furthermore, having taken your money, he leaves you, as you wish him to do. He does not persist in following you on the road, against your will; assuming to be your rightful "sovereign," on account of the "protection" he affords you. He does not keep "protecting" you, by commanding you to bow down and serve him; by requiring you to do this, and forbidding you to do that; by robbing you of more money as often as he finds it for his interest or pleasure to do so; and by branding you as a rebel, a traitor, and an enemy to your country, and shooting you down without mercy, if you dispute his authority, or resist his demands. He is too much of a gentleman to be guilty of such impostures, and insults, and villainies as these. In short, he does not, in addition to robbing you, attempt to make you either his dupe or his slave.

The proceedings of those robbers and murderers, who call themselves "the government," are directly the opposite of these of the single highwayman.

In the first place, they do not, like him, make themselves individually known; or, consequently, take upon themselves personally the responsibility of their acts. On the contrary, they secretly (by secret ballot) designate some one of their number to commit the robbery in their behalf, while they keep themselves practically concealed. They say to the person thus designated:

Go to A ..... B....., and say to him that "the government" has need of money to meet the expenses of protecting him and his property. If he presumes to say that he has never contracted with us to protect him, and that he wants none of our protection, say to him that this is our business, and not his; that we *choose* to protect him, whether he desires us to do so or not; and that we demand pay, too, for protecting him. If he dares to inquire who the individuals are, who have thus taken upon themselves the title of "the government," and who assume to protect him, and demand payment of him, without his having ever made any contract with them, say to him that that, too, is our business, and not his; that we do not *choose* to make ourselves *individually known* to him; that we have secretly (by secret ballot) appointed you our agent to give him notice of our demands, and, if he complies with them, to give him, in our name, a receipt that will protect him against any similar demand for the present year. If he refuses to comply, seize and sell enough of his property to pay not only our demands, but all your own expenses and trouble beside. If he resists the seizure of his property, call upon the bystanders to help you (doubtless some of them will prove to be members of our band). If, in defending his property, he should kill any of our band who are

assisting you, capture him at all hazards; charge him (in one of our courts) with murder; convict him, and hang him. If he should call upon his neighbors, or any others who, like him, may be disposed to resist our demands, and they should come in large numbers to his assistance, cry out that they are all rebels and traitors; that "our country" is in danger; call upon the commander of our hired murderers; tell him to quell the rebellion and "save the country," cost what it may. Tell him to kill all who resist, though they should be hundreds of thousands; and thus strike terror into all others similarly disposed. See that the work of murder is thoroughly done; that we may have no further trouble of this kind hereafter. When these traitors shall have thus been taught our strength and our determination, they will be good loyal citizens for many years, and pay their taxes without a why or a wherefore.

It is under such compulsion as this that taxes, so called, are paid. And how much proof the payment of taxes affords, that the people consent to support "the government," it needs no further argument to show.

2. Still another reason why the payment of taxes implies no consent, or pledge, to support the government, is that the taxpayer does not know, and has no means of knowing, who the particular individuals are who compose "the government." To him "the government" is a myth, an abstraction, an incorporeality, with which he can make no contract, and to which he can give no consent, and make no pledge. He knows it only through its pretended agents. "The government" itself he never sees. He knows indeed, by common report, that certain persons, of a certain age, are permitted to vote; and thus to make themselves parts of, or (if they choose) opponents of, the government, for the time being. But who of them do thus vote, and especially how each one votes (whether so as to aid or oppose the government), he does not know; the voting being all done secretly (by secret ballot). Who, therefore, practically compose "the government," for time being, he has no means of knowing. Of course he can make no contract with them, give them no consent, and make them no pledge. Of necessity, therefore, his paying taxes to them implies, on his part, no contract, consent, or pledge to support them—that is, to support "the government," or the Constitution.

3. Not knowing who the particular individuals are, who call themselves "the government," the taxpayer does not know whom he pays his taxes to. All he knows is that a man comes to him, representing himself to be the agent of "the government"—that is, the agent of a secret band of robbers and murderers, who have taken to themselves the title of "the government," and have determined to kill everybody who refuses to give them whatever money they demand. To save his life, he gives up his money to this agent. But as this agent does not make his principals individually known to the taxpayer, the latter, after he has given up his money, knows no more who are "the government"—that is, who were the robbers—than he did before. To say, therefore, that by giving up his money to their

agent, he entered into a voluntary contract with them, that he pledges himself to obey them, to support them, and to give them whatever money they should demand of him in the future, is simply ridiculous.

4. All political power, as it is called, rests practically upon this matter of money. Any number of scoundrels, having money enough to start with, can establish themselves as a "government"; because, with money, they can hire soldiers, and with soldiers extort more money; and also compel general obedience to their will. It is with government, as Caesar said it was in war, that money and soldiers mutually supported each other; that with money he could hire soldiers, and with soldiers extort money. So these villains, who call themselves governments, well understand that their power rests primarily upon money. With money they can hire soldiers, and with soldiers extort money. And, when their authority is denied, the first use they always make of money, is to hire soldiers to kill or subdue all who refuse them more money.

For this reason, whoever desires liberty, should understand these vital facts, viz.: 1. That every man who puts money into the hands of a "government" (so called), puts into its hands a sword which will be used against himself, to extort more money from him, and also to keep him in subjection to its arbitrary will. 2. That those who will take his money, without his consent, in the first place, will use it for his further robbery and enslavement, if he presumes to resist their demands in the future. 3. That it is a perfect absurdity to suppose that any body of men would ever take a man's money without his consent, for any such object as they profess to take it for, viz., that of protecting him; for why should they wish to protect him, if he does not wish them to do so? To suppose that they would do so, is just as absurd as it would be to suppose that they would take his money without his consent, for the purpose of buying food or clothing for him, when he did not want it. 4. If a man wants "protection," he is competent to make his own bargains for it; and nobody has any occasion to rob him, in order to "protect" him against his will. 5. That the only security men can have for their political liberty, consists in their keeping their money in their own pockets, until they have assurances, perfectly satisfactory to themselves, that it will be used as they wish it to be used, for their benefit, and not for their injury. 6. That no government, so called, can reasonably be trusted for a moment, or reasonably be supposed to have honest purposes in view, any longer than it depends wholly upon voluntary support.

These facts are all so vital and so self-evident, that it cannot reasonably be supposed that any one will voluntarily pay money to a "government," for the purpose of securing its protection, unless he first makes an explicit and purely voluntary contract with it for that purpose.

It is perfectly evident, therefore, that neither such voting, nor such payment of taxes, as actually takes place, proves anybody's consent, or obligation, to support

the Constitution. Consequently we have no evidence at all that the Constitution is binding upon anybody, or that anybody is under any contract or obligation whatever to support it. And nobody is under any obligation to support it.

IV.

The Constitution not only binds nobody now, but it never did bind anybody. It never bound anybody, because it was never agreed to by anybody in such a manner as to make it, on general principles of law and reason, binding upon him.

It is a general principle of law and reason, that a *written* instrument binds no one until he has signed it. This principle is so inflexible a one, that even though a man is unable to write his name, he must still "make his mark," before he is bound by a written contract. This custom was established ages ago, when few men could write their names; when a clerk—that is, a man who could write—was so rare and valuable a person, that even if he were guilty of high crimes, he was entitled to pardon, on the ground that the public could not afford to lose his services. Even at that time, a written contract must be signed; and men who could not write, either "made their mark," or signed their contracts by stamping their seals upon wax affixed to the parchment on which their contracts were written. Hence the custom of affixing seals, that has continued to this time.

The law holds, and reason declares, that if a written instrument is not signed, the presumption must be that the party to be bound by it, did not choose to sign it, or to bind himself by it. And law and reason both give him until the last moment, in which to decide whether he will sign it, or not. Neither law nor reason requires or expects a man to agree to an instrument, *until it is written*; for until it is written, he cannot know its precise legal meaning. And when it is written, and he has had the opportunity to satisfy himself of its precise legal meaning, he is then expected to decide, and not before, whether he will agree to it or not. And if he do not *then* sign it, his reason is supposed to be, that he does not choose to enter into such a contract. The fact that the instrument was written for him to sign, or with the hope that he would sign it, goes for nothing.

Where would be the end of fraud and litigation, if one party could bring into court a written instrument, without any signature, and claim to have it enforced, upon the ground that it was written for another man to sign? that this other man had promised to sign it? that he ought to have signed it? that he had had the opportunity to sign it, if he would? but that he had refused or neglected to do so? Yet that is the most that could ever be said of the Constitution. The very judges, who profess to derive all their authority from the Constitution—from an instrument that nobody ever signed—would spurn any other instrument, not signed, that should be brought

before them for adjudication.

Moreover a written instrument must, in law and reason, not only be signed, but must also be delivered to the party (or to some one for him), in whose favor it is made, before it can bind the party making it. The signing is of no effect, unless the instrument be also delivered. And a party is at perfect liberty to refuse to deliver a written instrument, after he has signed it. He is as free to refuse to deliver it, as he is to refuse to sign it. The Constitution was not only never signed by anybody, but it was never delivered by anybody, or to anybody's agent or attorney. It can therefore be of no more validity as a contract, than can any other instrument, that was never signed or delivered. . . .

Chapter 5

The Bill of Rights versus the Constitution

Tyranny in America

The Constitution has been an instrument of deceit through which our domestic enemies (Presidents, Congressmen and Judges) have divided and oppressed us. Fools among us still can't recognize tyranny and blindly follow our false leaders in war or in peace. The Constitution first enslaved black people and now enslaves all of us through the huge debt incurred by wars and social experiments. International bankers and our puppet-leaders have devised a perfect system for our enslavement. The people of this nation work to pay the usurious interest of about half a trillion dollars each year and their children will do likewise. Until enough people realize that our leaders have used the Constitution to betray us, we will continue to work as slaves. American people have the appearance of freedom since we can travel freely as long as we do not neglect our fruitless labor—fruitless because our money and savings buy less and less. The day will come when we all will realize we are slaves.

We have not learned from our mistakes; we have repeated them in Korea, Vietnam, Grenada, Panama, Iraq, Somalia and Haiti. Our military men are in reality mercenaries serving special interests. It's easy for the CIA to manufacture a reason why we should invade an island or small harmless country. None of the above countries would dare invade America. None of those countries was ever an imminent threat to our rights and liberties.

Our civilian population must likewise resist our leaders and reject this false Constitution which is not "the supreme law of the land." As patriots they should only take the oath to defend the Bill of Rights. Constitutional officials have turned our land over to the criminals and made our streets, homes and workplaces unsafe. The purpose of a Bill of Rights was to protect us from those entrusted with constitutional powers who would use them to abuse us. The lawyers who have accumulated all powers—legislative, executive and judicial—into their own hands are responsible for the criminal dangers to which we have been exposed. They have been working to prevent the people from using the Bill of Rights as a check against constitutional abuses. Congress has re-

mained silent while the Supreme Court built a body of false laws by overruling the actions of the police and those of juries.

We have only the illusion of freedom in America. Those few of us who have challenged the system have learned that we are to believe that nine lawyers on the Supreme Court are the ultimate authority who rule the Constitution to be "the supreme law of the land." For over two hundred years the lawyer-judges have been telling the people that the Constitution is a check on the Bill of Rights. Nothing could be further from the truth.

Madison warned in #47 of the *Federalist Papers* that "the accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny." From the beginning, lawyers have accumulated all legislative, executive and judicial powers and have been blocking constitutional checks and balances. They denied the people Bill of Rights protections by placing a dominating number of lawyers in all three branches of government. **Lawyers, as Attorney General and U.S. Attorneys, are in positions where they can influence jurors, or with the help of judges, unlawfully override decisions made by Grand and Trial Juries.**

In 1788, the people and the states had demanded the Bill of Rights as a check on constitutional officials. The Bill of Rights became effective December 1791 as "the supreme law of the land." Government officials were granted only limited powers; therefore, the Constitution they administer cannot be "the supreme law of the land."

The first order of business must be to vote out the nests of lawyers who misuse both constitutional and Bill of Rights powers to gain their own ends. Juries then will be able to work for the guarantee of all protections including the assumption of powers reserved in the ninth and tenth Articles of the Bill of Rights, which authorize the people to intervene whenever constitutional remedies are not invoked.

Such intervention by the people must come from jurors—both Grand and Trial Jurors. Jury nullification is a powerful tool. The following excerpt from the newsletter of THE FULLY INFORMED JURY ASSOCIATION provides a good example.

The Importance of Jury Nullification

From the FIJActivist Spring 1994, p. 29

The Kings and the Queens of the Jury

Several years ago, at a Fourth of July community picnic in Norcross park, I was approached by a local attorney out campaigning for a State Court vacancy. He thrust his hand into mine, told me his name, handed me a brochure telling me what a wonderful human being he was and asked for my vote. As he hungrily eyed the clutch of would-be votes, I stopped him cold with a question he'd obviously never heard before.

"Robert (not his real name, for reasons which shall soon become evident), before I could vote for you, I need to know how you feel about *jury nullification.*"

I knew he was in trouble when his gaze dropped to his pants cuffs and the toes of his expensive and highly shined wingtips began to take short, dusty nosedives into the powdered Georgia clay.

"Er . . . ahh . . . well . . . er . . ." His face brightened somewhat as he declared proudly: "I don't think we ought to *do away with juries!*" A lawyer, he'd decided that "jury nullification" had to do with nullifying juries!

"I'm sorry, Robert", I offered, "that's not what "jury nullification" means. What it means is that the jury has the right—indeed, in our system, the *duty*—to judge not only the facts of the case but to *judge the law as well.* This concept, by the way, is incorporated into the Georgia Constitution at Article I, Section I, Paragraph XI which states 'In criminal cases, the defendant shall have a public and speedy trial by an impartial jury; *and the jury shall be the judge of the law and the facts.'*

Georgia is one of three states whose constitutions still mandate jury nullification."

He looked shocked and blurted: "We couldn't have that. It would lead to ANARCHY!" As bad as his first response was, for someone who took an oath to God to uphold the law, this was far worse!

With a grim little half smile frozen on his face, he wandered off in search of friendlier, less inquisitive voters. He apparently found a sufficient number. He was elected and still sits on the State Court bench! (Which is why he has not been

named. They may not know much about jury nullification but these folks know enough about judicial discretion to put an impertinent newsletter editor's butt in jail!)

The right to be judged by a jury of your peers is the final, non-violent check on a runaway government. You really have three votes in our system: Your vote on election day, your vote on a GRAND JURY and your vote on a PETIT (TRIAL) JURY.

The main reason you haven't been told about these other two votes is that it would cost a lot of lawyers and judges a lot of power. Right now, the courtrooms of this country are cozy, private little clubs. Trust me when I tell you that they don't want YOU and ME (uneducated *laypersons*) to mess up their sweet little deal.

But don't take my word for all of this. Don't even take the word of the Georgia Constitution. Here's what JAMES MADISON (author of the U.S. Constitution) had to tell us in *Federalist* Number 62: "It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they...undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow."

So, dear reader, there it is! Judges are simply glorified UMPIRES, ostensibly assuring that BOTH SIDES are accorded all the benefits our system provides. But, most of them will never inform you of your right—DUTY—to vote to acquit and to hold your ground against eleven others if, though the evidence proves guilt, THE LAW UNDER WHICH THE ACCUSED WAS BROUGHT TO TRIAL IS A STUPID OR CRUMBY LAW!! And believe me, there are tons of stupid or crumby laws on the books.

Let me tell you how I know that: At the end of every Georgia legislative session, they publish something called a *Legislative Summary*. It recaps all the new laws passed that session. In the front of this frequently hefty tome appears a letter from somebody bearing the title of Legislative Counsel. That's a fancy title for the lawyer for the legislature. In that letter appears a paragraph that goes something like this: "No assertion or claim is made as to the Constitutionality of any of the legislative acts contained herein."

What that means is that, despite what you might have learned in school (for those only over 50), these guys DO NOT have one eye on the state and national Constitutions when they make new laws. It was this problem that caused Mr. Jefferson to declare that "*No man's life or treasure is safe while the legislature meets.*" It is also the basis for the not-so-funny witticism that there are two things one ought never watch being made: Sausage and law!

The bottom line is: If y'all don't like our new laws, hire one of our brethren

lawyers and TAKE US TO COURT!

There is another way: Jury nullification

Regardless of how you feel about booze, the reason Congress repealed the Volstead Act (Prohibition) was that PROSECUTORS COULD NO LONGER GET CONVICTIONS: THE JURIES NULLIFIED THE LAW!!

Let me close this with several things you may not have thought much about:

1. IF YOU VALUE YOUR FREEDOMS, *DON'T EVER DODGE JURY DUTY AGAIN*!

2. IF CALLED FOR JURY DUTY, *DO NOT—REPEAT—DO NOT* LET ANYONE CONNECTED WITH THE COURT KNOW THAT YOU KNOW ANY OF THIS STUFF.

3. EVEN AFTER YOU GET THE CASE, BE CAREFUL NOT TO TELL YOUR FELLOW JURORS TOO MUCH DURING DELIBERATIONS LEST YOU FIND YOURSELF IN THE JUDGE'S CHAMBERS WHERE YOU WILL MOST CERTAINLY GET A TONGUE-LASHING. (That's right: A tongue-lashing for knowing your rights as a juror! Neat, huh??)

4. ONCE YOUR TOUR AS A JUROR IS OVER, SHARE THIS INFORMATION WITH AS MANY OF YOUR FRIENDS AND NEIGHBORS AS POSSIBLE.

5. STOP WASTING YOUR FIRST VOTE BY ELECTING JERKS WHO PASS THIS BAD LAW WE THEN MUST NULLIFY!

If you want more information about this vital topic, contact FULLY INFORMED JURY ASSOCIATION, (FIJA), Box 58, Helmville, MT 59843.*

Supreme Law of the Land: The Constitution or the Bill of Rights?

The founding lawyers left provisions in the Constitution that were in direct conflict with the Bill of Rights because they planned to use the courts to get decisions favorable to themselves. The judges could do this only by upholding the claim that the Constitution was "the supreme law of the land," and of course that any questions coming before the courts would be decided by them. To make sure that the people on Grand and Trial Juries would not have the final say and that the Constitution would rule, the lawyers wrote in Article III section 2 clause 2 that " . . . the Supreme Court shall have appellate jurisdiction, both as to *law* and to *fact*" (my emphasis). However, the inherent power

* For more on jury power, see Appendix A.

to judge both the law and fact was established by the Trial Jury which rescued Peter Zenger in 1735 from the unlawful persecution by the courts fifty-two years before the Constitutional Convention met in Philadelphia. That jury's decision was fundamental in establishing freedom of the press in America. Without a free press the colonists would never have been able to publish the Declaration of Independence or to keep the people aroused until they won their war for liberty.

The people on a jury are sovereign. Judges are granted limited powers in dealing with the Constitution. The courts cannot second guess the jury's decision on the law with its "appellate jurisdiction," because juries can refuse to honor laws that are unjust or infringe upon basic rights. The public needs to know more on jury nullification powers.

It is claimed that Madison wanted to incorporate the Bill of Rights into the text of the Constitution but the House decided to propose them as supplementary. They could be neither. The Bill of Rights had to be ratified as a separate document because it directly contradicts many provisions of the Constitution. How then could these two contradictory documents be as one?

For example, the Constitution in Article III section 1 states: "The judicial power of the United States shall be vested in one supreme court . . . ." Section 2 clause 1 of the same article states: "The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made . . . ." Section 2 clause 2 of the same article states, " . . . the supreme court shall have appellate jurisdiction, both as to law and to fact." However, Article 6 of the Bill of Rights states: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . ." The judicial power therefore is vested in a jury of people that judges both the law and fact. Article 7 of the Bill of Rights states that in civil cases " . . . the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States. . . ."

In September 1787, the delegates to the Convention unanimously voted down a motion that a Bill of Rights be adopted. They knew that if a Bill of Rights was adopted the Constitution would also have to be amended, for the judicial power would have to be recognized as belonging to juries. The judicial power would have to be shared. The courts could judge only cases "arising under this Constitution and the laws made in pursuance thereof." However, the

court could not sit in judgment of Bill of Rights matters or laws conflicting with it. This was reserved to the judgment of the people on juries.

Federal juries have another little-recognized power. They can convict the guilty and then establish the punishment to fit the crime in each individual case. The Constitution in clauses 6 and 10 of Article I section 8 made the following two exceptions where the jury was not to fit the punishment to the crime: Clause 6 "The Congress shall have the power . . . To provide for the punishment of counterfeiting the securities and current coin of the United States." Clause 10 "The Congress shall have the power . . . To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."

Plea Bargaining

Article I section 8 clauses 1 through 18 limits Congress in its legislative authority. **The Bill of Rights is a limitation on the law-making powers of Congress.** Laws that may appear just can also be a subtle but dangerous threat to the rights and liberties of the people. Congress is not authorized to enact criminal laws which establish a first, second, or third degree, because this not only deprives the jury from fitting the punishment to the crime, after taking everything into consideration, but it also allows for plea bargaining, which enables the judiciary to deny a meaningful trial by jury on plain and simple charges.

Article 6 of the Bill of Rights, "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury . . . ." Article III section 2 clause 3 of the Constitution states: "The trial of all crimes . . . shall be by jury . . . ." Ninety percent of all criminal cases are plea bargained without a jury being present. **Plea bargaining therefore is in violation of both the Bill of Rights and the Constitution.**

The entire plea bargaining aberration is run by lawyers in their various unconstitutional capacities as legislators, U.S. Attorneys, Attorneys General, judges, and attorneys for the defense. The lawyers enact the laws, the Attorney General and U.S. Attorneys enforce the laws and the judges interpret the law. This all is done in violation of the separation of powers.

Rule 7(c)

Congress unconstitutionally delegated to the Supreme Court the authority to make rules that have the power of law. In fact, Supreme Court rules are, in reality, more powerful than laws, for they have been used to amend the Constitution and the Bill of Rights.

All twenty-three members of a federal Grand Jury may vote to indict a government official. But the indictment, according to Supreme Court Rule 7(c), is not valid unless signed by the U.S. Attorney. The government can thus prevent indictment of those it favors. Supreme Court Rule 7(c) in part reads as follows: "The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government . . . ." When favored government officials are involved in bribery, the administration, through the Attorney General, orders the U.S. Attorney not to sign the indictments. This avoids a scandal that could destroy a political administration. Congress and the President cannot make a law that would grant any government official the power to negate a Grand Jury indictment. Congress and the President cannot make a law that grants to the Supreme Court the power to make rules through which Grand Jury indictments may be negated. In fact "all legislative powers . . . shall be vested in the Congress . . . ." And "each house may determine the rules of its proceedings . . . ." Congress would be in violation of the separation of powers if it delegated its legislative rule-making power to the Supreme Court. The Constitution does not grant the Supreme Court authority to make its own rules. If Congress made a rule that negated a Grand Jury indictment, the people would vote them out of office. The people can't vote Supreme Court judges out of office for similar acts of corruption.

Rule 7(c) not only strikes at the power of the people to indict corrupt officials but it also is in conflict with that part of the Bill of Rights that was aimed at protecting the people from prosecution by information. That was a dangerous practice in colonial America. Prosecution could be commenced by a government attorney with a signed information accusing a person of a crime.

In his book, Professor Richard D. Younger states: "The necessity of an

express guarantee of the right to indictment by a grand jury in all criminal cases became a disputed issue before several of the state ratifying conventions. Reminding delegates of their experiences with British officials, Abraham Holmes warned the Massachusetts convention that an officer of the proposed new government would be able to file informations and 'bring any man to jeopardy of his life' without indictment by a grand jury."[1]

The power of colonial Grand Juries also resided in their ability to block criminal actions begun by royal or colonial officials. The Grand Jury could effectively prevent the enforcement of a criminal statute by simply refusing to find a true bill. When colonial Grand Juries indicted British soldiers for breaking and entering their homes or for assaulting people in the streets, the Attorney General disposed of the indictments by refusing to prosecute them. There was a need for independent Bill of Rights Grand and Trial Juries.

The early American people labeled the information of a prosecutor as an instrument of British tyranny. At the ratifying conventions the delegates successfully warned the people that the officers of the proposed new government were to be prevented from filing informations that would accuse a person of a crime. As a result, Article 5 of the Bill of Rights states that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury . . . ."

Every sitting Grand Jury must inform the U.S. Attorney for the government that the power to indict belongs exclusively to the people through powers authorized by the Bill of Rights and that the U.S. Attorney is without the power to sign any indictment or information per Supreme Court Rule 7(c).

Both the making and/or enforcing of Rule 7(c) are in themselves indictable crimes for their intended purpose is to obstruct the administration of justice.

Under Supreme Court Rule 7(c), the consent of the U.S. Attorney must be given and his or her signature affixed to the Grand Jury indictment or the indictment will not be considered valid.

The people on every federal Grand Jury must resist this rule. If it is allowed to stand it will in time succeed in negating the entire Bill of Rights because none of the articles of the Bill of Rights can be enforced by the people without the consent of the government through its attorneys for the government. There-

[1] Richard D. Younger, *The People's Panel: The Grand Jury in the United States, 1634-1941* (Providence, American History Research Center, Brown UP, 1963) p. 45.

fore all Grand Juries must take aggressive action against any interference with their checking powers. As their first order of business, each Grand Jury must make it known that only the people have the power to vote a "presentment or indictment." The initial presentment must be directed to the heads of the three departments of government and one to the public at large and should read as follows:

> This is to declare that we the people on each and every Grand Jury are free and independent of all Constitutional officials. And we will not tolerate any interference with our rightful duties and powers of keeping the Government honest and limited.
>
> Officials of our runaway federal government will be subject to indictment if they fail to carry out the mandates of this or any Grand Jury. The Constitution does not give the Supreme Court the power to make its own rules, nor does Congress have the authority to delegate the rule-making power to the Court. If a Supreme Court rule is challenged, the Constitution itself becomes open to challenge. Section 2 of Article III states "The judicial power shall extend to all cases, in law and equity arising under this Constitution." Remember, no judge or court can sit in judgment of its own cause. In making rules, and in particular, Rule 7(c), the Supreme Court would acknowledge indictments as true or valid only when signed by the U.S. Attorney, which further corrupted the peoples' checking powers. Grand Juries are the supreme and final authority to end this outrageous abuse of the rule-making power. The Constitution does not even mention the term Attorney General nor assign any duties to the office of an Attorney General. Likewise the Constitution does not assign any duties to or person to act as Attorney for the United States. Therefore lawyers holding those offices are impostors and are without any powers.
>
> The executive power is only "vested in a President of the United States" whom the people elect. The President's executive powers are listed in the second article, which do not give the President the authority to limit in any way the power of Grand Juries.
>
> When the Constitution was ratified on June 21, 1788, a written Bill of Rights did not exist. But there was a definite agreement that a Bill of Rights would be drafted and presented so that people on Grand and Trial Juries would be able to use their great powers as a check upon the conduct of all Constitutional officials.
>
> We declare Rule 7(c) to be null and void and like all other Supreme Court rules cannot be used to prevent or pervert Bill of Rights' checking powers.
>
> Therefore everyone is put on notice that an indictment will be drafted and directed against any official who would obstruct the proper administration of the Bill of Rights as the people's only direct checking power over their government.

The Supreme Court does not have jurisdiction to sit in judgment of a challenge to Rule 7(c) because the Bill of Rights and Jury Power were to be a direct check upon the government. The Supreme Court cannot, to the contrary, be given the opportunity to uphold its own corrupt, self-serving rules that negate Bill of Rights powers possessed only by the people.

Grand Jurors must remember every U.S. Attorney for the government is not a constitutional officer. U.S. Attorneys and the Attorney General are impostors. Their offices were not created at the Constitutional Convention. In fact, such offices weren't even discussed at the convention nor are they mentioned in the Constitution. Their offices were unlawfully created by the First Congress without the consent of the people.

If Rule 7(c) is not set aside, we the people still have an immediate remedy. We can legally turn the tables on our corrupt oppressors. Every person, who next serves on a federal Grand Jury, must vote only to indict criminals who murder, rape and commit crimes against people. We must not indict any patriot who resists this tyrannous government. For years tax resisting patriots have been unlawfully imprisoned when instead the U.S. Attorneys and judges should have been imprisoned for enforcing and prosecuting *The Law that Never Was*.[2] These U.S. Attorneys and judges have knowingly and willfully committed crimes against the people and must at the first opportunity be challenged and indicted by a federal Grand Jury. Let's see if the public believes our criminal officials when they refuse to sign their own indictments per Rule 7(c).

Political Courts

Congress can raise or lower the membership of the Supreme Court if it wishes to manipulate it for a desired political decision. This and many other abuses were made possible by the First Judiciary Act of 1789. That Act created the Supreme Court and gave it many additional powers without the consent of the people two years after the Constitutional Convention had adjourned. The Act gave the Supreme Court the right to make its own rules. One of the first

[2] Two volumes, *The Fraud of the 16th Amendment and Personal Income Tax*, by Bill Benson and M. J. 'Red' Beckman.

rules of the Supreme Court was that only "attorneys or counsellors" were allowed "to practice in this Court." This rule was in violation of the Constitution, which did not require members of the Court and those who practice before the Courts to be attorneys. This is why it was easy for a lawyer-dominated Supreme Court to make its Rule 7(c). Rule 7(c) in part states: "The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government." That leaves the U.S. Attorney with the power to sign an "information" under which Americans can be prosecuted.

If the early American people were intelligent enough to recognize the information of a prosecutor as an instrument of British tyranny why can't the educated modern American recognize the information of a prosecutor as an instrument of American tyranny?

The Constitution does not empower a U.S. Attorney to draft an information containing a criminal charge. Only citizens, not the government, shall determine if a person is to be presented or indicted or is guilty or innocent.

The American people are led to believe that the Supreme Court's judicial power is to be invoked whenever the legislative or the executive powers deliberately or inadvertently violates the Constitution. A court which has, "neither Force nor Will, but merely judgment," should be allowed to use that judgment freely. Early on the judges of the Jay Court had another idea. They would in certain ways limit the court's power so that it could at times avoid its true responsibility of maintaining a separation of powers.

A Rule by the Jay Court Rendered the Court Constitutionally Unable to Take Direct Action

On July 18, 1793, George Washington and his cabinet submitted twenty-nine questions to the Supreme Court. A letter sent with the questions stated: "These questions depend for their solution on the construction of our treaties, on the laws of . . . nations, and on the laws of the land . . . The President would therefore be much relieved if he found himself free to refer questions . . . to the opinions of the judges of the courts of the United States whose knowledge of

the subject would secure us against errors dangerous to the peace of the United States . . . "

On July 20, 1793, Justices Jay, Wilson, Iredell, and Paterson informed the President and his Cabinet that the issue he placed before them was of such great importance that they were reluctant to respond without the advice and participation of the full Court. On August 8, the Justices, presumedly rejoined by Cushing and Blair, agreed to address the issue. Their decision was one of studied contradiction in that the full Court decided to review the matter before them directly instead of "in due judicial course."

With all six Justices present, the Supreme Court agreed to hear the request and made an unauthorized rule that still stands today—that it could not give official consideration to any case or question unless it was brought before the Court "in due judicial course."

However, when the Court rendered that decision in answer to the Cabinet's letter, it established an official precedent contrary to the answer given to Washington's Cabinet in that the Supreme Court heard and responded to a matter that was not brought before it "in due judicial course." The Supreme Court therefore voided its own decision of August 8, 1793 by doing what it said it did not have the authority to do!

The Jay Court stated that the Constitution provides that the President can call "on the heads of departments for opinions." However, the Court knew that such executive officers could only direct opinions "relating to the duties of their respective offices." The questions submitted to the Supreme Court dealt with "the constructions of our treaties" as they relate to the Constitution and the laws of nations. Executive officials knew they could not make constitutional judgments on questions dealing with treaties. The Constitution specifically states in Article III section 2 clause 1: "the judicial power shall extend to all cases . . . arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority . . . ."

The Jay Court, which cited the need of a separation of powers, never itself respected its true meaning. In April 1794, Jay became the Special Ambassador to England to negotiate a settlement of the strife and controversies then pending between British, French and American forces. Jay, who assumed the execu-

tive powers of the President to make a treaty with England, could later be called upon, as Chief Justice, to sit in judgment of his own act. Thus Jay held two offices totally incompatible with each other—a blatant and disgraceful violation of the separation of powers by the Supreme Court.

The judicial power "shall extend to all cases . . . arising under this Constitution." The Constitution when ratified in 1788 did not contain a Bill of Rights. Therefore, the Bill of Rights did not come within the jurisdiction of the judicial power and since it was to be a check on the Constitution, it could not be a part of it for many reasons. For example, under the Bill of Rights the people have a right "to petition the government for a redress of grievances." There was an outcry against President Washington's appointment of the Chief Justice as a special envoy to England. Many letters and petitions of protest were directed to him for this abuse of the separation of powers. When the President ignored the people's petitions and letters, petitions were then directed to the Senate not to confirm the Chief Justice as a special envoy. When the Senate ignored the petitions of protest, the people petitioned the House not to fund an official who was holding two incompatible offices in violation of the constitutional separation of powers.

When the House ignored the petitions, the people realized that the Constitution was being subverted, therefore, they would have to petition the Supreme Court, the final governmental authority in matters under dispute. But the Court could not be trusted since it did not immediately speak out when petitions in defense of a separation of constitutional powers were directed to it. Here was their Chief Justice whom the Court had allowed without protest to assume executive powers of the President to make a treaty with a foreign government. The remaining five Justices were remiss. They should have ruled the Chief Justice's actions unconstitutional and any treaty made would also have to be ruled as unconstitutional, for anyone caught up in litigation as a result of the treaty could only expect a self-serving decision from the Court justifying the provisions of the Jay Treaty. There is no provision in the Constitution that denies the Justices of the Supreme Court the right to defend the Constitution when it is violated. The term "in due judicial course" cannot be found in the Constitution. It was a self-serving invention of the Jay Court to avoid its responsibilities.

The Same Jay Court Rule Allowed Unconstitutional Abuse to the Impeachment Process

Early on Congress refused to remove and disqualify the corrupt among themselves even after some of them had committed serious crimes. On July 3, 1797, Congress was informed of the activities of Senator William Blount, a former member of the Constitutional Convention. Blount had "become involved in financial difficulties and entered into a plan to launch an attack by Indians and frontiersmen in cooperation with a British fleet, upon Spanish Florida and Louisiana for the purpose of transferring the control of those provinces to Great Britain."[3] This action was a crime and the people were entitled to be informed at a public trial about such actions by a U.S. Senator. 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" provides such a procedure. Blount should have been made to answer for his crimes through the impeachment process. The Senate evidently wanted to keep such outrageous conduct by Blount secret from the people so, with the silent cooperation of the House, they expelled Blount on July 8, 1797 for "a high misdemeanor." Article I section 5 clause 2 of the Constitution states: "Each House may . . . punish its members for disorderly behaviour and with the concurrence of two-thirds expel a member." Expulsion (ejection) from the Senate chamber may be necessary as a temporary measure in case one or more members causes a disturbance or becomes unruly. However, Blount had not been disorderly in the Senate. In fact, he had already returned to his home. Why then was he expelled from membership in the Senate body for a "high misdemeanor?"

The Constitution lists "misdemeanors" as impeachable crimes. Blount's permanent removal necessitated a vote for impeachment by the House followed by a vote for conviction at the completion of the impeachment trial in the Senate. The Senate did not have jurisdiction to permanently expel Blount for a "high misdemeanor."

The Constitution commands that the impeachment process be followed in an orderly manner. The House was given the "sole power of impeachment."

[3]*Dictionary of American Biography*, 1929, volume II, page 390.

The Senate was given the "sole power to try all impeachments." In the Blount case, both Houses engaged in criminal acts as treasonable as those committed by Blount because they were involved in a cover up by delaying and mishandling constitutional procedures. President John Adams and his Attorney General Charles Lee were duty-bound to use the evidence presented them for the pursuit of an active investigation. Those criminal acts of Blount endangered national security. Blount should have been seized by the executive department and the matter should then have been turned over to a federal Grand Jury for further inquiry.

In fact any federal Grand Jury could have assumed jurisdiction upon their own initiative where they could have cited the President and his Attorney General for failing to take action in a preliminary investigation; also for failing to inform a federal Grand Jury that a U.S. Senator was engaged in a dangerous plot with Great Britain. That country was still our enemy, and was impressing American sailors and instigating the Indians in Ohio to massacre settlers. The Grand Jury could have cited the President for prematurely presenting evidence to the Senate where Blount could have had accomplices. Surely the British were not going to engage in a plot of such magnitude with only one bought official.

Jefferson had warned us that the federal judiciary was corrupt; by that he meant both the judges and the lawyers of the federal bar. The 5th Congress was dominated by lawyers. Of the thirty-two Senators, twenty-five were lawyers. The majority of the House members were also lawyers and one can judge their character by whom they chose to be their leaders. For their Speaker they elected Jonathan Dayton, a lawyer and former delegate to the federal Constitutional Convention. Dayton already had a bad reputation for his involvement in dishonest land deals and for defrauding Revolutionary War veterans by buying up their military land certificates for about one-tenth of their value. Dayton was later to be arrested "on the charge of conspiring with Aaron Burr in treasonable projects; he gave bail and was subsequently released but never brought to trial."[4]

Many members of Congress were involved in these corrupt land deals. If cornered, a guilty member could expose the rest. That no doubt was why the House let the Senate expel Blount in July, 1797 even though he had already

[4]*Biographical Directory of the American Congress, 1774-1961*, p. 791.

fled. A long delay would put it out of public focus and avoid the exposure of a trial. The House therefore delayed the impeachment charges for seven months until January 29, 1798. The Senate further delayed the trial proceedings until December 17, 1798, almost one year later. Blount's lawyers challenged the proceedings, contending that "they violated his right to a trial by jury, that he was not a civil officer within the meaning of the Constitution, that he was not charged with a crime committed while a civil officer, and the courts . . . were competent to try him on the charges." On January 11, 1799 the Senate voted to dismiss the charges for lack of jurisdiction stating that a "Senator was not a civil officer of the United States as that term is used in the impeachment clause."

The Constitution grants the House "the sole power of impeachment" and the Senate cannot negate that authority by dismissing the House's impeachment charges. The Constitution provides impeachment and conviction as the only means for the permanent removal of wrongdoers. After conviction the Senate must again vote whether to disqualify the guilty party from holding "any office of honor, trust or profit under the United States." The Senate allowed Blount to escape trial, conviction and disqualification.

Any federal Grand Jury could have subpoenaed Blount. If Blount evaded the subpoena, the Grand Jury could have subpoenaed James Carey, a witness, and others. The resulting indictments could then have been submitted by the Grand Jury to any Trial Jury. The Grand Jury could have also directed a Presentment to the people, informing them that the President, the Senate and the House had endangered national security by not getting to the bottom of Blount's disgraceful acts. The Trial Jury could then have found Blount guilty of the charges cited in the indictment. The jury that found Blount guilty could have declared that Blount was also guilty of the impeachment charge by the House and demand that he be removed.

The lawyers in the Constitutional Convention who gave the Senate "the sole power to try all impeachments," had unanimously refused to adopt the Bill of Rights. However, as a condition for ratification a provision was forced into the Bill of Rights by the people which denied that "sole power" claimed by the Senate. Article 9 of the Bill of Rights reads: "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means the sovereign people on Grand and Trial

Juries can act in defense of the Constitution or in defense of the people's basic protections that include impeachment, conviction and disqualification.

Had the lawyers challenged in court the people's right as jurors to convict, impeach and remove, the Jury could have countered by stating that with its adoption, the Bill of Rights became the "supreme law of the land" and the people's direct and final check over constitutional authorities who had wrongfully permitted a high government official to escape punishment for treasonous acts.

Furthermore, the Supreme Court cannot limit its power to withhold a constitutional decision. When a constitutional provision or process (impeachment) is placed in jeopardy, the Supreme Court must take immediate action. It cannot wait until a case is brought before it "in due judicial course." For the lack of action by the Supreme Court, the Senate was allowed on January 11, 1799 to make a judicial determination that "a United States Senator is not a civil officer of the United States within the meaning of the impeachment clause."[5] **The Supreme Court should have ignored its rule and stated that the Senate was without the power to make a self-serving judicial determination that a Senator is not a civil officer, therefore not subject to impeachment. That was the exclusive business of the Court.** The Senate then proceeded by a vote of 14 to 11 to dismiss the House's impeachment charges against Senator Blount for lack

[5]A judicial determination means that, in the Blount case, the Senators were officially declaring the meaning of a provision of the constitution and that self-serving decision by the Senate has been allowed to stand. The Supreme Court had a duty to challenge the Senate so that Blount could not escape his just punishment.

For example, an impeachment was avoided by expelling Senator Blount by the Senate's claim that he was not then a "civil officer of the U.S." The people were defrauded of their right to have Blount disqualified from again holding office.

At that time, the Supreme Court was obligated to come to the immediate defense of the Consititution by informing the Senate that the House had by its "sole power" to impeach put into motion charges for the impeachment of Blount. The Senate was duty bound, by the terms of the Constitution, to try those charges. It should not have been necessary for any official or private citizen to file a notice in "due judicial course" to alert the Supreme Court that it had a sworn duty to inform the Senate that the Court supported the House in its charge that a Senator was a civil officer and subject to impeachment. Unfortunately, the Blount precedent was allowed to stand and no Senators or House members have since been impeached. This has resulted in frequent but unpunished corruption in both Houses over the years.

of jurisdiction. The House remained silent. Such a decision was self-serving, for House members would also be able to escape impeachment, conviction and disqualification. Viewed from a constitutional perspective, the House had already decided that Blount was a civil officer of the United States and that he should be impeached so that he could be tried by the Senate on five of the House's charges. The first charge in brief states: That Blount was: "Conspiring to carry on a military expedition against Spanish Territory" in Florida and Louisiana. . . "for the purpose of . . . conquering the same for the King of Great Britain," in violations of the laws and the obligations of neutrality of the United States. In another charge the House stated that Blount did "create and foment discontents and disaffections among said Indians" towards the United States. Another charge stated that Blount attempted to "seduce" (bribe) a federal agent into assisting the respondent in his "criminal intentions and conspiracies."

Evidently the "criminal intentions and conspiracies" did not begin nor end with Blount. Senators themselves became conspirators by trying to prevent the impeachment trial. They were still duty bound to present all of the facts to a federal Grand Jury for criminal indictments of Blount. A criminal trial of Blount would have brought out many questions attesting to the dishonesty of our founding lawyers. Why did the House delay the very serious impeachment charges of Blount for almost seven months? Why didn't President Adams and his Attorney General Charles Lee present all of the evidence to a federal Grand Jury? In obeying its own rules not to express a judicial opinion except in a case litigated before it, the Supreme Court aided the conspirators by allowing the Senate to acquit Blount of all charges on the false grounds that a Senator is not a civil officer within the meaning of the Constitution. That was a judicial decision by the Senate. Article III section 1 states: "The judicial power of the United States shall be vested in the supreme and inferior courts." The Supreme Court, in upholding its own rules as superior to the Constitution, rejected the provisions contained in Article VI clause 2—"This Constitution . . . shall be the supreme law of the land." Article VI clause 3— All justices " . . . shall be bound by oath or affirmation to support this Constitution."

In refusing to challenge the Senate's usurpation of the judicial power, the

Supreme Court allowed:

1. Blount and his co-conspirators to escape impeachment and disqualification.
2. All future House and Senate members to escape impeachment by that unconstitutionally established precedent.
3. Both Houses in time to become completely corrupted as is evident from the present banking scandals, the House Bank checking and House post office scandals and much more.

The Supreme Court and the National Bank Bill

The Supreme Court had been refusing to fulfill its constitutional obligations from the beginning. In February 1791 Congress had passed a bill chartering a national bank. The Constitution provided no authority for the creation of a national bank. The Supreme Court could have affirmed the Constitution, but was instead forced into silence. Justice James Wilson was attorney for and a director of the bank of North America. Chief Justice Jay and his relatives and friends were deeply involved in banking and land sales. President Washington was aware of this, so he did not want to put the Supreme Court in a position of conflict. Washington therefore requested his Cabinet to submit written opinions on the constitutionality of the banking legislation. Jefferson approved of the doctrine of strict construction and maintained the bill to be unconstitutional. Jefferson argued that the incorporation of a bank was not among the powers specifically delegated to Congress. Hamilton, in his opinion, contended that the proposed bank was related to the power to collect taxes and regulate trade. He stated:

> If the *end* be clearly comprehended with any of the specified powers and if the measure have an obvious relation to that *end*, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority.[6]

When the Supreme Court let stand Hamilton's doctrine of "implied powers" as a substitution for strict construction (here was Hamilton, as Secretary of

[6] Richard B. Morris, *Encyclopedia of America History*, page 123.

the Treasury in the executive branch, interpreting the Constitution), the Court proved itself to be unworthy of trust. There is no constraint whatsoever on the misuse of implied power. "The Constitution of No Authority" also proved itself to be a dangerous instrument of government in that it can be twisted by any of its three departments to fit any occasion that arises.

An angry public challenged the constitutionality of the bank bill and urged the President not to sign the bill into law. In spite of this, President Washington signed the bank bill. The Constitution provided the President with a shelter in clause 1 section 2 of Article II: "He [the President] may require the opinion, in writing, of the principal officers in each of the executive departments upon any subject relating to the duties of their respective offices . . . ." Washington wrongfully requested members of his Cabinet to submit written opinions on the constitutionality of the banking measure—which he should not have done because Cabinet members belong to the executive branch and Washington was asking them, instead of the Court, to interpret the Constitution. Washington had attended the Constitutional Convention and was aware that the judicial power of the United States was vested in the Supreme and inferior Courts. The President had known that he was obligated to seek from the Supreme Court an opinion on the constitutionality of the bill chartering the Bank of the United States. The President also knew he could not go directly to the Supreme Court for a judicial opinion because the authors of the Constitution wanted to shield the high court from readily making a constitutional determination. They provided in clause 2 of section 2 of the Judicial Article: "In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and to fact, with such exceptions, and under such regulations as the Congress shall make."

The above provision is in violation of the separation of powers because it permits the Congress to manipulate the judicial process. To demonstrate the hypocrisy of the above, follow this hypothetical scenario. Before signing, President Washington presents the controversial banking bill to the district court for a judgment on its constitutionality. The district court rules that the bank

law is constitutional. The angry people pressure the President to appeal to the Circuit Court of Appeals. There the Circuit Court of Appeals also rules that the bank bill is constitutional. The President is again pressured to get a final determination from the Supreme Court. But the will of the people and the President are denied. The Congress invokes the power in clause 2 of section 2 of the Judicial Article and denies the Supreme Court appellate jurisdiction to decide if the bank bill is constitutional, therefore, the circuit courts decision is allowed to stand. This means that the judicial power, as it was constituted in Article III section 2 clause 2, is in itself unconstitutional because it allows the Congress to pass, and the President to sign, an unconstitutional bill into law and the Supreme Court, according to the terms of the Constitution, is powerless to declare the law unconstitutional.

The Bill of Rights and the Constitution are Contradictory

The Constitution upheld and enforced slavery upon some people. The Bill of Rights extended freedom and liberty to all persons. Upon the adoption of the Bill of Rights in December 1791, all officials should have been compelled to take a second oath to honor and obey it. But taking a second oath would have quickly lead to conflicts and arguments. The people would soon have challenged the provisions contained in clause 2 of Article VI: "This Constitution and the laws of the United States . . . made in pursuance thereof . . . shall be the supreme law of the land; and the Judges in every State shall be bound thereby." The people would also have had to challenge clause 3 of Article VI: "The senators and representatives before mentioned: and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution." The judicial, legislative, and executive officials could no longer be bound by an oath to support the Constitution.

With the ratification of the Bill of Rights, the Congress and the President were bound by the commands of the Bill of Rights not to make any law prohibiting the free exercise of religion and not to abridge freedom of speech or press, or the right of the people to petition any department of the government for a redress of a grievance.

The Jay Court, as a department of government, had to respond to petitions

for a redress of grievance resulting from a constitutional abuse. The Jay Court should have been challenged in August, 1793 when it proclaimed, in violation of the Bill of Rights, it need not express an opinion except in a case duly litigated before it.

The lawyers knew that in time the people on Grand and Trial Juries would realize that their Bill of Rights was superior to the Constitution because it gave specific commands to the Congress, the President and the Judges. Why then, with the ratification of the Bill of Rights, wasn't the Constitution properly amended since it was no longer "the supreme law of the land?" To prevent the development of such ideas the First Congress had to deceive the people into following their line of reasoning. The Congress set forth a Bill of Rights consisting of ten Articles, but at the same time Congress also passed two articles as amendments to the Constitution. This was to give the public the erroneous idea that all twelve articles were amendments to the Constitution. The states rejected the two amendments in regard to the apportionment and compensation of members of Congress. However, the series consisting of the Bill of Rights was ratified. This gave the people the mistaken idea that the Bill of Rights was indeed considered to be amendments and therefore a part of the Constitution.

If the Articles of the Bill of Rights are considered to be amendments to the Constitution then they cannot fulfill their functions. That is why the Bill of Rights, the freedom document, must stand apart from the Constitution.

Oaths of Office

All officers of the federal, state and local governments must be required to take an oath to uphold the Bill of Rights, the supreme law of the land. People born in the United States do not have to take an oath to honor and support their state and federal Constitutions. And this is the way it should be for when they are called upon to become a Grand or Trial juror they should only be required to support and uphold the Bill of Rights. Only those people who hold public office are required to take an oath of office.

People don't have to be afraid to refuse to take an oath in which you pledge to take directions from the court. In my jury experience, immediately after I took the oath as a prospective juror, I approached the judge in charge and told

him I would not honor the oath just given to me because it commanded that as a juror I was to take the meaning of the law as instructed and interpreted by the judge. The judge then asked what my objection was to that. I told him most of the time the judges of the U.S. Supreme Court can't even agree among themselves what the law means. The judge immediately excused me over my Bill of Rights objections. The great majority of people who become jurors meekly submit to this judicial sham that reverses the intended process by letting the Constitution check the Bill of Rights rather than vice versa. Judges are wrongfully sworn to uphold the Constitution as "the supreme law of the land." People on Grand and Trial Juries must resist the judges who preach this false doctrine and uphold the Bill of Rights as supreme.

The lawyers who drafted the United States Constitution had every intention to take over all departments of the government and then make the people look up to those who had usurped the powers of the new government. Clause 3 of Article VI was cleverly designed to make the people help the lawyers execute their corrupt plans to take over the new government. It states: "All executive . . . officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution." A commissioned officer of the armed forces is appointed by the President and confirmed by the Senate. He is an executive officer of the United States and thus is bound by a constitutional oath to follow the orders of the Commander in Chief. If a commissioned officer violates his oath he can be deprived of his commission and be removed from the military. Non-commissioned officers and enlisted men are not executive officers within the meaning of the Constitution, and are wrongfully required to take an oath to uphold the Constitution of the United States. The enlisted member, like the ordinary person, has an obligation to obey the higher authorities of his conscience and the Bill of Rights.

President Richard Nixon, as the Commander in Chief, was conducting an undeclared war which was not in "the common defense and general welfare of the United States." The United States government had invaded Vietnam, a foreign government eight thousand miles distant, and was engaged in murdering its people. When the American people peaceably assembled at our nation's capital to protest by petition the grievances caused by the United States government, the Commander in Chief ordered the military to arrest them. If the

enlisted members of the military had been properly sworn to support and defend only the Bill of Rights and had refused to arrest the people, the President would have lost all credibility and the people would have clearly maintained their sovereign authority.

Police officers are part of the body of people. They do not hold a constitutional office, therefore like enlisted members of the military, cannot be required to take an oath to preserve, protect or defend the Constitution over which they have no voice and no control. However, enlisted members of the military and all police officers should be bound under oath to support the Bill of Rights under which they can make direct individual decisions. If the police officers in Washington, D.C. had been sworn to preserve, protect and defend only the Bill of Rights they would not have been confronted with the same dilemma as the military has for the past two hundred years. That is the purpose of a Bill of Rights. The people in the military and police forces are sworn to protect and defend the inalienable rights of the people, instead of assisting the government in violating them.

Ours was not to be like the English and other governments throughout the world where few if any freedoms existed during the past ten centuries. As recently as 1989 the Chinese people, who had assembled in protest in Tiananmen Square, were crushed by the military. Thousands were injured or slain. Thirty-one were tried and executed. If they were tried by jury, would any jury dare to declare any one of them not guilty? Would any enlisted man dare refuse to arrest innocent people when ordered to?

The same holds true in America. The police, the military and all of us have been terribly miseducated. We have repeatedly been told the big lie that "you must work within the system." For over two hundred years, the people of America have been patiently working within the system while our constitutional officials refuse to practice what they preach. Three presidents waged an undeclared war in distant lands which the Congress funded, and the Supreme Court dodged the issue when a case was brought before it. Officials who are sworn to carry out specific constitutional duties assigned to them often refuse to work within the system. Since it is demanded that police officers and enlisted men be required to take an oath to support the Constitution they should

be able to arrest a President, their commanding officers and the members of all departments of government who have wrongfully assisted the President in violating the Constitution. Under our misgoverned system such enlisted men and police would no doubt be declared to be engaged in an insurrection—rising up against established authority. The President, his commanding officers and the Congress are the insurrectionists who have run roughshod over both the Constitution and Bill of Rights while the Supreme Court has remained silent.

Nobody should be required to take an oath to support the Constitution or bear allegiance to it unless he or she is elected or appointed to a legislative, executive or judicial office of either the federal or of the various state governments. But all of the above should not be allowed to take their seats until they have taken their ultimate and supreme oath to uphold the Bill of Rights.

The Constitution limits the executive authority when confronted by the Bill of Rights. Article II section 1 clause 7 requires the President to take the following oath: "I do solemnly swear . . . that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States." Clause 2 of Article VI states: "This Constitution . . . shall be the supreme law of the land. . . . " But the Constitution cannot be the supreme law of the land if constitutional officers like the President and his executive assistants are subject to Bill of Rights commands. There can be no question "the executive power shall be vested in the President of the United States." Therefore, the President and his appointees on the federal level are authorized to execute Bill of Rights commands as conducting reasonable searches and serving warrants but only when issued "upon probable cause, supported by oath . . . and particularly describing the place to be searched, and the persons or things to be seized." The devolution of the executive authority extends from the President to his subordinates, who must be required to take oaths to uphold the people's Bill of Rights.

The top officers of the new government took their oath of office as follows. In April 1789 the President took his oath to "protect and defend the Constitution." In June 1789 the Congressmen were sworn to "support and defend the Constitution." In October 1789 the Supreme Court Justices were individually

sworn to "discharge and perform all the duties incumbent on me . . . agreeably to the Constitution and laws of the United States." We had the officers of the three departments of government who swore to support and defend the Constitution or had sworn to discharge their duties if they were in agreement to the Constitution. When the above oaths were taken the Constitution stood alone, the Bill of Rights had been submitted to the states in September 1789 where the ratifications were purposely delayed until December 1791. This gave the three departments of government a chance to get organized and established while under oath to support only the Constitution and the laws of the United States. A way had to be found to avoid taking another oath to support, defend and discharge their duty to uphold the Bill of Rights once ratified. This was decided in the Committee of the Whole as described by Robert Allen Rutland.

> Madison still favored alterations in the main text of the Constitution rather than a separate list of amendments, other congressmen agreed with Roger Sherman, who moved for separate amendments and declared that Madison's proposal placed *contradictory* articles side by side.

Sherman's motion for separate amendments was defeated on August 13. Six days later Sherman renewed his motion to add the amendments "by way of supplement." The official record states that:

> Hereupon ensued a debate similar to what took place in the Committee of the Whole . . . but, on the question, Mr. Sherman's motion was carried by two thirds of the House: in consequence it was agreed to.[7]

A question whether the Articles of the Bill of Rights were to be additions or supplements was totally irrelevant. The Constitution was devised as a plan of government, but it was not acceptable to the people because it was not prefaced with a Bill of Rights, which was essential to the protection of the individual. The Virginia Bill of Rights is an example. It was separately adopted by Convention in Virginia on June 12, 1776, followed by a Constitution adopted on June 29, 1776. The following are provisions, in brief, from the Virginia Bill of Rights that assures that the people are always to be the supreme authority:

[7] Robert Allen Rutland, *The Birth of the Bill of Rights, 1776-1791*, page 207.

> A declaration of rights which pertains to the people and their posterity is the basis and foundation of government. Section 1: That all men are by nature free and independent, and have certain inherent rights, of which they cannot be deprived when they enter into a state of society. Section 2: That all power is vested in the people and that magistrates are their servants, and at all times amenable to them. Section 3: That government is, or ought to be, instituted for the common benefit, protection, and security of the people . . . ; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of malad-ministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Juries: An Oath to the Bill of Rights

To be truly "impartial," all people on Grand and Trial Juries must take an oath to uphold only the Bill of Rights. All Juries must refuse to take advice from judges, U.S. Attorneys, the Attorney General and special prosecutors who have taken an oath "to support this Constitution" as "the supreme law of the land." This is the first move for major Bill of Rights and constitutional reform that can immediately be put into motion by the people. The second major reform is the protection of the people by the military forces. Non-commissioned officers and enlisted men must always remain loyal to the people, who are the sovereign authority. Like Jurors, they too must sever the shackles of the Constitution and take the oath to support and defend only the Bill of Rights. Enlisted men are not constitutional officers nor do they perform any constitutional function; they should never have been required to take an oath to support and defend the Constitution of the United States or the Constitution of their own state. They should only "bear true faith and allegiance" to the people's Bill of Rights. If this were done in America, it would end the ancient European practice of maintaining military forces by conscription to keep unworthy dynasties in power. Further, it would prevent government use of the military as an instrument of terror and intimidation against the citizenry as is the practice in most countries.

Police Officers and the Oath

Police officers, like enlisted men, do not perform any constitutional function; therefore, they too should never have been required to take an oath to support and defend the Constitution of the United States or the Constitution of their own state. They should only "bear true faith and allegiance" to the people's Bill of Rights. The police, as an executive authority, must enforce the Bill of Rights and only the laws that conforms to them. When a police officer makes an arrest he must immediately question the person he has apprehended before that person can think of an alibi. The police officer is not a judicial officer, and therefore is not required to read his prisoner the Miranda warnings—to remain silent, and of his right to the presence and advice of an attorney. The Congress is prohibited from making any law that abridges or infringes on the Bill of Rights. The Supreme and inferior Courts are not empowered to make a ruling on any provision or word contained in any Bill of Rights Article. Even the people on a jury, who do have jurisdiction over Bill of Rights matters, cannot make or support a broad ruling like "Miranda." They can only rule on the particular case before them after they have heard all the evidence presented. No judge has jurisdiction over Bill of Rights matters, and therefore cannot exclude any evidence whatsoever.

Excluding evidence from a jury is jury tampering regardless of who does it. There can be no such thing as the Exclusionary Rule, which is defined as a rule of law which provides that otherwise admissible evidence may not be used in a criminal trial if it was the product of illegal police conduct. First of all, the Bill of Rights was adopted as a check against constitutional abuse, not the other way around. The jury is upholding the Bill of Rights when it decides to believe the evidence presented by the police officer accused of obtaining the evidence by an unreasonable "search or seizure." The jury, not the judge, makes the determination as to what is an "unreasonable" search or seizure. The jury can convict the defendant and then, if they wish, refer the police officer to the Chief or a Grand Jury for disciplinary action. This would end the abuse by the Judiciary of excluding evidence from the Jury and allowing the guilty to go free on a regular basis.

The Miranda Decision

By the Miranda decision, the Supreme Court in effect told all police officers in every state that (the court) would share with the Congress the power to make law. This is forbidden because the Constitution in Article I section 1 states: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The Supreme Court cannot make laws and police officers do not have to obey a ruling that is proclaimed as the law. Furthermore, the Court should be made aware that the police officer is an executive officer whose duty is to enforce the law. In the process of enforcing the law, the officer can achieve the best results if he questions the person he arrests or is about to arrest immediately after a crime has been committed. When caught by surprise the criminal usually cannot provide a plausible reason for his act and quite often freely confesses to many other crimes he and his associates have committed. All persons who are questioned by police should be given easy and ready access to appear before the Grand Jury to report any act by threat or force that was used to obtain a confession. The Grand Jury can indict any officer who wrongfully abuses his authority and in minor cases refer him to the chief of police for disciplinary action. Certainly the officer should not have to inform the accused person that he has a right to remain silent or that he has the right "to have the assistance of counsel for his defense." The Bill of Rights provides that this be done during the criminal prosecution (at the time of the judicial proceeding) and not by the officer in the performance of his executive function of making the arrest and securing evidence. Police officers have been misdirected by the Supreme Court to kill their own cases by telling those they arrest to remain silent and that they have the immediate right to obtain a lawyer. The U.S. Supreme Court also claims that the Exclusionary Rule is the law of the land. This rule provides that otherwise admissible evidence may not be used in a criminal trial if it was the product of illegal police conduct. This is utter nonsense.

In conducting the executive power of arrest the police officer is not allowed to perform a judicial function such as informing a person that he has the right to remain silent. The Supreme Court cannot intrude into executive police au-

thority. It should confine itself to the making of a judgment—the only power it really has. Hamilton best defined the court's powers in #78 of the *Federalist Papers*. He stated that the Judiciary "can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment." It must be remembered that when the Constitution and the *Federalist Papers* were made public, a federal Bill of Rights did not exist. Therefore, the judges were never given the authority to be the guardians of our rights. We can only trust the people on Grand and Trial Juries as protectors and guardians of our rights and liberties. We certainly should not trust the lawyers and judges who have misused our Bill of Rights guarantees. This author has no praise for Hamilton, but I will give him credit for the truth in this case.

If the Court claims that it is the guardian of the Constitution, it must itself take immediate action when it sees an obstruction to constitutional process. A case in point follows.

Article III section 2 clause 3 of the Constitution states: "The trial of all crimes . . . shall be by jury . . . ." Why then are juries prevented from hearing ninety percent of the criminal cases? Currently, these cases are mutually negotiated between the accused and the prosecutor. Why is a prosecutor (U.S. Attorney) allowed to appear before a Grand Jury where he can urge that body to over-indict the accused and later in a secret meeting reduce many of those charges so the attorney for the defense is justified in seeking huge fees? The criminal pays his lawyer's fees from the profits of his crime. The old adage states: "He who profits from the crime is guilty of it." The Supreme Court should speak out against these unconstitutional abuses that deprive the people of a voice in criminal matters. The Constitution doesn't contain the following words: plea bargaining, United States Attorney, or adversarial proceeding. Therefore, how can the Supreme Court assume that "cases . . . arising under this Constitution," must be a suit or controversy, at law before they respond?

The Military is Bound by the Bill of Rights

The following presents a good example of how oaths can be the solution to our many problems. The President and his commissioned officers of the military, by the terms of the Constitution, are granted only limited powers. All other powers are reserved to the people and all agree that the people are sover-

eign. A sovereign person, whether a civilian or a member of the military, cannot by law be divested of his life, liberty, or property in peacetime or in time of war without due process. According to Article 5 of the Bill of Rights, a person on a battlefield in time of war or public danger can only be denied the safeguard of Grand Jury protection. But cowardly or treasonable conduct must be determined by a Jury of peers who must hear the details of his inappropriate action. Any person who enters the military in order to protect his fellow citizens is especially deserving of basic rights.

A commissioned officer is not a person of equal standing, and therefore is not the accused's peer. The officer has taken an oath to support the United States Constitution. In taking that oath he places the Constitution in a superior position to the Bill of Rights. The military code is a law made in pursuance of the commands of the Constitution, but it entirely ignores the commands necessary for the maintenance of basic rights demanded by the sovereign people as a direct check on the limited powers of constitutional officials.

Non-commissioned officers and all enlisted persons must honor, support and defend only the Bill of Rights. They must reject the Constitution outright because it cannot be claimed as "the supreme law of the land." The Constitution commands that we are not to be an aggressive nation in that we shall only "provide for the common defense." This is twice stated, once in the Preamble and the second time in Article I section 8 clause 1. The federal government is only authorized "to repel invasions" as stated in Article I section 8 clause 15. In Article IV section 4 "The United States . . . shall protect each of them [states] against invasion . . . ." This means Congress is only authorized to declare war when the United States is about to be invaded. But the Congress and the war lords defend their warring behavior on the grounds that Constitutional limits give the United States too little time to defend itself.

In Washington's farewell address he stated: "If . . . the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instruments of good, it is the customary weapon by which free governments are destroyed." Congress, which controls the Amendment process, has had over two hundred years in which to propose an amendment, which would give Congress the power to be more aggressive.

The 92nd Congress published in 1971 a *Chronological List of 153 Military Actions Taken by the United States Abroad Without a Declaration of War*. In August, 1964, President Johnson requested that Congress pass the so-called Gulf of Tonkin Resolution based on his lies that American naval vessels were attacked. Thus the undeclared war in Vietnam was escalated to the detriment of the American people. Congress further outraged the American people with its passage of the War Powers Act of 1971, which usurped the constitution's war powers. Such is the ultimate arrogance of officialdom, which the people must resist. A patriot is one who loves his country and honors its people. A patriot should take the oath to uphold and defend only the Bill of Rights against all enemies foreign and domestic.

Powers Reserved to the People

A majority of the people have the right to alter or abolish the government. The majority has the right to ignore the Constitution and the amending process contained in Article V. The amending process imprisoned the American people and forced us to be governed by a Constitution, to which the people, then and now, have never really consented.

Constitutional officials were granted limited powers, which were enumerated and defined. All other powers are retained by the people, meaning that the doctrine of implied powers is false because it is self-serving and without constitutional restraint except by that of a political court. **A law enacted against the interest of the people can be rendered invalid by the people serving on Grand Juries who can consistently refuse to indict those who break it. The people's Trial Jury is the second line of defense, in which they can render the law invalid.** In fact, under the Bill of Rights, juries can render constitutional provisions invalid. A precedent was established in the late 1920s and early 1930s when juries refused to convict those who were engaged in "the manufacture, sale, or transportation of intoxicating liquors," as defined in the 18th Amendment.

To prevent the people from realizing that they had this power, the Congress quickly proposed and passed the 21st Amendment to repeal the 18th Amendment, which was speedily ratified by the people on December 5, 1935, just eleven months after it was submitted. Only the 12th Amendment was more

speedily passed in 1804. The purpose of informing the people of their great Bill of Rights powers is to make them aware that they always have a direct check against constitutional abuse.

Lawyers Usurped Governmental Powers

The founding lawyers were aware that the people on juries had these great powers. They had repeatedly seen juries refuse to convict their fellow citizens who were caught smuggling contraband goods to avoid paying the duties required by English law. The jury defied the supreme authority, the King of England. However, under their new constitutional system the lawyers intended to put an end to such powers. At the Constitutional Convention, the lawyers who controlled the majority voted down a motion that the Constitution be "prefaced with a Bill of Rights."

The lawyers learned a lesson; a determined people, through their jury system proved they, instead of the King of England, were the sovereign authority. The lawyers would turn this around. They would continue to get themselves elected to the Congress and their various state legislatures in controlling majorities where they would enact the laws. They would continue as in England with Attorneys General and Districts Attorney to enforce the laws, and finally only lawyers could be judges who would interpret the law. With the power of the three departments in their hands, the lawyers would make themselves a sovereign authority with better control over the people than the King himself. But first they had to get the people to ratify their new Constitution. The people refused, protesting they would not ratify the Constitution until it had a Bill of Rights. The founders told the people to ratify the Constitution first, and they would promise to draft a Bill of Rights in the First Congress. On September 25, 1789, Congress presented a Bill of Rights to the states for ratification. Ratification was purposely delayed for twenty-seven months. This gave the lawyers time to organize the Supreme Court and arm the judges with powers that were in conflict with the Bill of Rights. They established the office of Attorney General and that of United States Attorneys to aid the courts.

The lawyers avoided creating a continuous, rotating Grand Jury that would maintain its independence and records. The Grand Jury was shielded so the

people would not have easy access to report acts of wrongdoing and corruption. The lawyers placed U.S. Attorneys in positions of great influence over Grand and Trial Juries. They gave the judges the opportunity to exert their influence over the Grand Jury. In their charges to Grand and Trial Juries, judges were wrongfully telling juries to enforce the Fugitive Slave Acts of 1793 and 1850, which were in contradiction to the Bill of Rights and the Preamble of the Constitution which promised: "We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." The five lawyers on the Committee of Style, who drafted and presented the Preamble, certainly lacked a sense of justice. How could the American people secure the blessings of liberty by following men who supported Article I section 2 clause 3, which ensured the denial of liberty—blacks by slavery; and thousands of whites bound by indenture to wealthy masters?

The lawyers were fearful that a Bill of Rights would follow the Virginia Bill of Rights, which contained provisions potentially disruptive to the new plan of government in "That the legislative and executive powers . . . should be separate and distinct from the Judiciary . . . " and "That all men are by nature equally free" and they cannot by any compact deprive or divest anyone "of life and liberty."

Colonial Americans were very much abused by judges and prosecutors. These prosecutors and judges tried to limit the power of colonial juries. In a long threatening charge, Chief Justice Thomas Hutchinson of Massachusetts warned members of the Grand Jury they must find a true bill. This means they must bring in an indictment wherein they swear the charges they voted are true. When the Grand Jury refused, the Chief Justice was helpless. The Attorney General and prosecutors could not find anybody willing to testify against citizens who resisted English rule. The English then established Admiralty Courts to limit the powers of colonial juries. These courts had Americans tried in England. Mindful of such previous abuses by the judges and lawyers, the American people refused to ratify the Constitution unless a Bill of Rights was forthcoming.

The people are sovereign. On juries they can make life and death decisions, which the government can then carry out. Others may say that Congress can declare war where lives are sacrificed but the people, in need of speed and efficiency at a time of great danger had granted Congress that power but only "for the common defense" and only to "protect each of them [states] against invasion."

The Bill of Rights is the Supreme Law of the Land

The big test lies with the people. They must maintain a strict separation between their Bill of Rights and the Constitution. The people alone must be the judge of every word, phrase and article of the Bill of Rights. "Congress shall make no laws . . . abridging the freedom of speech, or the press" means exactly what it says. **The people on juries have the right to refute the laws of Congress dealing with religion, speech, press and petition.** The statement contained in Article VI clause 2 cannot be true in that "This Constitution, and the laws . . . shall be the supreme law of the land," because a jury can reject laws if they are not made in conformity with the Bill of Rights.

The Bill of Rights and the Constitution Contradict Each Other

In the spirit of dissatisfaction at the time of ratification, there was a general demand by the people to limit the powers of the federal government. To this end, one hundred twenty-four amendments were proposed so that the people would feel secure in the enjoyment of life, liberty, and property, and they would have a written guarantee to protect them from encroachments of the central government.

Early in June, Madison determined which were the most important propositions and cut the one hundred twenty-four amendments down to twenty. The House further cut the twenty to seventeen. The Senate then rejected two and the remaining fifteen were modified and condensed until there was twelve. Those twelve were called amendments to the Constitution. However, only two, dealing with the apportionment and compensation of members of Congress, were actually amendments to the Constitution and they were rejected by

the states. The other ten were not amendments because they did not amend or modify the privilege of *habeas corpus* or the prohibition of a bill of attainder or ex post facto law as contained in the Constitution (Article I section 9). **In fact the remaining ten Bill of Rights guarantees could not be a part of the Constitution, as they were claimed to be, for they were in conflict or contradiction to the Constitution!**

For example in Article IV section 1 it states: "Full faith and credit should be given in each State to the public acts, records, and judicial proceedings of every other State, and the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved . . . ." Slavery was already unpopular in most of the states. It was outlawed in the Northwest Ordinance of 1787. In 1780, Massachusetts had prohibited slavery in its state Constitution and was strongly decided against any recognition of it in the federal Constitution. In spite of this, clause 3 of section 2 of Article IV states: "No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequences of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." The federal Constitution condoned slavery in those states that would have it. In contrast, the Bill of Rights extended liberty and freedom as a right to all people in all the states. Now if Massachusetts or another northern state had refused to return an escaped slave, Congress could not determine by any general law whose state judicial proceeding was to be followed. **The Bill of Rights and the Constitution are irreconcilable on matters dealing with freedom and rights.** Therefore, the Bill of Rights must prevail and the "Constitution" cannot "be the supreme law of the land" and the judges in every state shall not "be bound thereby." This means that an official who takes the oath to honor and defend the Constitution in consequence dishonors the Bill of Rights as the checking power of the sovereign people. The people can immediately rectify this by refusing to take the constitutional oath whenever required. Any official of the legislative, executive and judicial department who takes the constitutional oath is a potential enemy, and must be challenged as such in any official proceeding.

Chapter 6

The Bill of Rights is Separate and Supreme

There is a big difference between the Bill of Rights and Constitutional powers. The Bill of Rights contain inalienable rights. They cannot be taken away or transferred and can only be judged and administered by the people who are the sovereign authority. The Constitution contains limited powers that can be taken away or transferred through the amending process or when a convention is called by the people to alter the Constitution. The Bill of Rights is a direct check by the people on constitutional excess or abuse. As the ultimate check on the Constitution, the Bill of Rights is superior to the Constitution. You will agree that Madison and his fellow lawyers in the First Congress did not have the authority to proclaim the Bill of Rights as amendments to the Constitution because the supremacy clause was not first removed from the Constitution. The removal of the supremacy clause, however, would have necessitated a call for a second Constitutional Convention, which the lawyers would never risk. Instead they stated that the Bill of Rights was a part of the Constitution. We can no longer accept that claim. If we do, we are agreeing with "This Constitution, and the laws of the United States. . . made in pursuance thereof. . . shall be the supreme law of the land. . . ." If we allow the judges to do this, the Constitution then remains under their control and they will hold it superior to the Bill of Rights in their decisions. This has been destructive to our basic freedoms and it is why the people cannot work within the constitutional system for in time, this system dominated by judges will continue to render our Bill of Rights ineffectual. Soon none of us will be able to get protection from our government.

For two hundred years we have been loosing ground because the lawyers and judges have been cajoling us to "work within the system." To do otherwise, you will be branded an "extremist" or a "rebel" who will be shunned by the unknowing conformists who are responsible for the entire mess.

The Right to Keep and Bear Arms: The Second Article of the Bill of Rights

There are great threats to our rights and liberties if we continue to let our government get away with corrupting our Bill of Rights. Congress can proclaim that our streets have become unsafe battlegrounds. It could submit an amendment for the repeal of Article 2 of the Bill of Rights, which would deny citizens the right to keep and bear arms. Millions of people would challenge such a repeal by declaring that every Bill of Right is inalienable and unlike a constitutional provision, cannot be taken away or changed by amendment.

When proposing an amendment, Congress also establishes the "mode of ratification." Congress could by-pass the people and command that state legislatures be given the right to ratify. But the right to keep and bear arms is an inalienable right of the people. How then could Congress propose to repeal this right and declare the repeal to be final by an affirmative vote of the state legislatures?

If the people protest the loss of that right, they can't be successful if they attempt to work within the system for the final appeal would be to the United States Supreme Court. That court, like the Congress, is controlled by lawyers who will uphold the constitutionality of the amending process; the lawyers who control the U.S. Justice Department will enforce it. That spells tyranny. If this happens it means all of the other Bill of Rights can also be rendered useless, one by one, since our state legislatures are controlled by lawyers in violation of the separation of powers.

None of the above can occur if people believe the Bill of Rights was indeed intended to be a direct and independent check by the sovereign people against any constitutional usurpation or abuse by its officers. As a direct and independent check by the people, the Bill of Rights must remain both separate from and supreme over the Constitution.

The Importance of Juries

Our rights as a free people can best be protected if juries, both Grand and Trial, insist on functioning independently of all government officials. This can best be accomplished if jurors remind each other to reject any oath the govern-

ment has asked them to take and instead to take the following oath:

> To see that justice is done, I will faithfully execute the office of Grand or Trial Juror and will to the best of my ability preserve, protect, honor and defend the Bill of Rights as the supreme law of the land. So Help Me God.

The above oath must be taken because judges and U.S. Attorneys are under oath to support the Constitution, which is often in direct contradiction to the Bill of Rights.

The people on juries have the incontestable right to question and challenge the judge or U.S. Attorney who would interfere with their goal to arrive at the truth and to see that justice is done. The people also have the indisputable right to expose the judge and U.S. Attorneys as members of the same profession, and show how they have usurped and corrupted the legislative, executive and judicial departments of government by giving us bad laws, unlawful enforcement and unauthorized, corrupt judicial rulings. You, as jurors, cannot bring about any reforms if you work within the system, because the system is rigged.

All persons who serve on a jury should always be mindful that the Bill of Rights is the supreme law of the land. This can easily be proven. Any jury can refuse to indict any or all persons who have been arrested for violating "laws of the United States which shall be made in pursuance" of the Constitution. If the people on a Grand Jury wrongfully indict someone because they honored the supremacy of the Bill of Rights, the people on the Trial Jury can rectify that mistake by refusing to convict the party indicted.

No jury or juror need fear to speak out or stand up to the judge because of the power of contempt. The judge does not really have the power to cite anyone for contempt. (A detailed explanation is presented in chapter 6 to prove that contempt is an usurped power.) Another reason a person cannot be punished for contempt can be found in Article 5 of the Bill of Rights which states: "nor shall any person. . . be deprived of life, liberty, or property without due process of law." The term "due process of law" first appears in the English "Petition of Right" of 1628. Chapter IV of that Petition states: ". . . that no Man of what Estate or Condition that he be, should be put out of his Land or Tenements, nor taken, nor imprisoned, nor disherited, nor put to Death, without being brought to answer by due Process of Law." A man cannot be deprived of his liberty on the mere command of a judge. This denies due process,

which is indictment by Grand Jury, followed by a trial with a jury of his peers. The Bill of Rights are guaranteed rights to be administered by the people in the protection of the people from governmental abuses.

Under the overall authority of the Ninth Article of the Bill of Rights, a Grand Jury can indict any judge who would use the power of contempt to deprive a person of his liberty or property. The Ninth Article of the Bill of Rights commands that: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means the people on a Grand Jury have the power to indict for acts manifestly subversive to powers specified in the Bill of Rights. Conduct clearly destructive or dangerous to the well-being and liberty of the people need not be specifically defined by statute.

How Early Americans Saw Lawyers and the English Common Law

The lawyers and judges are the criminals. In violation of the separation of powers, they have misused and maladministered constitutional functions to the detriment of rights guaranteed to the people. We must work to remove them from all the public offices they presently hold by refusing to elect any lawyer to office and demanding that they not be picked for any appointive office. Better yet, we could abolish the Organized Bar and Bench. This should have been done years ago when the American people first considered that idea. It is best told by Charles Warren in his book *History of the American Bar.*[1] He writes:

> Irritated by this excessive litigation, by the increase of suits on debts and mortgage foreclosures, and by the system of fees and court costs established by the Bar Associations, the people. . . attributed all their evils to the existence of lawyers in the community. Thus, in the conservative little town of Braintree, close to Boston, the citizens in town meetings, in 1786, voted that:
>
> We humbly request that there may be such laws compiled as may crush or at least put a proper check or restraint on that order of Gentlemen denominated Lawyers, the completion of whose modern conduct appears to us to tend rather to the destruction than the preservation of the town.

[1] Charles Warren, *The History of The American Bar.* Boston: Little, Brown, 1911. The material quoted here appears on pages 214-37 of Warren's book.

Another small town, Dedham, instructed its representatives in the Legislature as follows:

> We are not inattentive to the almost universally prevailing complaints against the practice of the order of lawyers; and many of us now sensibly feel the effects of their unreasonable and extravagant exactions; we think their practice pernicious and their mode unconstitutional. You will therefore endeavor that such regulations be introduced into our Courts of Law, and that such restraints be laid on the order of lawyers as that we may have recourse to the Laws and find our security and not our ruin in them. If upon a fair discussion and mature deliberation such a measure should appear impracticable, you are to endeavor that the *order of Lawyers be totally abolished*; an alternative preferable to their continuing in their present mode (my emphasis).

Other communities were more radical, and demanded the complete abolition of the legal profession.

Such was the popular discontent arising from all these conditions, when, in Massachusetts, an open rebellion broke out in 1787 (the well-known Shays' Rebellion), directed largely against the courts and the lawyers and which required military action.

The *Letters of an American Farmer*, written in 1787, by H. St. John Crevecoeur, also express the sentiment of the time:

> Lawyers are plants that will grow in any soil that is cultivated by the hands of others, and when once they have taken root they will extinguish every vegetable that grows around them. The fortunes they daily acquire in every province from the misfortunes of their fellow citizens are surprising. The most ignorant, the most bungling member of that profession will, if placed in the most obscure part of the country, promote litigiousness and amass more wealth than the most opulent farmer with all his toil. . . .What a pity that our forefathers who happily extinguished so many fatal customs and expunged from their new government so many errors and abuses both religious and civil, did not also prevent the introduction of a set of men so dangerous. . . .The value of our laws and the spirit of freedom which often tends to make us litigious must necessarily throw the greatest part of the property of the Colonies into the hands of these gentlemen. In another century, the law will possess in the North what now the church possesses in Peru and Mexico.

Much the same conditions prevailed in all the states. In New Hampshire and in Vermont there were the same widespread outcries that the courts should be abolished; that the number of lawyers was too large; that the profession should be entirely suppressed; that their fees should be cut down. . . . The debtors of Vermont set fire to their court-houses; those of New Jersey nailed up their doors. Lawyers were mobbed in the streets, and judges threatened.

When the great debates were going on in the various state conventions in 1787-89 regarding the adoption of the Constitution, much of the opposition of the anti-Constitution men, or Anti-Federalists as they were later called, was due to the fact that the proposed Constitution "was the work of lawyers." (See Elliot's *Debates on the Constitution.*)

For nearly thirty years after the Revolution, constant efforts were made in many states to mitigate the evil and the supposed monopoly of lawyers by abolishing the system of bar-call and fees established by courts or Bar Associations.

Perhaps the most powerful attacks on the "dangerous" and "pernicious" "order" of lawyers and their "malpractices, delays and extravagant fees" were the letters of Benjamin Austin, an able pamphleteer and Anti-Federalist politician of Boston, who wrote, in 1786, under the name of "Honestus," and whose letters had a widespread influence:

> The distresses of the people are now great, but if we examine particularly we shall find them owing in a great measure to the conduct of some practitioners of law. . . .Why this intervening order? The law and evidence are all the essentials required, and are not the judges with the jury competent for these purposes?. . .
>
> The question is whether we will have this order so far established in this Commonwealth as to rule over us. . . .The order is becoming continually more and more powerful. . . .There is danger of lawyers becoming formidable as a combined body. The people should be guarded against it as it might subvert every principle of law and establish a perfect aristocracy. . . .This order of men should be annihilated. . . .No lawyers should be admitted to speak in court, and the order be abolished as not only a useless but a dangerous body to the public.

William Duane, editor of the Republican newspaper organ, the *Aurora* wrote:

> The profession of the law assumes in every State a political consequence, which, considering the use which is made of it, has become truly a subject of the

most serious concern; the loose principles of persons of that profession; their practice of defending right and wrong indifferently for reward; their open enmity to the principles of free government, because free government is irreconcilable to the abuses upon which they thrive; the tyranny which they display in the courts; and in too many cases the obvious understanding and collusion which prevails among the members of the bench, the bar, and the officers of the court, demand the most serious interference of the legislature and the jealousy of the people. . . .

A privileged order or class, to whom the administration of justice is given as a support, first employ their art and influence to gain legislation; they then so manage legislation as never to injure themselves; and they so manage justice as to engross the general property to themselves through the medium of litigation; and the misfortune is, that to be able to effect this point, it is attended by loss of time, by delay, expense, ill blood, bad habits, lessons of fraud and temptation to villainy, crimes, punishments, loss of estate, character and soul, public burden, and even loss of national character.

So long as justice can be demanded only by professional lawyers, so long will the knowledge of it be the exclusive property of the profession, and none will think it worth while to read what to him appears useless. If, on the contrary, it was not necessary to employ these professors to ask for justice, law would soon become a part of academic study, and no youth would leave college without reading Blackstone and Wilson; they would bring home their books of law, with their books of history, geography and ancient languages. By this means, and the practice every man would find in his private business, in helping his neighborhood to settle and adjust disputes, etc., society would be prodigiously advanced in knowledge and respectability of talents for legislators and statesmen.

In fact, one of the leading causes for this popular odium of the profession was the general feeling that the intricacies of special pleading which made the law so mysterious and unintelligible to laymen, the technicalities of the old Common Law, and the jargon of Latin, French and unfamiliar terms in which it was so often expressed were all tricks of the trade, designed and purposely kept in force by the Bar, in order to make acquisition of a knowledge of the law difficult to the public, and in order to constitute themselves a privileged class and monopoly.

The English Common Law in America

Parallel with this animosity against lawyers as a class was the prejudice

against the system of English Common Law on which the courts based their decisions—a prejudice felt, not only by many intelligent as well as unintelligent laymen, but also by many American lawyers themselves.

Many lawyers as well as laymen felt that what was needed was a law wholly and strictly American. Thus wrote Benjamin Austin:

> Instead of the numerous codes of British law, we should adopt a concise system, calculated upon the plainest principles and agreeable to our Republican government. This would render useless hundreds of volumes which only serve to make practice mysterious. . . .
>
> One reason of the pernicious practice of the law and what gives great influence to the 'order' is that we have introduced the whole body of English laws into our courts. Why should these States be governed by British laws? Can the monarchical and aristocratical institutions of England be consistent with the republican principles of our Constitution?. . . We may as well adopt the laws of the Medes and Persians. . . .The numerous precedents brought from 'old English authorities' serve to embarrass all our judiciary causes and answer no other purpose than to increase the influence of lawyers.

Thomas Jefferson wrote to Edmund Randolph, August 18, 1799:

> Of all the doctrines which have ever been broached by the federal government the novel one, of the Common Law being in force and cognizable as an existing law in their courts, is to me the most formidable. All their other assumptions of ungiven powers have been in the detail. The bank law, the treaty doctrine, the sedition act, the alien act, the undertaking to change the State laws of evidence in the State courts by certain parts of the stamp act, etc., etc., have been solitary, inconsequential, timid things in comparison with the audacious, barefaced and sweeping pretension to a system of law for the United States without the adoption of their Legislature, and so infinitely beyond their power to adopt. If this assumption be yielded to, the State courts may be shut up as there will then be nothing to hinder citizens of the same State suing each other in the federal courts in every case, as on a bond for instance, because the Common Law obliges the payment of it and the Common Law they say is their law.

In Virginia, in January 1800, the opposition took the form of an instruction from the General Assembly to its Senators and Representatives in Congress to use their best efforts to oppose the passing of any law founded on recognizing the principle lately advanced that the Common Law of England was in force

under the government of the United States.

> The General Assembly of Virginia would consider themselves unfaithful to the trust reposed in them were they to remain silent, whilst a doctrine has been publicly advanced, novel in its principles and tremendous in its consequences: That the Common Law of England is in force under the government of the United States. It is not at this time proposed to expose at large the monstrous pretensions resulting from the adoption of this principle. It ought never, however, to be forgotten, and can never be too often repeated, that it opens a new tribunal for the trial of crimes never contemplated by the federal compact. It opens a new code of sanguinary criminal law, both obsolete and unknown, and either wholly rejected or essentially modified in almost all its parts by State institutions. It arrests or supersedes State jurisdictions, and innovates upon State laws. It subjects the citizens to punishment, according to the judiciary will, when he is left in ignorance of what this law enjoins as a duty or prohibits as a crime. It assumes a range of jurisdiction for the Federal courts which defies limitation or definition. In short, it is believed that the advocates for the principle would themselves be last in an attempt to apply it to the existing institution of Federal and State courts, by separating with precision their judiciary rights, and thus preventing the constant and mischievous interference of rival jurisdictions.

Finally, the prejudices of the people crystallized in radical legislation. In 1799, the State of New Jersey actually passed a statute, forbidding the Bar to cite or read in court any decision, opinion, treatise, compilation or exposition of Common Law made or written in Great Britain since July 1, 1776, and prescribed heavy penalties.

In 1807, the State of Kentucky followed suit with a statute, providing that reports and books of decisions in Great Britain since July 4, 1776, "shall not be read or considered as authority in any of the courts."

In Pennsylvania from 1802-05, the feeling against the Common Law took shape in the impeachment trial of the Chief Justice and judges of the Supreme Court, Edward Shippen, Jasper Yeates and Thomas Smith, charged with a single "arbitrary and unconstitutional act," by sentencing Thomas Passmore to jail for thirty days and imposing a $50 fine for a "supposed contempt." The ground for the impeachment was punishment for contempt of court and was an English Common Law barbarism unsuited to this country and illegal.

It is probable that no one thing contributed more to inflame the public mind against the Common Law than did the insistence of the American courts

on enforcing the harsh doctrines of the English law of criminal libel—that truth was no defense, and that the jury could pass only on the fact of publication and the application of the innuendo.

> In Colonial times, there had been a long struggle between the Royal judges and the writers and printers for a wider freedom of the press; and trial after trial had been held, in which counsel had argued for the greater rights of the jury. . . The narrow English doctrines had, however, prevailed until the Revolution. When the State Constitutions were being formed, the greatest care had been taken to insert ample clauses, guaranteeing freedom of speech and freedom of the press; and it was supposed that under these clauses the old law of libel could no longer flourish. It was a great shock, therefore, to the public,. . . when Chief Justice Francis Dana held in the first case arising under the new Massachusetts Constitution, in 1791,—*Com. v. Freeman*—that the old Common Law of criminal libel had not been altered, and that with all its rigors it was still in force in that State. This decision excited much interest throughout the country. The obnoxious principle of the English law that truth was no defence was again applied in 1801, in the trial of another newspaper editor, Abijah Adams, the ardent Anti-Federalist publishers of the Boston *Independent Chronicle*—Chief Justice Dana, in his decision terming the Common Law, "our cherished birthright." The irony of this term, as voicing the real public sentiment, may be seen from an editorial printed in his paper on the day after Adams' release from prison: "Yesterday Mr. Abijah Adams was discharged from his imprisonment, after partaking of an adequate proportion of his birthright by a confinement of thirty days under the operation of the Common Law of England." Another editor, John S. Lillie, of the *Constitutional Telegraph*, in Boston, was indicted, in 1801, for libel in referring to Dana as "the Lord Chief Justice of England," "a tyrant judge," who administered "that execrable engine of tyrants the Common Law of England in criminal prosecutions."

Nothing, however, in the early legal history of the Colonies is more striking than the uniformly low position held in the community by the members of the legal profession, and the slight part which they played in the development of the country until nearly the middle of the Eighteenth Century. In every one of the Colonies, practically throughout the Seventeenth Century, a lawyer or attorney was a character of disrepute and of suspicion. . . In many of the Colonies, persons acting as attorneys were forbidden to receive any fee; in

some, all paid attorneys were barred from the courts; in all, they were subjected to the most rigid restrictions as to fees and procedure.[2]

> The development of the American lawyer was thus retarded by the influence of all these factors which, however, varied in degree of effect in each separate Colony. In New England, however, the lack of educated lawyers in the Seventeenth Century is especially attributable to still another cause—the absence of any respect for, or binding authority of, the English Common Law . . . it was never historically true that either in Massachusetts, Connecticut or Rhode Island did the colonist recognize the English Common Law as binding *ipse facto*. So far from being proud of it "as their birthright," they were, in fact, decidedly anxious to escape from it and from the ideas connected with it in their mind.[3]

New York State's Lieutenant-Governor Colden stated on January 22, 1765:

> If the profession of the law keep united as they are now, the abilities of an upright judge will not be sufficient to restrain the lawyers, without the security of an appeal to a court where they can have no undue influence. The lawyers influence every branch of our Government, a domination as destructive of Justice as the domination of Priests was of the Gospel; both of them founded on delusion.

And on February 22, 1765, he wrote to the Earl of Halifax:

> By means of their profession they [lawyers] become generally acquainted with men's private affairs and necessities, every man who knows their influence in the courts of justice is desirous of their favor and affrayd of their resentment. Their power is greatly strengthened by inlarging the powers of the popular side of government and by depreciating the powers of the Crown.
>
> The Proprietors of the great tracts of land in this Province have united strongly with the lawyers as the surest support of their enormous and iniquitous claims and thereby this faction is become the more formidable and dangerous to good government. . . .
>
> All Associations are dangerous to good government, more so in distant dominions; and associations of lawyers the most dangerous of any, next to military . . . [4]

[2] ibid, 4.
[3] ibid, 10-11.
[4] ibid, 98-100.

Until about the middle of the Eighteenth Century, the development of law in Pennsylvania was extremely rudimentary. Its settlers were active in their opposition to the introduction of the legal subtleties of the English Bar and the legal procedure and processes of the English Bench.

William Penn, the Proprietor, certainly had no reason to love the English courts, for English judges had cast aside all bounds of decency and legal principle in connection with Penn's trial on an indictment for "tumultuous assembly" in 1670. Penn's famous comment on the Common Law uttered in this case is well known; and the following colloquy between the presiding judge in the Old Bailey and the stout-hearted Quaker well illustrates the reason for the popular resentment towards the English law as administered in criminal cases in the Seventeenth Century.

> PENN. I desire you would let me know by what law it is you prosecute me and upon what law you ground my indictment.
>
> RECORDER. Upon the Common-law.
>
> PENN. Where is that common-law?
>
> RECORDER. You must think that I am able to run up so many years and over so many adjudged cases which we call common-law, to answer your curiosity.
>
> PENN. This answer I am sure is very short of many questions, for if it be common, it should not be hard to produce. . . .Unless you shew me and the people the law you ground your indictment upon, I shall take it for granted your proceedings are merely arbitrary.
>
> RECORDER. The question is whether you are guilty of this indictment.
>
> PENN. The question is not whether I am guilty of this indictment, but whether this indictment be legal. It is too general and imperfect an answer to say it is the common law, unless we knew both where and what it is. For where there is no law, there is no transgression; and that law which is not in being is so far from being common, that it is no law at all.
>
> RECORDER. You are an impertinent fellow, will you teach the court what law is? It is '*Lex non scripta*,' that which many have studied thirty or forty years to know; and would you have me to tell you in a moment?
>
> PENN. Certainly, if the common law be so hard to be understood, it is far from being very common; but if the Lord Coke in his Institute be of any consideration, he tells us that Common Law is common right, and that Common Right is the Great Charter Privileges."

The Quakers of Pennsylvania sought relief from such tyranny of English judges and were unlikely to welcome any efforts to establish the lawcraft in power in their new home. It is not strange, therefore, that for seventy years after the settlement, the courts of the Province were maintained with practically no lawyers present, either on the Bench or at the Bar.

The colonists were extremely independent in their attitude towards the Common Law of England. They claimed the advantage of all rights and privileges of Englishmen guaranteed by that law. Penn published in Philadelphia, as early as 1687, an edition of the *Magna Carta* of the *Confirmation of the Charters*, and of the *Statute De Tallagio non Concedenda*, including an address to the reader "not to give away anything of Liberty and Property that at present they do. . . enjoy." The colonists felt themselves free to decide for themselves how much of the other doctrines of the Common Law they would adopt, and what portion they would reject. So that within a very few years, when the first Royal Governor, Benjamin Fletcher, was appointed, in 1682, he called the attention of the Assembly to several criminal statutes, laws regarding inheritance of land, marriage and other matters, which he deemed repugnant to the laws of England, and therefore invalid.[5]

The Trials of Peter Zenger and Susan B. Anthony

It has been well over seven hundred years since Magna Carta (1215 AD), which defined the principle that it was the duty of juries to hold all laws invalid that were in their opinion unjust, and all persons guiltless in violating such laws.

The right of juries to decide both the law and fact was decided in the John Peter Zenger case fifty-four years before our new Constitution went into effect in 1789. Before his trial, freedom of the press did not exist in America for the colonists. Zenger defied this censorship by the government and published articles critical of New York colonial rule. He was arrested and imprisoned for nine months. At his trial in August 1735, Zenger admitted publishing the offending articles, but argued that publication was justified because of the truth of the facts. The facts were that Governor William Cosby sought to establish a court of chancery from which he was seeking a judicial determination favor-

[5] ibid, 101-03.

able to himself. When Chief Justice Lewis Morris pronounced the entire proceeding illegal he was replaced by James DeLancey who used his new office in defense of the Governor who had elevated him. Zenger, through his *New York Weekly Journal*, had begun to inform the people of that corrupt executive-judicial alliance. The Delancey Court could only defend the Governor and itself by instructing the jury that truth is not a justification for libel (one of the many good reasons why judges should never be allowed to instruct or influence juries).

Zenger had admitted to the fact of publication, therefore, only a question of law remained. The judge usurped the power to determine the law and instructed the jury to find the defendant guilty. The jury refused to follow the judge's instructions and found Zenger not guilty. The decision by the jury to free Zenger contradicted the judge's instructions, but was instrumental in establishing freedom of the press in the colonies. Without such a free press, the War for Independence could never have been successfully waged.

Zenger's courageous jury of twelve men won the first big battle of the American Revolution without firing a shot, but which later assured victory and independence for the colonists. Most importantly the decision of the Zenger Jury proved that freedom of press, like speech, assembly, etc., are inherent rights. There was no written Bill of Rights in America at the time that a jury could call upon. Furthermore, whether written or not, such basic rights are inalienable; they never can be taken away by the government.

The Susan B. Anthony Trial

In some instances, a jury may fail the defendant if the jurors allow themselves to be deceived by the court. That is what happened in 1873 to the submissive jury that sat in judgment of Susan B. Anthony. They failed in their main purpose—to see that justice was done. They obediently allowed Judge Ward Hunt to obstruct the administration of justice. The judge insisted on convicting and punishing the defendant for voting even though he knew that there was no intent by Anthony to commit a crime. Judge Hunt's actions were at the urging of Senator Roscoe Conkling, his political mentor, who had secured for him a seat on the U.S. Supreme Court.

Susan B. Anthony was tried for the crime of voting. The all-male jury in her

trial delayed for almost fifty years a republican form of government to over half of the American people by denying American women the right to vote. The first paragraph of the 14th Amendment declares that all persons born or naturalized in the U.S. are citizens, and no state shall deny or abridge the privileges of citizens. On the strength of the 14th, Anthony and other women citizens voted in the elections of 1872. Anthony was subsequently arrested and jailed.

In January 1873, Henry R. Selden, one of Anthony's lawyers, argued before U.S. District Judge N. K. Hall in support of Anthony's demand for a writ of habeas corpus. Selden asked that the prisoner be discharged on these grounds: First, in the act complained of, she discharged a duty or exercised a right instead of committing a crime; she had a constitutional and lawful right to offer her ballot and to have it received and counted; she, as well as her brothers, was entitled to express her choice as to the persons who should make and execute the laws, inasmuch as she, as well as they, would be bound to observe them; second, that, if she had not that right, she in good faith believed that she had it and, therefore, her act lacked the indispensable ingredient of all crime, a corrupt intention.

The judge denied this plea and increased her bail to $1,000. Anthony, determined not to recognize the right of the courts to interfere with her exercise of the voting franchise, again refused to give bail and insisted that she would rather be imprisoned. Selden betrayed his client. Without her knowledge or consent, he personally secured her bond. Because Selden did that, Anthony lost her only chance to get her case before the U.S. Supreme Court by writ of habeas corpus.

The fact is that Selden was again to betray both his client and the American people. For in defense of his client, he did not establish the principle of the supremacy of the Bill of Rights over that of the Constitution. He should have informed the Hunt court that under the terms of the Constitution his client could not get a fair trial, and therefore the court did not have jurisdiction in the case before it.

This is what Selden could have said in his jurisdictional argument:

> The Constitution in Article III Section 2 Clause 1 provides that: "The trial of all crimes. . . shall be by jury." Article 6 of the Bill of Rights offers additional

> protection to the betterment of my client's interest because it demands that "in all criminal prosecutions" the accused shall have the right to a trial "by an impartial jury." A jury of all men, who have the right to vote can not possibly serve as "an impartial jury." The men on the jury are full citizens, while women, under the terms of the Constitution are mere subjects who have to conform to men's laws. Under such an existing situation most men no doubt would prefer to maintain the status quo. An all male jury in the case before us cannot possibly serve as "an impartial jury" because they are not of equal standing, therefore not peers of my client.

If the above jurisdictional challenge had been properly made and if it was then rejected by Judge Hunt, the attorneys for Anthony would have had the right to appeal to the Supreme Court of the United States where the Constitution itself would have been put on trial. All judges and officers of the government are bound by oath to uphold the terms of Article III section 2 clause 3, which states that: "The trial of all crimes. . . shall be by jury." However, when the Bill of Rights was adopted in December of 1791, all judges and officers of the government were bound by the higher authority of Article 6 of the Bill of Rights in that all who are accused shall have "the right to a speedy and public trial, by an *impartial jury*" (my emphasis). Of what use is the Constitution if women—who make up the majority of the American people—could not have the right to a fair trial by an impartial jury? By failing to bring that initial challenge to the Supreme Court, Attorneys Henry Selden and John VanVoorhis did not properly represent Anthony. They became a party to the obstruction of justice when they allowed Judge Hunt to direct the jury to bring in a verdict of guilty. Judge Hunt ordered the clerk to enter a guilty verdict into the record without allowing the jury any consultation or asking if they agreed with his imposed verdict. Judge Hunt then quickly discharged the jury when Selden demanded that the members of the jury be polled.

The next day Selden cooperated with the Hunt court and again betrayed his own client by arguing on the motion for a new trial on seven exceptions. However, there could not be any exceptions offered because both the Constitutional and Bill of Rights requirements for a jury trial were never met. There was no trial by an impartial jury. The case should have been appealed directly to the Supreme Court because Judge Hunt had contemptuously refused to obey the terms of the Constitution that "the trial of all crimes. . . shall be by jury."

Lawyers for Anthony did not appeal directly to the Supreme Court because they and the prosecuting lawyers were all working with Judge Hunt in the interest of the government to deny women suffrage. It was not until twenty-four years later that this was made evident. When asked his opinion, VanVoorhis made the following statement:

> There was a pre-arranged determination to convict her. A jury trial was dangerous, and so the Constitution was openly and deliberately violated. The Constitution makes the jury, in a criminal case, the judge of the law and of the facts. No matter how clear or how strong the case may appear to the judge, it must be submitted to the jury. That is the mandate of the Constitution. As no one can be convicted of crime except upon trial by jury, it follows that the jury are entitled to pass upon the law as well as the facts. The judge can advise the jury on questions of law. He can legally do no more. If he control the jury and direct a verdict of guilty, he himself is guilty of a crime for which impeachment is the remedy. . .
>
> He [Judge Hunt] came to Canandaigua to hold the Circuit Court, for the purpose of convicting Miss Anthony. He had unquestionably prepared his opinion beforehand. The job had to be done, so he took the bull by the horns and directed the jury to find a verdict of guilty. . .
>
> Judge Hunt very adroitly, in passing sentence on Miss Anthony imposing a fine of $100, refused to add, what is usual in such cases, that she be imprisoned until the fine be paid. Had he done so, Miss Anthony would have gone to prison, and then taken her case directly to the Supreme Court of the United States by writ of habeas corpus. There she would have been discharged, because trial by jury had been denied her. But as Miss Anthony was not even held in custody after judgment had been pronounced, she could not resort to habeas corpus proceedings and had no appeal.[6]

The last sentence of VanVoorhis's statement was not true. Anthony's defense lawyers did have options open to appeal. They could have petitioned the House to impeach Judge Ward Hunt on at least two charges. The first for obstructing the administration of justice by convicting the defendant, Susan B. Anthony of a crime. Judge Hunt was aware that Anthony had no intention to commit a crime because it was known that she sought the advice and permission to vote from her lawyer, Henry R. Selden, a former judge of New York State's highest court. If a crime had in fact been committed, then lawyer-judge

[6] Ida H. Harper, *Life and Work of Susan B. Anthony*, Hollenbeck, 1898, pp. 444-45.

Selden was a party to it. The second charge that could have been placed before the House was that Judge Hunt displayed personal prejudice against the defendant in denying her a trial and verdict by jury.

The defense lawyers also had every right to directly appeal to the U.S. Supreme Court. It was obvious Judge Hunt's court was in violation of the separation of powers; the court was serving the interest of the Congressional leaders, who would dictate to political judges how both the 14th and 15th Amendments were to be interpreted. The 15th Amendment states:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The Congressional and political leaders (most of them lawyers) wanted it understood that only men, regardless of their race or color, could vote, and that all women, black and white, were to remain in a "condition of servitude," subservient to men.

As unlawful custodians of the Constitution, lawyers enforced its limited provisions and ignored the broader protections of the Bill of Rights that applied to all "the people" as stated in the Bill of Rights. Lawyers Selden and VanVoorhis played politics when the rights and liberty of their client were at stake. They did not want to embarrass the lawyers in Congress by seeking to impeach the corrupt Judge Hunt. Nor would they appeal directly to the Supreme Court the obvious fact—that the judge who had a duty to inform the defendant of her right to trial by jury—instead deprived her of that right.

Selden pronounced the action of Judge Hunt as "the greatest judicial outrage ever perpetrated in the United States." I believe that Selden was a party to that outrage and then engaged in one of the greatest judicial cover ups "ever perpetrated in the United States."

As part of that cover up in 1874, Selden and VanVoorhis salved those who were still furious in their opposition to the federal courts because of the injustice to Anthony. They appealed to the sense of justice "of Congress to remit the fine and declare that trial by jury does and shall exist in this country." However, the lawyers who controlled the Congress, took no action to either satisfy the injustice or to punish the criminal judge.

If Susan B. Anthony had been given the opportunity to appear in person

before the Supreme Court to participate in her own defense she would have had the nation as a jury and the Constitution and its officials would have been on trial. That brave and intelligent woman could have informed the world that under our Constitution there was no court where a woman could seek justice in the United States, for the lawyers and judges who had created this despotic system also staunchly defended it.

In order to avoid publicity and even before he had heard all the arguments in the case, Judge Hunt quickly brought the trial to an end. He found Anthony guilty and then discharged the jury.

> The next day he denied the motion by Anthony's attorney for a new trial and then ordered her to stand up. "Has the prisoner anything to say why sentence shall not be pronounced?"
>
> Miss Anthony: Yes, your honor, I have many things to say; for in your ordered verdict of guilty you have trampled under foot every vital principle of our government. My natural rights, my civil rights, my political rights, my judicial rights, are all alike ignored. Robbed of the fundamental privilege of citizenship, I am degraded from the status of a citizen to that of a subject; and not only myself individually but all of my sex are, by Your Honor's verdict, doomed to political subjection under this so-called republican form of government."
>
> Judge Hunt: The Court can not listen to a rehearsal of argument which the prisoner's counsel has already consumed three hours in presenting.
>
> Anthony: May it please your honor, I am not arguing the question, but simply stating the reasons why sentence can not, in justice, be pronounced against me. Your denial of my citizen's right to vote, is the denial of my right of consent as one of the governed, the denial of my right of representation as one of the taxed, the denial of my right to a trial by a jury of my peers as an offender against law; therefore, the denial of my sacred right to life, liberty, property and. . .
>
> Judge Hunt: The court can not allow the prisoner to go on.
>
> Anthony: But your honor will not deny me this one and only poor privilege of protest against this high-handed outrage upon my citizen's rights. May it please the Court to remember that, since the day of my arrest last November, this is the first time that either myself or any person of my disfranchised class has been allowed a word of defense before judge or jury.
>
> Judge Hunt: The prisoner must sit down. The Court can not allow it.
>
> Anthony: Of all my prosecutors, from the corner grocery politician who entered the complaint, to the United States marshal, commissioner, district attorney, district judge, your honor on the bench—not one is my peer, but each and all are

my political sovereigns; and had your honor submitted my case to the jury, as was clearly your duty, even then I should have had just cause of protest, for not one of those men was my peer. Each and every man of them was my political superior; hence, in no sense my peer. Under such circumstances a commoner of England, tried before a jury of lords, would have far less cause to complain than have I, a woman tried before a jury of men. Even my counsel, Hon. Henry R. Selden, who has argued my cause so ably, is my political sovereign. Precisely as no disfranchised person is entitled to sit upon a jury, and no woman is entitled to the franchise, so none but a regularly admitted lawyer is allowed to practice in the courts, and no woman can gain admission to the bar—hence, jury, judge, counsel, all must be of the superior class.

Judge Hunt: The Court must insist—the prisoner has been tried according to the established forms of law.

Anthony: Yes, your honor, but by forms of all law made by men, interpreted by men, administered by men, in favor of men and against women; and hence your honor's ordered verdict of guilty, against a United States citizen for the exercise of the "citizen's right to vote," simply because that citizen was a woman and not a man. But yesterday, the same man-made forms of law declared it a crime punishable with $1,000 fine and six months' imprisonment to give a cup of cold water, a crust of bread or a night's shelter to a panting fugitive tracking his way to Canada; and every man or woman in whose veins coursed a drop of human sympathy, violated that wicked law, reckless of consequences, and was justified in so doing. As then the slaves who got their freedom had to take it over or under or through the unjust forms of law, precisely so now must women take it to get their right to a voice in this government; and I have taken mine, and mean to take it at every opportunity.

Judge Hunt: The Court orders the prisoner to sit down. It will not allow another word.

Anthony: When I was brought before your honor for trial, I hoped for a broad and liberal interpretation of the Constitution and its recent amendments, which should declare all United States citizens under its protecting aegis—which should declare equality of rights the national guarantee to all persons born or naturalized in the United States. But failing to get this justice—failing, even, to get a trial by a jury not of my peers—I ask not leniency at your hands but rather the full rigor of the law.

Judge Hunt: The sentence of the court is that you pay a fine of $100 and the cost of the prosecution.

Anthony: May it please your honor, I will never pay a dollar of your unjust

penalty. All the stock in trade I possess is a debt of $10,000 incurred by publishing my paper—*The Revolution*—the sole object of which was to educate all women to do precisely as I have done, rebel against your man-made, unjust, unconstitutional forms of law, which tax, fine, imprison and hang women, while denying them the right of representation in the government; and I will work on with might and main to pay every dollar of that honest debt, but not a penny shall go to this unjust claim. And I shall earnestly and persistently continue to urge all women to the practical recognition of the old Revolutionary maxim, "Resistance to tyranny is obedience to God."

Judge Hunt: Madam, the Court will not order you to stand committed until the fine is paid.[7]

Judge Ward Hunt violated both the Bill of Rights and the Constitution of the United States because he had sworn to support both. He violated basic protections as they applied to Anthony with his directed verdict. Judge Hunt committed a crime against every American. He struck at the very heart of the Bill of Rights. He should have been indicted by a federal Grand Jury. Any Grand Jury, county, state or federal, could have voted a Presentment for the impeachment of Judge Hunt to the House. As Judge Hunt and many other arrogant judges have often proven, the courts are a threat to our liberties. The only "judges" of Bill of Rights protections must be the people sitting on Grand or Trial Juries.

When the Congress refused to discipline Judge Hunt, a separate, independent Bill of Rights Grand Jury could have indicted him, and a separate, independent Bill of Rights jury entirely independent of our unconstitutional court system could have convicted him. But the lawyers would do everything in their power to prevent such action by a Grand Jury. Instead it was in the interest of Congress to reward Justice Hunt with full pay and pension benefits for obeying their wishes that Anthony be found guilty.

Unlawful Pensions

In December, 1872 Justice Hunt took his seat on the Supreme Court. Early in January, 1879 he suffered a paralytic stroke. Although a total invalid and unable to provide any "services," he was allowed to hold his seat until January

[7] ibid, 439-41.

27, 1882. On that day a special act was introduced by Senator David Davis, Hunt's former colleague on the Supreme Court bench. That special act was supposed to extend to Hunt the benefits of the Act of 1869, which permitted federal judges to retire on full pay at the age of seventy years after ten years of service. Hunt, however, had only served six years on the Supreme Court and was not entitled to a pension under either the Act of 1869 or that of 1882. Article III section 1 of the Constitution requires that judges of the federal courts "shall at stated times, receive **for their services, a compensation**, which shall not be diminished during their continuance in office." From the time the Supreme Court adjourned for recess on December 23, 1878 until the Special Act was passed on January 27, 1882, Justice Hunt was physically unable to provide any "services" as a judge. He should not therefore have gotten any compensation whatsoever. In fact, "he was sharply criticized by some members of Congress for having continued in office so long after becoming unfit to perform his judicial duties."[8] Congress gave Justice Hunt and all other retired federal judges full pay for life.

Once appointed and confirmed, a federal judge quickly learns he will be bribed with full pay for the rest of his life; that is as long as he, in his decisions, does not expose the myth of constitutionality as I am presently doing. The American people can challenge in court this ongoing pension theft by the federal judiciary, but if we work within the system and take the case to the courts as the Constitution commands, we cannot expect the judges to rule in our favor. Furthermore, judges are not supposed to sit in judgment of a cause in which they have a direct personal interest. We face a constitutional dilemma because we can't expect a just and honest redress even if we petition Congress on this grievance. The 41st and 47th Congresses passed the unconstitutional Pension Acts of 1869 and 1882, which granted full pay to all retired federal judges. Those acts have been allowed to stand by all succeeding lawyer-dominated Congresses. Congress passed an act to give Congressmen pensions for life even though the Constitution in Article I section 6 clause 1 specifically states: "senators and representatives shall receive a compensation *for their services*. . . " (my emphasis). Congressmen, like judges, do not and can not provide Constitutional "services" after retirement. Neither Congressmen nor

[8] *Congressional Record*, 47 Cong. I Sess. pp. 505, 612-18.

judges are entitled to pensions for services already performed and paid for.

The executive department is equally corrupt. Not one of the attorneys general, special prosecutors or thousands of lawyers in the Justice department has exposed this system of mutual bribery.

Supreme Court Justice Ward Hunt no doubt squirmed when, in full view of the entire country, he violated the Constitution in denying Susan B. Anthony her right to be tried and judged "by jury." Congress did not impeach and remove him for his unconstitutional act, nor did the Supreme Court, in defense of the Constitution, overrule Judge Hunt's decision and grant Anthony a new trial.

Each of the Judges on the Supreme Court did "solemnly swear or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me. . . according to the best of my abilities. . . agreeably to the Constitution and the laws of the United States." Therefore, the Supreme Court, at that time, had to review the actions of Justice Hunt and follow the Constitution instead of one of its own rules that states that the Supreme and inferior Courts must avoid "any expression of judicial opinion, except in cases [brought] before them in due judicial course."

Defense lawyers Selden and VanVoorhis could have used another method to get before the Supreme Court by invoking Article 1 of the Bill of Rights which gives any person the right "to petition the government [Congress, the courts or the executive department] for a redress of grievances." Instead, Selden and VanVoorhis, like the Supreme Court Justices, sacrificed Susan B. Anthony.

In their actions in the Anthony voting case, Congress and the Supreme Court were in violation because they denied the people in every state in the Union "a republican form of government" as commanded by the Constitution (Article IV section 4). There was not one state in the Union in which the majority of the people (women) could vote. Consequently, Congressmen were not the elective representatives of all the people. In fact, if the American people had a republican form of government in 1873 the majority (women) would have had the opportunity of voting out the impostors in Congress who were posing as representatives of the people.

The Anthony case is another example that demonstrates the truth in that the American Bench and Bar has been engaged in a history of organized criminal-

ity against the people of this nation for over two hundred years.

Their criminality deprived Americans of their basic rights and resulted in the theft of billions of dollars from the American people, which is used to fund unauthorized pensions received by Congressmen, judges and members of the executive department.

In chapter 11 of this book, I tell of our suit challenging the members of the legislative, executive, and judicial departments for violating the New York State Constitution which forbids the payment of pensions,"fees," "perquisites of office or other compensation." Under their so-called official authority, the judges of the highest New York state court ruled against citizen-taxpayers to prevent them from arguing their challenge and claim that pensions and unaccountable expense monies are perquisites of office that are constitutionally forbidden to all elective officials of all branches of the government. To put it bluntly, it means that New York state residents pay seven of their highest state judges to be the final cover up for the organized mob that runs their New York state government.

As President of the Association for Grand Jury Action Inc. (AFGJA) and Chairman of the Board, Robert Kesel and I voluntarily spent over $3,000 for paper work and filing fees plus all of our time and effort in running to and from Albany, New York in pursuing our case.

I want to publicly state that every lawyer who is a member of the New York State Bar must take the blame and responsibility for the pension thefts, since we have put them on notice many times. The following are excerpts from a letter of August 5, 1971.

August 5, 1971

Mr. Hugh R. Jones, President
New York State Bar Association
1 Elk Street
Albany, New York 12207

Dear Mr. Jones:

Enclosed you will find Petition 3449/71 and First Amendment thereto. These petitions concern the unconstitutional Legislative and Executive Retirement Plan that state legislators have enacted for themselves and the granting of lump sum expenses (lulus) in violation of the New York State Constitution Article III, Sec. 6

and Article XIII, Sec. 7.

Our reason for writing you about this matter is to ask you to bring this to the attention of your members and to attack this assault on the public treasury by legislators more concerned with furthering self-interest than serving the public.

Sixty percent of the present state legislature is composed of those in the legal profession who should be well aware of Constitutional limitations concerning their compensation. They, along with counsel to the Governor, the Attorney General, and Comptroller, all lawyers, have instead succeeded in bypassing the Constitution.

We wish to remind you that when a person is admitted to the practice of law he raises his hand and swears to support both the United States and the New York State Constititutions. Lawyers become officers of the court and gain a property right to practice law by being able to charge fees for their service. Others are denied this right even though they may be able to conduct a sound constitutional defense for another.

This property right also carries with it the sworn responsibility to defend and uphold the constitution, and we remind you that the oath does not say that they shall do this only for a fee. It is an obligation freely accepted and to be freely fulfilled. The ordinary citizen takes no such oath. Lawyers are obligated to commence their own action when they see a violation.

The Legislative and Executive Pension and Retirement Plan 1955 Chapt. 219 is clearly a violation of the Constitution, . . . enacted by a majority of lawyers who seem to have abrogated their sworn oath of office for self-enrichment.

Are the lawyers of New York State to do likewise? We hope not. May we hear from you about your plan to defend the Constitution from such abuses?

Very truly yours,

Ralph Boryszewski, Chairman of the Board

Robert E. Kesel, President

RB/REK/jmb

As we expected, the lawyers of the New York State Bar Association made no attempt to help us. A few years later we appeared before the New York State Court of Appeals to argue our case. Mr. Hugh R. Jones, the former President of the State Bar Association, was now a judge who voted with the six other judges to deny us the right to expose the truth about the unlawfulness of the pension plan. If we had been allowed to argue our case before the court, we would have

branded the entire state judiciary as criminals who had organized to steal the people's money and then used the judicial process to cover up.

The federal government is involved in similar pension corruption. The federal Constitution states that "senators and representatives shall receive a compensation for their services." When they are not re-elected, or quit their office, they no longer are able to provide "their services" and therefore they can no longer receive any compensation such as pensions.

"The President shall . . . receive for his services a compensation . . .during the period for which he shall have been elected. . . ." When a President is not re-elected, he cannot provide any services; he is not entitled to any further compensation from the government of any kind.

Supreme and inferior court judges "shall . . . receive for their services a compensation. . . during their continuance in office." When they resign or retire the judges no longer can receive any compensation including pensions since they no longer are providing "their services."

The lawyers have unconstitutionally disregarded the Constitution and passed gravy train pension laws beneficial to Congressmen, Presidents, and Judges. If I should attempt to sue these criminals, I would be confronted with the same corruption, deceit and lies by the federal judiciary as I faced in going after the New York State judiciary in our pension suit. However, there may be an answer to this problem.

Ross Regnart of Tahoe Paradise, California, has been following the government's attempt to use civil RICO Racketeering laws to suppress or crush political dissent. All organizations which are working to oppose government usurpation of basic rights need to be made aware of this latest danger posed by our government. In an article in the 1994 spring issue of *The Fully Informed Jury Association (FIJA)*, Ross Regnart states:

> The U.S. Supreme Court ruled on January 24, 1994, that organizations, groups, their members and contributors are subject to being sued under Civil Rico Racketeering Laws when their members commit a pattern of criminal acts to achieve political or moral objectives. Organizations using ". . . illegal means to financially damage a business or individual's property to achieve political or moral objectives, may now be sued jointly and severally by financially injured parties for three times actual financial damages, attorney fees, and court costs."

The Bench and Bar is an organization of criminals who use all kinds of unlawful means to damage or destroy the people's business of government. The Bench and Bar should themselves be subject to the RICO Racketeering laws for they are constantly robbing from the people or engaged in the violent crime of murdering innocent children as was done in Waco, Texas, by the FBI and BATF (Bureau of Alcohol, Tobacco and Firearms).

Tyranny rules in America, since the law-making, law-enforcing, and the adjudicating of laws are run by the Bench and Bar.

Grand and Trial Juries must separate themselves from these criminals and demand that nobody can be sued in our corrupt courts and be deprived of their property until such action can be adjudged by the Grand Jury as rightfully sueable. The Bill of Rights compels that only the Grand Jury has the power to see that nobody is to be deprived of life, liberty, or property.

The government cannot indict you for committing a crime which can later result in the loss of your life or liberty. Only the Grand Jury can do that.

Likewise the government cannot commence a sueable action against any person unless the Grand Jury first examines and consents to the reasons in which a person can be deprived of his property.

One of the lessons that I hope is learned from reading this chapter is that people follow my example and ask the Presidents of the federal, state and local Bar Associations to pass on to their memberships your plea for help.

Do this through petitions or letters to the leaders of the Congress, state legislatures, to the Chief Justice of the U.S. Supreme Court and to the Chief Justice of the highest court of your state. You will find that these impostors will ignore you like they ignore wrongs to the Bill of Rights and to the Constitution.

Don't let anything deter you. Become a pamphleteer; assemble and print all the basic facts of the issue at hand in a short pamphlet. It was the pamphleteers who were mainly responsible for exciting interest in a Declaration of Independence from the tyrannous English government. We must now re-establish our independence by putting all the leaders of the legislative, executive and judicial departments of the federal government on notice.

If your pamphlets are worthy of notice and if you affix your name and address, send them to me—I will publish them in a book and address it to all of the honest middle class people of this nation whom our public officials are methodically destroying.

Do it now or be destroyed instead.

Chapter 7

Fraud: The Game Plan Used to Establish the Constitution

Members to the Constitutional Convention were appointed by the state legislatures for the express purpose of revising the structure of the existing government, which was a Confederation of states that had been in operation since 1777. The Convention came about at the invitation of the Congress which:

> Resolved That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a Convention of Delegates, who shall have been appointed by the several States, be held at Philadelphia, *for the sole and express purpose of revising the Articles of Confederation*, and reporting to Congress and the several Legislatures, such alterations and provisions therein as shall, render the Federal Constitution adequate to the exigencies of Government, and the preservation of the Union (my emphasis).

The legislatures of all the states except Rhode Island appointed deputies to that Convention of 1787. Seventy-four men were appointed deputies; of these nineteen declined or did not attend. Of the fifty-five who attended, thirty-four were lawyers. Therefore, lawyers had the vote to control the Convention. It was a duty of those lawyers in Convention to revise the Articles of Confederation. They were aware that Article XIII plainly stated:

> Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

The Convention delegates should have declared that without the presence of Rhode Island, they were without jurisdiction to proceed. They should have adjourned and reported back to the Congress and to their respective states that according to the terms of the Articles of Confederation revisions could not be made and even if made, there was no effective procedure for enforcement if any

state refused to obey. The Convention should have resolved: That a Convention of people elected by the various states should assemble at a place and time specified by Congress for the purpose of drafting a new plan for a central government to be administered by the elective representatives of the people. That was never done because the lawyers did not want a government of the people, they wanted a government of lawyers. This is the reason they voted for strict secrecy during the Convention. If the state legislatures had known that the delegates were exceeding the authority granted by their commission, they could have been recalled.

Even before the Convention had assembled in Philadelphia, the lawyers had already made plans to abandon the Confederation and start a new government. That fact is clearly stated in *The History of the Formation of the Union under the Constitution*, which was published by the U.S. Government:

> On May 29, the convention having been organized, Randolph "opened the main business" by introducing the "Virginia Plan." This plan, drafted by Madison, had been submitted by him in outline to Washington on April 16, and was later worked up in preliminary meetings of the Virginia delegation of seven members. It provided for . . . a legislature of two houses . . . There was to be a national executive and a national judiciary.[1]

The seven-member Virginia delegation, of which four (a majority) were lawyers, had groomed General Washington to become President of the Convention to give the Convention a semblance of authenticity. Washington, who was widely admired by the people of the time, would more readily lead the people to accept the new Constitution and government.

The Convention was the work of delegates appointed by the state legislatures; it was **not** the work of trusted persons elected by the people. The delegates who were appointed to revise the Articles of Confederation were not authorized to draft a new constitution, nor were they authorized to claim it was done in the name of the people. All the work of the Convention had to be submitted to all thirteen state legislatures for their approval. Since Rhode Island had refused to attend the convention and did not favor any revision, the

[1] *The History of the Formation of the Union under the Constitution*, U.S. Government Printing Office, p. 19.

plan would have failed. The founding lawyers did not want the state legislatures to ratify the Constitution because the states, if called upon for ratification, would have rejected the newly proposed Constitution because of the incomplete and ineffectual Judicial Article which read:

> 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 states would have insisted that the establishment of the Supreme Court could not be left to Congress. The Constitution could not be ratified without the three departments of government ready and able to function. For example, if Congress passed any law that the people or the states believed to be unconstitutional, there would not be a court available where the acts of Congress could be challenged.

The states would never have favored ratification because they opposed the establishment of the lower federal courts by the Congress. They knew the inferior courts would be the vital link to the Supreme Court where state and federal issues could be funneled for a final determination in maintaining federal supremacy. The colonial states had too many bad experiences with a strong central government and would do everything in their power to avoid it. However, the lawyers were persistent. They would trick the people into electing delegates to the various state conventions for the purpose of ratifying a constitution that was not of their making or desire.

Some of the people in the various states were aware of the fraud involved. They asked why the people should elect delegates to conventions to ratify a constitution that they had no hand in making. Furthermore, the Constitution's Judicial Article was incomplete. Many people in the ratifying conventions resisted adopting the constitution; they instead called for a second Constitutional Convention. George Washington, James Madison and other former delegates informed those who complained to first ratify the Constitution and then submit amendments for changes to be made in the First Congress. This satisfied some of the ratifying conventions. Other conventions weren't so trusting. The conventions of New York, Massachusetts, New Hampshire, Virginia, North Carolina and later Rhode Island had proposed many amendments to limit the

judicial power. The New York Convention proposed an amendment to limit the inferior courts of the United States to trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies, all other cases the causes should be tried in the State courts with the right of appeal to the Supreme Court. In Massachusetts and New Hampshire proposals were made to limit the extensive jurisdiction conferred on the United States Courts by the Constitution. However, none of these proposals were ever adopted. It was decided by the founding lawyers to hold the line—the Constitution as submitted must stand unaltered. Once it was open to attack, all could be lost.

Nineteen former members of the Convention, including many of its leading lawyers such as James Madison, Oliver Ellsworth and William Samuel Johnson made it their business to get elected to the First Congress, along with a host of other lawyers who strongly favored the new plan of government. Together they all saw to it that the Constitution as presented by the Convention remained intact. There was only one thing those lawyers dared not refuse the people—a Bill of Rights.

In summary, the American people should be very angry with the lawyers who cheated us of our right to self government. Since winning the war for independence, we the people have never had the opportunity to elect delegates to a national Constitutional Convention. Contrary to common knowledge, the lawyers who dominated the Philadelphia Convention in 1787 were not elected by the people for the purpose of drafting a new constitution. They were appointed by the various state legislatures to make alterations to the Articles of Confederation that would be necessary for the preservation of the Union. It was required that any alteration made in convention had to be confirmed by all of the thirteen states before it could be put into motion. However, this could not be done because Rhode Island would not appoint delegates to the convention nor would it agree that a change was necessary.

The appointed delegates boldly stated that they were the elected delegates of the people assembled in a Constitutional Convention and took on the task of drafting a new Constitution. To assure ratification, they drafted Article VII as a provision whereby the Constitution would become the supreme law of the land if ratified by conventions of people. Ratification by nine conventions of people instead of thirteen state legislatures would be sufficient to put the Constitution into motion.

When many of the people in the ratifying conventions balked because of the great potential powers of the federal judiciary and because the document did not contain a Bill of Rights, George Washington and other leaders told the people to first approve the constitution and then to submit proposed amendments to the First Congress.

The First Congress accepted Bill of Rights proposals because there was such a persistent organized clamor for them, but they ignored all of the many changes to the Judicial Article proposed by the people from the various ratifying conventions. There was a sinister reason for this—the Senate was operating behind locked doors just as the Constitutional Convention had previously operated in secrecy.

The First Judiciary Act of 1789

Almost two years later on April 7, 1789 Oliver Ellsworth, William Paterson, Caleb Strong, William Few, William Maclay, Paine Wingate, and Richard Henry Lee were appointed to a Senate committee to bring in a bill for organizing the judiciary of the United States. Of the seven members, the first four were lawyers who had served in the so-called Constitutional Convention. Those four lawyers along with Paine Wingate, an ardent Federalist, dominated the Committee. The bill passed by the Committee and submitted to the Senate and House consisted of thirty-five Sections containing about 8,500 words, which about doubled the 4,543 words contained in the Constitution. **This wasn't really a bill that could be signed into law; it was really an amendment to the Constitution, which created the Supreme and inferior courts.** The Act also created the office of Attorney General as well as an U.S. Attorney in each judicial district. The creation of the last two offices was for the purpose of establishing adversarial proceedings in the federal courts. Such proceedings were incapable of being implemented under the existing Constitution because when it was ratified in 1788, the Constitution only provided hearing Courts incapable of conducting adversarial proceedings. Why should the American people have to submit to adversarial proceedings under which they would be forced to hire lawyers for their own defense? The adversarial system was terribly abused in the colonies under English rule. The Constitution does not pro-

vide an office, duties and qualifications for an Attorney General, nor does it provide for the office, duties and qualifications for a U.S. Attorney. Therefore such officers cannot prosecute or conduct business in any court. Furthermore, Article III section 1 of the Constitution states:

> 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 First Judiciary Act of 1789, however, is in conflict with the amending provisions contained in Article V. Congress cannot ordain by law the establishment of a Supreme Court. No viable Supreme Court actually exists under the terms of the Constitution. Article V commands: " . . . whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution" . . . but no amendment "shall be valid . . . as part of this Constitution" unless ratified by the people or by three fourths of the state legislatures. In this matter, the consent of the people was never sought nor given.

Nineteen Congressmen and Senators, who had previously been members of the Constitutional Convention, were serving in the First Congress. Under the leadership of Ellsworth in the Senate and Madison in the House, those former members had agreed many of the constitutional changes made in their plan to create the federal courts would never be approved by the people or the states. As a diversionary tactic, the Bill of Rights were introduced at about the same time. The Bill of Rights quickly consumed the interest of the people. This gave President Washington the opportunity to quietly sign the First Judiciary Act into law. That Act in reality was a multitude of amendments to the Constitution, as you will be shown.

The people expected that the father of the Constitution and the father of our country would act in the interest of the people. However, when Madison voted for and President Washington signed the First Judiciary Act of 1789 into law it was the worst of betrayals. They had subtly turned the First Congress into a Constitutional Convention where acts of law were permitted to amend the Constitution. President Washington and Congressman Madison had managed to attend two bodies that they had turned into Constitutional Conventions. The first was in Philadelphia where appointed delegates were under orders to revise

the Articles of Confederation, not to draft a new constitution. The second Convention was in New York City where the First Congress pretended it was a second Constitutional Convention. It arbitrarily took upon itself the right to make additions to the Judicial Article by creating a Supreme court. This required the consent of the people, which was never sought nor given.

Nowhere in the Legislative Article can it be found that Congress has the power to arbitrarily add or change any provision of the Constitution.

Article V of the Constitution provides that Congress shall commence the amending process. Congress ignored the mandates of Article V when it drafted the First Judiciary Act. The Act, on its face, was unconstitutional because people who opposed it had no constitutional court in which to challenge Congress for creating a court in violition of the commands of the Constitution's fifth Article.

That Article requires two-thirds of both Houses to propose an amendment. But such a proposal cannot "be valid to all intents and purposes, as part of this Constitution" unless it be "ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof."

The claim that the people had previously consented to the acceptance of the Constitution when the ninth convention (New Hampshire) had ratified the Constitution on June 21, 1788 was not true; because the Constitution (as then drafted) was incapable of being put into motion. Washington, the President, could not, as his very first order of business, nominate the judges who were to sit on the first U.S. Supreme Court because the Philadelphia Convention had failed to prescribe the actual number of judges that were to sit. But even if they had, the Philadelphia Convention had also failed to provide the judicial oath of office in the text of the Constitution. So if the number of justices had actually been stated and were then appointed, the judges could not then assume their seats for the lack of such oath.

It much be clearly understood that Congress did not have the authority to enact a single legislative act (including the Oath Act) until a Supreme Court had first been nominated, confirmed then sworn and sitting as a court. In this proper constitutional sequence the First Judiciary Act, with its 35 new sections could then have been challenged by the people. The First Congress had given the Courts many bold unconstitutional powers that the people in the nine states

had not previously consented to.

The fact is—the people in the various ratifying conventions (1787-1788) did not in the first place have the jurisdiction or authority to give their consent to an uncompleted Constitution that was absolutely incapable of functioning without the presence of a Supreme Court. For eleven months (March 4, 1789 to February 3, 1790) the American people were denied a Supreme Court in which they had a right to challenge every single act of the First Congress. This including the Judiciary Act that permitted six unscrupulous lawyers to accept seats as impostors on an unconstitutionally created Supreme Court. Think also about the one hundred fifty lawyers who have since served on the Supreme Court. With pompous stateliness, they have knowingly continued to support the Constitution which has proven to be a crime against generations of Americans. Think again about the lawyers who have from the beginning dominated every Congress and have repeatedly sworn that their crime (the Constitution) is "the supreme law of the land." Think of the millions of Americans who will go to their graves refusing to free themselves by breaking down the walls that surround their minds and stop believing and supporting a constitutional myth.

The Common Law and the First Judiciary Act

The original Constitution did not once contain the term Common Law. In sections 8 and 11 of the First Judiciary Act, the whole body of the English Common Law was introduced into our courts. With the Common Law came the ancient writs of mandamus, and writs of prohibition, error, etc.

Why should the American people be governed by British laws? The republican principles of our Constitution run contrarily to the monarchical and aristocratical institutions of England. The First Judiciary Act had to be challenged because it allowed the courts to enforce the Common Law (unwritten law) of a foreign country based on custom, usage and the decisions of its law courts.

The American people were abused under the English Common Law and greatly despised it. Had the term "Common Law" appeared in the text of the Constitution it would have been rejected at once. The Common Law itself was a threat to trial by jury and a challenge to the sovereignty of the people.

Section 17 of the First Judiciary Act reads: "That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law." The "reasons" of course came from precedents established under the Common Law. The people had ratified the Constitution which in Article III section 2 clause 3 guaranteed that: "The trial of all crimes, except in cases of impeachment, shall be by jury; . . . " The Constitution is clear, the people on Juries shall try all crimes except those involved "in cases of impeachment." Congress in section 17 of the First Judiciary Act would amend clause 3 of the Constitution and provide another exception in that they would **grant judges the authority to invoke former Common Law decisions in order to overrule a Trial Jury's decision.**

Any addition, deletion, or amendments made to the Constitution had to be approved by the people, and especially since there was no federal court immediately available in which the people could challenge the First Congress and President Washington for violating their oaths of office.

Contempt of Court

In section 17 of the First Judiciary Act, Congress decreed to the courts the power to overrule a Trial Jury and also decreed to the courts the power "to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same." Suppose a Jury had found some political figure guilty of a crime and shortly thereafter a federal judge overruled the Jury by granting a new trial. The jurors angrily summon each other and appear before the judge informing him that the defendant had a fair trial and demand of the judge any evidence that would disprove the Jury. The judge could then threaten the juror's chief spokesperson that he, as the judge, has the power under the law (section 17 of the First Judiciary Act) "to punish by fine or imprisonment," at his own discretion "all contempts of authority in any cause or hearing" before his court. In brief, contempt of court is an act tending to obstruct or interfere with the orderly administration of justice. The payment of a fine or imprisonment could be suffered by those who commit either a civil or criminal contempt. The Jury spokesperson could then

have challenged the judge by informing him that under the terms of the Constitution all officials in each of the departments of government were only granted limited powers to manage and administrate the government under the terms specified by the Constitution. The sovereign people themselves have unlimited powers. They can render all law harmless by refusing as a Jury to find persons guilty of any or all acts made by Congress and enforced by the executive which they believe to be repugnant to the rights and liberties of the people or those repugnant to the Constitution. According to the terms of the Constitution no free person can be fined, punished or imprisoned for any act or crime unless he is first heard and found guilty by a Jury of his peers. The consent of the governed is absolutely required before a Constitution can be put into motion. On June 21, 1788 the consent was given when the Constitution was ratified. On September 24, 1789 the consent of the people was again required because the First Judiciary Act in section 17 wrongfully amended the Constitution by granting "That all the said courts of the United States shall have the power . . . to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same."

Congress did not have the authority to grant to a judge such broad and arbitrary power as that of contempt. No judge should be able to declare an act by a person to be a crime and at the same time set the punishment which could be a fine or imprisonment without the permission of a Jury. The original purpose of a Jury was to protect all persons from tyrants, be they a king or a judge.

The Unconstitutional First Judiciary Act

The following must be repeated over and over again: Congress did not have the authority to establish either a Supreme Court or the inferior courts even though the Constitution in section 1 of Article III does state that "Congress may . . . ordain and establish" such courts. The Constitution, however, was incapable of being ratified because the people had been promised a government of three department legislative, executive and judicial, and each was to have specific checks over one another. The Congress can enact a law and the President can veto it, but what if the President lends his signature to an illegal

or unconstitutional law enacted by the Congress? The people then have the right to challenge such unconstitutional acts in the courts. But what if no court was present or did not actually exist at that time? That was the case on September 24, 1789 when the President signed into law an Act of Congress that created the Supreme Court of the United States. The First Judiciary Act of 1789 consisted of twice the number of words contained in the entire Constitution and assumed many additional powers not authorized by the terms of the Constitution. Therefore, it had to be challenged. As previously mentioned, no federal court actually existed nor would be made available until eleven months later. When the court was finally opened on February 2, 1790, a formal proclamation of silence had been made under penalty of imprisonment.[2] Who would dare to challenge the constitutionality of the new Court under such conditions?

The people in the ratifying conventions had been lied to by the founding lawyers. They had objected to the broad powers granted by the Constitution to the Supreme and inferior courts, even before the addition of the First Judiciary Act, and were demanding a second Constitutional Convention. At that time they were told by George Washington and the founding lawyers that a second convention wasn't necessary, that they could propose amendments to the First Congress for the necessary changes. All of the amendments proposed by the people at the various ratifying conventions to limit the jurisdiction of the federal courts were totally ignored by the First Congress. Instead a committee of seven in the Senate was meeting in secret to draft amendments to the Judicial Article of the Constitution to create a Supreme and inferior courts. The founding lawyers knew the people opposed the establishment of lower federal courts because they regarded the inferior courts as a dangerous link to the Supreme Court for maintaining federal supremacy. A majority of the Senate's committee (Ellsworth, Paterson, Strong and Few) had previously attended the Convention in Philadelphia where they also had drafted the Constitution with special care not to arouse the people in the ratifying conventions. With a few minor changes, the Act drafted by the Senate committee was voted into law by the lawyers who controlled both Houses. The law was referred to as the First Judiciary Act. It was not a law; it was a series of Constitutional amendments which in its twenty-four pages contained thirty-five sections each of which provided amendments

[2] See Warren, *History of the Supreme Court*, vol. 1, page 47.

that made complete the Judicial Article of the Constitution. It also gave the Judiciary great additional powers. According to the Constitution, as provided by its Article V, any or all changes made to the Constitution have to be submitted to ratifying conventions of people. In this case they would have to be submitted to the same conventions who had previously been told to propose amendments to the First Congress. The people in the ratifying conventions had submitted constitutional amendments calling for a limited federal judiciary, which the First Congress had refused *in toto*. The First Judiciary Act, with all of its amendments, had to be submitted by the Congress to the same ratifying conventions of people. This was never done. Therefore "We the people" have never been able "to form a more perfect Union" nor are we able to "establish justice, [to] insure domestic tranquillity" nor can we "secure the blessings of liberty to ourselves and our posterity."

In order to avoid another confrontation with the people in the ratification conventions it was easier to declare the First Judiciary Act to be a law and in that case it would only require the signature of the President in order to be put into effect. Upon affixing his signature to this Act, Washington knew that he had betrayed the people, but if he didn't the uncompleted Constitution could not have been put into motion. Think about it. This haughty, wealthy man had witnessed thousands of his fellow citizens struggle, suffer and die in a war to separate us from a tyrannical king only to surrender them and all of us to a Crown Judiciary more arrogant than the king.

Chapter 8

The 14th Amendment That Never Was

After the Civil War, from August 1865 to March 1866, under the Johnson Administration, state constitutional conventions met in all of the seven unreconstructed states. They formally abolished slavery within their respective states. The conventions also provided for the elections of state legislative, executive, and judicial officers. Most of these newly elected legislatures then ratified the 13th Amendment.

However, drastic changes were to come about after the first session of the 39th Congress met on December 4, 1865 because it was dominated by republicans who were determined to build a similar party organization in the South. They achieved success when they blocked the admission of Southern representatives and senators. A Republican party caucus order instructed the clerks in each house to ignore the seceded states in the roll-call. This action by Congress was unconstitutional. Article V of the Constitution commands: "that no State without its consent shall be deprived of its equal suffrage in the Senate." The seceded states had all formerly voted to abolish slavery within their respective states and then voted ratification of the 13th Amendment. Without that vote, the 13th Amendment could not have become a part of the Constitution and Congress would not have been able to proceed with the ratification of the 14th Amendment.

Section 1 of the 13th Amendment states: "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Section 2 gave Congress the power to enforce this article by appropriate legislation.

"Appropriate legislation" by Congress would be limited to preventing the existence of slavery and involuntary servitude in any state or territory under its jurisdiction. However, blacks in the North and freed slaves in the South after the War still did not possess all of the civil and political rights of white citizens. The number of opinions and the variety of legal arguments over slavery and citizenship bewildered the average person. The Dred Scott Decision was still partly in force. Chief Justice Taney had stated for the majority in the Supreme Court's infamous decision that blacks at the time of the making of the

Constitution were "considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and whether emancipated or not, yet remained subject to their authority, and had no rights or privileges, but such as those who held the power and the government might choose to grant them. . . ."

The next logical step therefore would be for Congress to propose another constitutional amendment which would grant blacks dual citizenship. They would be made citizens of the United States and of the State wherein they reside. The radical lawyers in Congress realized, however, that the Southern states would reject ratifying such an amendment. Instead, Congress passed the Civil Rights Bill of 1866, which extended federal guarantees over negro civil rights. The bill declared that "all persons born in the United States and not subject to any foreign power, excluding Indians not taxed," were citizens of the United States. President Johnson vetoed the bill because the Constitution contained no clause authorizing the national government to regulate citizenship. He also challenged Congress, stating that it had no power to enact legislation for the eleven states it had barred from Congress. On April 9th Congress, in disregard of the Constitution, passed the bill over the President's veto.

On March 2, 1867 Congress passed the first Reconstruction Act. This again was over the President's veto. The Act divided the south into five military districts, or "conquered provinces," declaring that no legal government existed in any Southern state except Tennessee. Congress demanded many unconstitutional requirements for "readmission" of the seceded states. The states were ordered to allow negro suffrage and were told they also must elect negro delegates to participate in state constitutional conventions. Congress further demanded a provision for equal suffrage rights for whites and blacks in the new state constitutions.

The Southern states, guided by the U.S. Constitution and their state constitutions then in force, refused to call conventions. On March 23rd, Congress, again in violation of the Constitution, passed the first supplementary Reconstruction Act which required federal military commanders to set up voter registration procedures. A second supplementary act was passed that gave military commanders the unconstitutional power to decide who was and who wasn't elegible to vote. Thus negroes dominated the state constitutional conventions

to which most of the whites were denied entrance.

The first Reconstruction Act could not rightfully claim the Southern states to be "conquered provinces" since the 38th Congress had previously considered them not only competent as states but essential because it obtained from the Southern states the vote necessary for ratification of the 13th Amendment. Without the cooperation of the Southern states, the 13th Amendment would not have been ratified. Those who were slaves would still have remained slaves and there would be no need of a 14th Amendment proposed by the 39th Congress.

In ratifying the 13th Amendment the Southern states had reinstated the constitutional compact and restored the Union. The South had again become a full constitutional partner with the North. Millions of slaves were now free but without constitutional or political status. It would take another constitutional amendment to make them "citizens of the United States and of the State wherein they reside." But some of the Northern and all of the Southern states would have rejected such a proposed amendment, therefore, Congress would have to unconstitutionally bar the Southern states from further participation in the lawmaking processes. They succeeded in doing this by denying them a voice in Congress by employing the policy of Reconstruction. The word "reconstruction" was foreign to the Constitution; it had not once been mentioned in the constitutional or ratifying conventions. Reconstruction required the presence of a military force in the South for the purpose of suppressing basic constitutional principles under which the states had originally organized. Congress had declared the Southern states to be "politically dead" yet at the same time insisted that they ratify the 14th Amendment as a condition of readmission to Congress. The lawyers who were running their unconstitutional reconstruction plan put themselves in an inconsistent constitutional position. The Southern states had no rights, yet they were asked to amend the Constitution, the ultimate power reserved to a state.

Since the seceded states had not been allowed to participate in drafting the 14th Amendment, why should any of them want to be a party to its ratification? All of those conventions were unconstitutional for "The United States shall guarantee to every State in the Union a republican form of government." That means that in order to secure certain rights "governments are instituted among

men, deriving their just powers from the consent of the governed." No matter how well meaning, under the terms of the Constitution, blacks could not arbitrarily be made citizens and given the right to vote by Congress until the 14th and 15th Amendments had been proposed and ratified willingly and peacefully by the required number of States.

It wasn't necessary that the 14th Amendment provide a second Bill of Rights exclusively for the protection of blacks. The Bill of Rights had guaranteed basic rights to all persons and did not distinguish between race or gender. Had the lawyers on our high court the courage to so declare in favor of liberty and justice, a civil war could have been avoided.

The 14th Amendment provided an additional clause which would insure blacks "the equal protections of the laws." This was hypocrisy. Equal protection was not really enforced nor achieved in the North or South until a hundred more years had passed. It was finally achieved because blacks themselves commenced the massive assault against legalized segregation and discrimination in education, transportation and voting in the South. They organized under the banners of the National Association for the Advancement of Colored People, the Southern Christian Leadership Conference, and other civil rights groups and attracted the attention and support of fair-minded people from all regions of our country.

We can blame many of our problems on historians, teachers and writers who have done a great disservice to the American people. From the very beginning they could have warned the people to take action against the many acts of unconstitutionality that were openly committed and carried out by Congress in the interest of political posturing. The lawyers refused to maintain a separation of powers, which is absolutely essential to the operation of constitutional government. Teachers and historians avoided this vital subject and instead hid the identity of the lawyers in Congress by calling them "radicals." Radicals they were indeed, but the people could not clearly associate radicals, as they do lawyers, with a lack of a separation of powers. The teachers did not properly teach and the writers did not expose the lack of a separation of powers, and the people failed to see that the lawyers in command of Congress, who were committing unconstitutional acts, were aided and abetted by the lawyers who dominated the Supreme and inferior federal courts.

Only the executive department under President Johnson attempted repeatedly to "preserve, protect and defend the Constitution." When Congress passed a bill granting power to the Freedmen's Bureau to try by military commission persons accused of depriving freedmen of civil rights, Johnson correctly vetoed it, declaring that Congress had no power to legislate with eleven states being unrepresented. Furthermore, Johnson stated that military trials would violate Article 5 of the Bill of Rights. Congress, in defiance of the peoples' Bill of Rights and the Constitution, passed it on July 16, 1866 over his veto.

White Southerners, who were the only eligible voters at that time, had the absolute right to challenge in court the Reconstruction Acts, the presence of the military in their states, and the state constitutional conventions dominated by blacks who did not then have the right of suffrage. But there were no courts available during that crisis. U.S. Supreme Court and its Chief Justice Salmon P. Chase cooperated with the radical lawyers in Congress by refusing to reopen the federal courts in the South during the period that the Constitution was being assailed. Chief Justice Chase didn't want to be placed in the embarrassing position of justifying the numerous unconstitutional actions of Congress. Chase's partiality as Chief Justice would have been challenged because he openly favored the radical policy of Reconstruction, which had allowed blacks to form new state constitutions and then to vote and elect new state legislatures that unconstitutionally ratified the 14th Amendment.

Due to the failure of Chief Justice Salmon Chase the Southern states were denied access to the federal courts for more than two years after the war had ended. This action was out of order because the Southern states had supposedly restored the constitutionality of the Union by agreeing that secession was a failure and then ratified the 13th Amendment which ended slavery. As an excuse for making the courts unavailable, Chief Justice Chase had stated that subordination to the military authority would be inconsistent with judicial independence. Why didn't Justice Chase give thought to the independence of the states that were all guaranteed a republican form of government? The federal military could constitutionally enter a state only upon the "application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence."

Congress gave Chief Justice Chase its support in keeping the courts closed

in the South because it didn't want the courts available for Southern challenges to acts of Congress. For example, it could have been publicly shown that lawyers were in violation of the separation of powers. By virtue of their complete domination of the legislative and judicial authority, lawyers had rendered the executive branch powerless. Congress and the courts were embarrassed because the acts vetoed by President Johnson were unquestionably unconstitutional. For this reason, they would have to silence the President. They were fearful that President Johnson might still succeed in destroying their plan of revising the Constitution so that it would serve their own political interests. To prevent this, the lawyers in Congress would restrict the President's authority as much as possible. On March 2, 1867, they virtually deprived the President of command of the army (Command of the Army Act) by requiring that he issue all military orders through the General of the Army who was not to be removed without the consent of the Senate. These acts were without question unconstitutional.

In another Act of July 19, 1867, Congress vested in the General of the Army the power to appoint and remove officers. This was an unconstitutional transfer of the ultimate military authority, which resided in the President as a civilian (Article II section 2 clause 1). This was a case of exceptional gravity that would have gained great public support for Johnson if his Attorney General Henry Stanbery had taken this issue directly to the Supreme Court. Evidently the lawyers on both sides would not expose the plan by the federal judiciary in order to remain in power. Attorney General Henry Stanbery was again given the extraordinary opportunity to take action when he was nominated by Johnson in April 1866 to a vacancy on the Supreme Court. Instead of acting upon his nomination, **the Senate passed the Act of July 23, 1866, which reduced the number of Justices in the Court from 10 to 8. Congress once again proved the Supreme Court is a political court, not a constitutional court.** This of course voided both the existing vacancy, as well as the next. This onerous bill also became law over Johnson's veto. If Stanbery was too timid to act alone, he could have drafted a charge with which President Johnson could have challenged the lawyers in Congress in that they violated the separation of powers. Since the lawyers were using the Supreme Court as a political vehicle, the President could have publicly claimed that lawyers were reserving

life-long positions on that Court for men who would cooperate with lawyers in Congress in continuing to maintain a powerful judicial oligarchy.

Stanbery, as counsel to Johnson, had another good opportunity to expose this oligarchy to the people by showing how Congress and the courts could render a President impotent by the unlawful use of the impeachment process. Stanbery could have exposed this oligarchy when he became Chief Counsel to Andrew Johnson in his impeachment proceeding. His first duty was to publicly show the members of the Senate and the House as the real villains. After all, Congress, which "deprived" ten Southern states of their "equal suffrage in the Senate," was in violation of Article V of the Constitution. Congress had subjected American citizens in the South to complete rule by the military. Those who objected to the constitutionally of those acts were tried and imprisoned by the military. When the President vetoed these bills, Congress overrode him. President Johnson honored the terms of the Constitution and vetoed the Civil Rights Act passed by Congress in 1866. That Act prematurely bestowed citizenship and voting privileges upon blacks before the 14th and 15th Amendments had even been submitted to the states for ratification. These and many other acts of Congress were unconstitutionally depriving millions of American citizens of their basic rights.

At the onset of the impeachment trial, Chief Counsel Stanbery also had the duty to expose the partiality of Chief Justice Salmon Chase and to challenge his right to sit as the presiding judge in the impeachment trial of President Johnson. Chase, in violation of the separation of powers, had often met with the radical lawyers who controlled Congress and was in agreement with them on their unconstitutional Reconstruction policies. Chase refused to reconvene the courts in the South for over two years after the war had ended. This action denied the people in ten Southern states the right to a judicial determination after they had suffered serious constitutional grievances at the hands of the federal government. By declaring secession unworkable and by agreeing to ratify the 13th Amendment, the South had already restored the Union. There may have been a need for a small military force to control a few recalcitrants but surely it was not the function of the military, independently of the Chief Executive, to enforce the unconstitutional provisions of the Reconstruction Acts. In his defense of Johnson in the impeachment proceeding, Stanbery could

also have put the Senate and House on trial by showing the American people that Congress had gone outside of the Constitution in passing the First and subsequent Reconstruction Acts. At the trial Stanbery could have exposed Congress as the lawbreakers. Stanbery could and should have made the following statement:

> It is commanded, if changes to the Constitution are necessary, Congress must follow the amendment procedure contained in Article V to the letter. Under the terms of the Constitution blacks were not recognized as citizens; therefore Congress was without authority by law to grant citizenship to them through the Civil Rights Act of 1866. If Congress did have this power, why then did they later propose the 14th Amendment which required the consent of three-fourths of the states before blacks would be accepted as citizens?
>
> In violating the Constitution whenever it saw fit, Congress has clearly become the biggest lawbreaker, yet this body would seek to impeach and destroy a good President who, in defence of the Constitution, had consistently vetoed your many unconstitutional acts.
>
> The House and Senate has always overcome the President's rightful opposition because each House has the two-third vote necessary to override his veto due to the lawyers who created a judicial oligarchy. For a long time the House has been seeking grounds on which to impeach the President. But the President did not break the law nor violate the Constitution, so Congress could not impeach and remove him. Therefore Congress decided to frame the President with the help of lawyers in the President's cabinet. One such lawyer, Edwin M. Stanton, has been discussing with the radical lawyers in Congress the course to be pursued in reconstruction while pretending to be a loyal Secretary of War to the President.[1]

The lawyers were fully aware that the President would fire his Secretary of War upon learning of his treachery. To prevent this Congress enacted the Tenure of Office Act, which was intended to end the President's power to

[1] According to the *Dictionary of American Biography* (p. 520 of Vol. 17) Stanton had "expressed approval of the Military Reconstruction bill...which was passed over the President's veto on March 2, 1867...Stanton actually dictated...an amendment to the army appropriation act of 1867 requiring the president to issue his army orders through the secretary of war or the general of the army and making invalid any order issued otherwise....He was also responsible for the supplementary reconstruction act of July 19, 1867, which exempted military commanders from any obligation to accept the opinions of civil officers of the government as to their rules of action."

remove insubordinate officials without the Senate's consent. The Constitution, however, does not deny the President the right to remove incompetents or those in the executive department who refuse to follow his lead.

> Article II section 1 clause 1 of the Constitution commands that the executive power shall be vested in a President of the United States of America. That means, with the exception of the Vice President, the President has the power to remove any officer in the executive department to his own satisfaction. The Constitution only limits the President in his appointive power by authorizing the Senate to give its consent to all of the President's appointees. The Tenure of Office Act passed on March 2, 1867 was therefore unconstitutional in that it claimed that the president could not fire nor suspend any officer of the executive department without the advice and consent of the Senate. Congress passed that law to undermine the President's administration by forcing Johnson to retain Stanton as his Secretary of War. Stanton, a lawyer, had openly aligned himself with the radical lawyers in Congress who were recklessly passing unconstitutional laws over the President's veto. Stanton had refused to resign so he could continue to use his position in the cabinet to aid Congress by spying on the President. The Senate, of course, would not consent to his removal. Congress knew the President would not tolerate the disloyalty and insubordination of Stanton, therefore he would fire him and be in violation of the Tenure of Office Act which they planned to be the principal charge in the impeachment proceedings against him.

Unfortunately, Stanbery as Chief Counsel to the President in the impeachment proceeding, did not go on the offensive and expose the Senate and House members as the real culprits and use the strategy as I just proposed.

Stanbery had been passively undermining the President when he failed to challenge the Tenure Act and tie it up in the courts before it could be used in the impeachment proceedings against the President. As Attorney General, Stanbery should also have advised the President not to sign the Army Appropriation Act of March 2, 1867 because Congress had inserted a provision which would deprive the President of the command of the army. Stanbery was sworn "to a faithful execution of his office." He should have warned the President not to sign the bill since it would be inconsistent with his duties as President. Article II section 2 clause 1 of the Constitution states: "The President shall be commander in chief of the army and navy of the United States." Con-

gress cannot, by law, alter that authority. The President could have appealed directly to the people if Congress failed to provide for appropriations to the army in a single bill for that exclusive purpose.

The true history of the Andrew Johnson impeachment has been distorted by writers and historians. The purpose of the trial was to render Johnson harmless and to take the people's attention away from the real culprits—the lawyers in Congress and the courts who were covering up their own violations. The one vote short of the two-thirds required for impeachment was an act of contrivance. There were enough votes in the Senate to have easily overcome that 35 to 19 vote, which failed to convict Johnson. The Senators fully realized that the removal power was a President's perogative, which was separate and distinct from the power of appointment; the Tenure of Office Act was unconstitutional and the President had not committed the statutory offense they believed necessary for conviction.

There never was the intention of most Senators to convict and remove the President. The deaths and destruction by the war and the radical Reconstruction which followed had many people questioning the worth of the Constitution that had led to so much upheaval. This gave the Senate the sense to pause. If they convicted and removed the President because he was politically unacceptable to Congress they would have killed executive independence, which would have destroyed the American presidential system.

But indeed the entire Constitutional system was already destroyed. This was plainly evident. When Congress repeatedly violated the Constitution, every Justice on the Supreme Court refused to honor his oath to "faithfully and impartially discharge and perform all the duties incumbent on [him] . . . according to the best of [his] abilities and understanding, agreeable to the Constitution."

None of the Reconstruction Acts were agreeable to the Constitution, nor was the attempted impeachment of a President who defended the Constitution by his every act. But there was still more. Ratification of the 14th Amendment was also unconstitutional since it was forcibly obtained under the unauthorized orders of the General of the Army, who was without "the executive power" of the "commander-in-chief." Such power is only "vested in a President of the United States" to whom the people trust with such power.

As a result, in 1868, *The Constitution That Never Was* was allowed to embrace *The 14th Amendment That Never Was.*

Only through mutual chicanery could lawyers and judges accomplish the above acts of tyranny.

Lawyers, who have dominated every Congress since 1789, repeatedly lie each time they take their oath in which they state: "I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

At election time why do people have so many questions about for whom to vote? Aren't they obligated to organize as a constitutional force instead of a political one and vote all lawyers out of office so that a necessary separation of powers can be established?

Will historians later say that our government fell from within because the American people were incapable of self government since they allowed lawyers to lead them like sheep?

Chapter 9

The First Judiciary Act: Its Abuses

In September 1789, the First Congress could have established the Supreme Court as a constitutional court by proposing the Judiciary Act as an amendment to the Constitution, which then could have been approved by the people. Once approved by the people, the Supreme Court would always consist of a Chief Justice and five Associate Justices. Thereafter, the number of Justices could not be changed unless by amendment.

Instead, the First Judiciary Act created a political Supreme Court. It also divided the United States into thirteen Judicial Districts. It stated that there shall "be a court called a District Court, in each of the aforementioned districts, to consist of one judge, who . . . shall be called a District Judge . . . the before mentioned districts . . . shall be divided into three circuits . . . and that there shall be held annually in each district of said circuits, two courts, which shall be called Circuit Courts, and shall consist of any two justices of the Supreme Court, and the district judge of such districts, any two of whom shall constitute a quorum . . ."

The lawyers in control of the First Congress had established the Supreme Court as a political entity to which the inferior courts were tied by the appeal process. That was an affront to the people because they had wanted to limit the jurisdiction of the federal courts. The people had proposed many amendments that specifically limited the courts. Those proposed amendments were, without comment, completely rejected by the First Congress. The people would have rejected the First Judiciary Act *in toto* had it been presented to them as an amendment.

The First Judiciary Act went far beyond creating the federal courts. It unconstitutionally created and added to the judicial and the executive department of government the following new offices: 1) Attorney General of the United States; 2) the office of U.S. Attorney, and; 3) the office of U.S. Marshals. The Judicary Act provided that the independent and direct checking power over the government by the people on Grand and Trial Juries would be compromised. Honest witnesses and jurors could now be intimidated since the judges were also given the power by the Judiciary Act "to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or

hearing before the same." U.S. Marshalls, under the command of the judges, would enforce the judge's unlawful orders.

The First Judiciary Act and Separation of Powers

The First Judiciary Act, a mere law, gave judges more power than the United States Constitution gave the President. The President, the chief executive officer, can arrest a person for breaking the law or for violating his orders but he cannot order the arrested person to be fined or imprisoned. The Judiciary Act ignored the concept of separation of powers. It gave judges the power to perform both judicial and executive duties.

Madison, who voted for that Judiciary Act, did not heed his own warnings in #47 of *The Federalist Papers* in which he warned the people to maintain a proper separation of powers. Madison included the following quotation by Montesquieu: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor." That was truly stated, for the federal judges, with the help of the Attorney General and U.S. Attorneys have not only become our oppressors they have also corrupted the Grand and Trial Jury processes. Congress breached its authority with the First Judiciary Act by setting qualifications for jurors and by involving judges, their clerks and marshalls in the selection of jurors. Jurors were simply to take an oath swearing that they have had no connection or relationship with the defendant and that they would faithfully and impartially sit in judgment of the accused. The same lawyers who had rejected a motion calling for the establishment of a Bill of Rights at the Constitutional Convention were now trying to tie the jury system to the courts where judges and U.S. Attorneys could usurp Grand and Trial Jury powers that belong exclusively to the people. The following is a case in point.

Rule 7(c)

The Constitution grants each House of Congress authority to make its own rules. The Constitution does **not** grant the Supreme Court the authority to make its own rules. Yet despite the Supreme Court's lack of constitutional authority, they have insisted on creating rules, one of which is Rule 7(c).

Rule 7(c) requires the signature of an attorney for the government on a Grand Jury indictment. Rule 7(c) therefore can render the Grand Jury and its checking powers harmless if the U.S. Attorney does not sign an indictment. In addition, Rule 7(c) grants to a U.S. Attorney the power to draft and sign an information, which can deprive a citizen of his rights and liberties. Only the people on Grand and Trial Juries have the right to determine if a person committed a crime. Rule 7(c) is a threat to the peoples' Bill of Rights powers and it must be challenged.

But to whom shall the challenge be directed? Certainly not to the Supreme Court, for if it was an honest court it would have long ago declared the entire First Judiciary Act to be unconstitutional. Neither can the challenge be directed to Congress because many of its members have escaped indictment and prosecution with the application of Rule 7(c). It's a good safeguard for corrupt officials to use as an escape from Grand and Trial Jury discipline.

All of the above abuses stem from the First Judiciary Act which Congress officially entitled—"An Act to establish the Judicial Courts of the United States."[1] That title belied the judiciary's true intention, for the Act was also to provide the path through which the Judiciary was to gradually infiltrate the executive branch and usurp those powers. The following actions show how this was accomplished: 1) the founding lawyers in the Philadelphia Convention provided in Article II section 2 clause 1 that the President "may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices . . . ." 2) the founding lawyers in the First Congress wrote in Section 35 of the First Judiciary Act "And there shall also be appointed a meet person, learned in the law, to act as attorney-general for the United States, who shall be sworn or affirmed to a faithful execution of his office; whose duty it shall be to **prosecute** and conduct

[1] Page 73 of Statutes of the United States First Congress. Sess. I. Ch. 20 1789.

all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments . . . " 3) Prior to 1870, the Attorney General was a member of the President's Cabinet, but not the head of a department; 4) the Department of Justice was established on June 22, 1870 with the Attorney General at its head. The chief purpose of the Department of Justice was to enforce the federal laws, to furnish legal counsel in federal cases, and "to construe the laws under which other departments act." This last clause gives the unelected Attorney General the opportunity to be the actual chief law enforcement officer of the Federal government. If the Attorney General is authorized to advise the President, his Cabinet, and other departments as to what the law commands then he, not the President, is truly in command. All succeeding Attorneys General should have advised Congress of the Supreme Court rules that are repugnant to both the Bill of Rights and the Constitution. Each Attorney General instead becomes a party to corruption whenever he allows a U.S. Attorney to affix his signature to an indictment voted by a Grand Jury (as required by Supreme Court Rule 7(c)).

In reality we have ten unelected lawyers in command of the judicial and executive departments of government; nine on the Supreme Court, who make rules repugnant to the Bill of Rights, and one as the acting chief executive who enforces those rules. The acting chief executive and his subordinate U.S. Attorneys deny us the right to appear in person before federal Grand Juries, and also destroy our petititons of protest when we attempt to send to a Grand Jury constitutional and Bill of Rights grievances.

In the office of the Attorney General are an Executive Assistant to the Attorney General and a Director of Public Information. "The Attorney General appears in person to represent the Government in the United States Supreme Court in cases of exceptional gravity or importance." Challenging the constitutionality of the First Judiciary Act would certainly be a matter "of exceptional gravity" because the Supreme Court Justices and the Attorney General are creatures of this unconstitutional First Judiciary Act. The terms Attorney General and Attorney for the U.S. do not once appear in the Constitution. Furthermore, the Constitution merely states that: "The judicial power of the

United States shall be vested in one Supreme Court."

The First Judiciary Act significantly amended the Constitution and therefore the changes made by the Act had to be resubmitted to the same ratifying conventions that had previously agreed with the terms of Article III section 1 that Congress could only establish the Federal Courts. The ratifying conventions had not agreed to the presence of a person in each district with the authority "to act as attorney for the United States . . . whose duty it shall be to prosecute in such districts all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned . . . ." Nor had the ratifying conventions agreed to the establishment of an office of Attorney General "whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned." In addition, the ratifying conventions were entitled to see if the First Congress had complied with their proposed amendments to limit the federal judiciary.

The ratifying conventions and the amendments proposed therein were the people's only opportunity for input into a Constitution under which they were to be governed. The American people had no idea that behind the Senate's locked doors two former members of the Philadelphia Convention, Oliver Ellsworth and William Paterson, had ignored the amendments to limit the judicial power as proposed by the people in the ratifying conventions, and then secretly completed the Constitution that they had prematurely presented for ratification two years earlier. The changes they made to the Constitution in the First Judiciary Act would restore the same corrupt English judicial system that had previously caused the American people to wage war for independence.

The people would have been enraged upon discovering the many dangerous provisions contained in the First Judiciary Act, a document twice the size of the Constitution. Senators Ellsworth and Paterson planned that the proposed changes would secretly be passed as a law, instead of a consititutional amendment. This was accomplished with the help of their fellow Senators who had previously, as members of the Philadelphia Convention, helped draft the original Constitution.

At this time, Madison in the House employed a diversionary tactic to distract the people from those ugly points of contention by announcing the release of the Bill of Rights to which the people quickly turned their attentions.

This gave the House the chance to pass the First Judiciary Act. President Washington was fully aware; if he hadn't signed this Judiciary bill into law, there would not have been a Supreme Court. Without a Court, the checks and balances in the three departments of government under the Constitution could not have been put into motion. The new President would have had to step down and Congress would likewise have been forced to dissolve. This would have given the people the opportunity to elect trusted delegates to a real Constitutional Convention in which they could have drafted an honest Constitution prefaced with a Bill of Rights which was their wish in the first place.

The people should not be disappointed in discovering the truth—that the Constitution they have been taught in our government-operated schools to revere and cherish has been the source of much pain and suffering. It divided the people, causing misery and great injustice, and finally led to a civil war. Under the Constitution we have never had a government of the people. From the beginning, the lawyers took over all three departments of the government. With their usurped powers they have enriched themselves at our expense. They have caused us great debt and have never let us live peaceably with the rest of the world.

The people's Bill of Rights was supposed to be a check upon the officials of government. As Grand and Trial Jurors we were to be the judge of what is right or wrong and were supposed to indict and convict the corrupt among us. But the judges said the people on juries were not properly interpreting the Bill of Rights. The judges dismissed indictments or overturned a jury's conviction, first slowly then on a grand scale. They gave the criminals in America free rein, so that honest people now fear for their lives. Yet as bad as it is, and it's going to get worse, the many people who cherish our Constitution will not organize Grand and Trial Juries that they are in to challenge any judge, Attorney General or U.S. Attorney who claims that the indicted or convicted felon should be freed. Deciding who shall be convicted and who shall be set free is not within the authority of those who govern. The sovereign people on Grand and Trial Juries have the final check. The people ratified the Constitution as an instrument to govern those who govern. That is why it is required that all officers of the government, elective or appointive, take an oath to obey the Constitution. Those of us who are not active members of the government are not required to take the Constitutional oath of office for there are no constitu-

tional duties for us to perform.

The Department of Justice

The reader should now be aware that the lawyers who drafted the First Judiciary Act had created both a Supreme and also the inferior Courts where none, under the terms of the Constitution, had previously existed. In June 1870, another Congress dominated by lawyers created the Department of Justice "to provide means for the enforcement of the Federal laws." As a part of the Act, some of the above mentioned officers then became members of the executive department of government which enforces the law. However, the Attorney General, U.S. Attorneys, and U.S. Marshals, like police officers, should not serve in both the executive and judicial departments of government. For example, a police officer is an executive officer. He can execute or enforce the law by placing a charge and then arresting a person. The police officer cannot go on to become a judge or jury. This would be unfair to the person arrested. The Grand Jury should question an arresting officer and those who may have witnessed the crime and then in their own language draft an indictment. Likewise, a Grand Jury should not permit a U.S. Attorney to draft an indictment or an information. By drafting an indictment, the attorney, like a police officer becomes an executive or enforcement officer. Then, in order to obtain a conviction, the U.S. Attorney will often get the Grand Jury to overcharge the accused. The Grand Jury, like the police, is an executive or enforcement body. Each commands that a person shall be held to answer to its charges. Judicial officers of the bench and bar erroneously claim that the Grand Jury is an appendage of the court. Nonsense. An executive body cannot be an appendage of a judicial body. There is a definite separation of powers between the two.

When the Department of Justice was created in 1870, the Attorney General of the United States was placed in command. The U.S. Government Organization Manual states:

> The chief purposes of the Department of Justice are to provide means for the enforcement of the Federal laws, to furnish legal counsel in Federal cases, and to construe the laws under which other departments act. It conducts all suits in the

> Supreme Court in which the United States is concerned, supervises the Federal penal institutions, and investigates and detects violations against Federal laws. It represents the Government in legal matters generally, rendering legal advice and opinions, upon request, to the President and to the heads of the executive departments. The Attorney General supervises and directs the activites of the United States Attorneys and Marshals in the various judicial districts.
>
> ORGANIZATION.—The affairs and activities of the Department of Justice are generally directed by the Attorney General. In the office of the Attorney General are an Executive Assistant to the Attorney General and a Director of Public Information.[2]

The unlawful First Judiciary Act stated that the Attorney General shall "give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any departments touching any matters that may concern their departments." Congress has since created the Office of Legal Counsel in which another Assistant Attorney General prepares formal opinions for the Attorney General and gives legal advice to the various agencies of the government. Article II section 1 clause 1 of the Constitution states: "The executive power shall be vested in a President of the United States." It doesn't state that an Attorney General is to share in the enforcement of the executive power with the President. The Constitution doesn't contain the titles Attorney General or U.S. Attorney. Nevertheless, under the Department of Justice "The Office of Legal Counsel . . . reviews as to form and legality, and makes transmittal by the Attorney General to the President, and performs like functions with respect to regulations and various other matters which require the approval of the President. . . ." One must remember that in some instances one word omitted or added to an order, regulation, etc., can significantly change the meaning and purpose of a communication. **Therefore, only the elected President can be responsible for such action.**

The Pardoning Power of the President

The Constitution states the President "shall have power to grant reprieves and pardons for offenses against the United States." The President, unlike the King, is not a sovereign authority and therefore does not have the power of

[2] Page 200 and 201 of the *U.S. Goverment Organization Manual.*

pardon. All Presidents must refuse to invoke powers that contradict those of the sovereign people who have indicted and convicted the accused. If a pardon is warranted, let's allow Grand and Trial Juries to work in tandem to see justice done. We must always remember that the President, Supreme Court Judges and Congress were only granted limited powers and the people on federal Grand Juries should enforce those limitations by presentment or indictment.

The pardoning power has been abused by both the President and Congress. Congress, which has always been unconstitutionally dominated by lawyers, created the office of Pardon Attorney who performs a specialized service for the Attorney General which deals with "the receipt, investigation, and disposition of applications to the President for pardon or other forms of Executive Clemency." This has given the Attorney General the opportunity to initiate actions for reprieves or pardons for corrupt officials. The President then signs such pardons. Presidents such as Truman, Johnson and Nixon have submitted names to their respective Attorneys General so the paperwork for them can be commenced. Thus many of the corrupt, including Congressmen, are allowed to escape punishment after being convicted by the people for acts of corruption.

The Bureau of Prisons is under the administration of the Department of Justice. Parole is the means to allow the politically favored to escape prison. Names of those to be favored are submitted to a parole board. The Board of Parole consists of eight members appointed by the President. It has sole authority to grant, modify, or revoke parole of all United States prisoners. The Board of Parole determines the date of parole eligibility of the prisoner. "It may under its rules, discharge parolees from supervision." "No release on parole shall become operative until the findings of the Board of Parole under the terms hereof shall have been approved by the Attorney General of the United States . . . ."[3]

Section 718 of the Code of Criminal Procedure provides for matters concerning probation: "The Attorney General, or his authorized agent, shall investigate the work of the probation officers and make recommendations concerning the same to the respective judges and shall have access to the records of all probation officers . . . " The Attorney General can misuse his powers to see that criminals undeserving of leniency are paroled or put on probation.

[3] Chapter 22, Sec. 716 page 2001 of Title 18, pages 2000 and 2001.

Under the Constitution, the Office of the Attorney General Cannot Exist

An unelected Attorney General having no constitutional status whatsoever, is in charge of the department of Justice. The Supreme Court, which also has no constitutional status, has given the Attorney General the power under their rules to order any of the U.S. Attorneys not to sign an indictment because it could involve a department of the government and could culminate in a full blown scandal.

The Attorney General can also draft a pardon and advise the President to use it. This was the advice that was given to Ford, who pardoned Nixon to prevent an exposure that would have uprooted the corrupt lawyers in charge of the legislative, executive and judicial departments of government.

The Bureau of Prisons was placed under the Department of Justice headed by the Attorney General. The Department has devised two types of prisons: 1) maximum security prisons for the common people, and; 2) country club prisons that house Congressmen, judges, members of the executive department, and political faithfuls who could not manage to escape from an aroused public opinion.

There is also an "Assistant Attorney General in charge of the Criminal Division" who "has responsibility for and supervision of the enforcement of Federal criminal laws generally, including those relating to criminal practice and procedure." The Assistant Attorney General in charge of the Criminal Division is aware that a Grand Jury has a direct check upon those in government who commit a corrupt act. He also knows that if twelve members of a federal Grand Jury vote to indict a corrupt Congressman who was involved in a bribery scandal, the people, through their Trial Jury system, are entitled to know if the jury would find him guilty and open the scandal to full public scrutiny.

When Attorney General John N. Mitchell ordered U.S. Attorney Steven Sachs not to sign the Grand Jury indictment, as required by Supreme Court Rule 7(c), the Assistant Attorney General in charge of the Criminal Division should have challenged the acts of all who were involved in attempting to subvert the Grand Jury power. He should have stated that the First Judiciary

Act had given the Supreme and inferior Courts the power "to make and establish all necessary rules for the orderly conducting business in the said courts, provided such rules are not repugnant to the laws of the United States." He could have stated that Rule 7(c) is repugnant to both the Bill of Rights and to the Constitution. U.S. Attorney Steven Sachs, in obeying the order, obstructed the administration of justice. He, in this case, should have instead signed the indictments so that the jury could have closed the circle of lawyer-corruption in all three departments of government. Several corrupt Congressmen escaped indictment and prosecution because of Mitchell's order.

The 16th Amendment that Never Was

There is also an "Assistant Attorney General in charge of the Tax Division" who "has responsibility for representing the United States and its officers in litigation both civil and criminal, arising under the internal revenue laws .... The Division's chief activity is to act as counsel for the Internal Revenue Service." This Assistant Attorney General, in behalf of the United States executive department has been aiding Congress and the federal courts in committing serious crimes against the American people. Citizen Bill Benson of Illinois can attest to the truth of my statement. Benson, at his own expense, traveled from state to state checking their historical archives to prove that the states had in fact failed to ratify the 16th Amendment, which authorized Congress to impose an income tax. Bill presented this information to federal judge Paul Plunkett in Chicago and notified, through the U.S. Attorney, the Department of Justice and the Internal Revenue Service. The Justice department, through their U.S. Attorney, singled out Bill and presented false information against him in their instructions to a Grand Jury. After indictment, the judges in Chicago then permitted the U.S. Attorney to bring Bill's case in Court. The Court, the U.S. Attorney and the IRS were all aware that the charges against Bill were baseless, yet they proceeded with his prosecution. They did not present the full facts of the case to the jury that convicted him. The court then sentenced Bill Benson to prison, an innocent man who was attempting to expose those judicial officials, who instead should be in prison.

In order to alert the public that the 16th Amendment was never ratified and that Congress was therefore not authorized to impose an income tax, Bill then

published his book *The Law That Never Was*. Volume I is a narrative which sets forth the documentary history of the 16th Amendment ratification process. Volume II provides the reactions and positions taken by the Department of Justice and federal courts, relating to Volume I. To back up my findings that our government is run by criminal lawyers, headed by the U.S. Attorney General, I include a letter written by Gary W. Phillips in defense of Bill Benson. His letter, published in the July 1993 issue of the *Liberty Amendment News*, Box 2386, ElCajon, CA 92021 follows:

Are Benson's Prosecutors Committing Treason by Violating Their Oaths of Office and Allegiance?

By Gary W. Phillips

Dear Bill,

I am pleased to write a response to your request for information concerning the Constitutionally required oath of office and allegiance required by individuals employed by the United States Government.

By this time in your life, you have devoted quite a number of years to the research, preparation and distribution of evidence leading to the truth surrounding the 16th Amendment fraud. It is apparent from the treatment you have received that some members of the Government were not pleased with your efforts. This is indeed, unfortunate. I am unable to understand the rationale behind this kind of thinking and action. There are a number of things about your case that defy a reasonable legal explanation. For instance, it is my understanding that you presented to Federal Judge Paul Plunkett in Chicago, uncertified evidence that proved fraudulent ratification of the 16th Amendment. In other words, you reported a crime against the United States and the Constitution to a Government official who had the power and the duty to take action on the crime. The information I received also indicated the United States Attorney and the Internal Revenue Service were also informed of this crime at that time. What is impossible for me to understand is that you were told to go out and get certified evidence of the fraud and then return to the court. In other words, you were told to go out and investigate a federal crime; not only to go out and investigate the crime but to do it at your own expense and on your own time. That is incredible!

It was your duty as a citizen of the United States to report a federal crime. It was the duty of a federal investigative agency to investigate the allegation. I would liken this scenario to a citizen reporting a kidnapping to the FBI and the FBI telling the informant to investigate the crime and return to them with the evidence. Who took the oath of office and allegiance, you or the federal authorities? I am truly appalled!

Over my 37 years as a federal law enforcement officer, I have investigated many, many allegations. It has never even occurred to me to return the problem to the informants and tell them to investigate the allegation and then get back to me.

The officers involved in this travesty of justice should be brought up on charges for involving you in what should have been a federal investigation. I would certainly look more closely at this matter from the standpoint of dereliction of official duties and perhaps placing the information of a crime in peril. As I said before, who took the oath of office, you or the federal authorities to whom you reported the crime?

It is interesting that after you did investigate the crime successfully, gathered the certified evidence that was requested, turned it over to the proper authorities, that they would not accept it as evidence. Surely, if the veracity of the evidence you gathered was in question, the Government should have investigated the matter fully. Apparently, they did not do this. They missed their second opportunity to investigate a federal crime. The 16th Amendment fraud (a federal crime) should have been investigated thoroughly by the government. The fact that they did not investigate the crime does not relieve them of the responsibility for any harm the crime would bring as a result of their negligence. They were officially told twice of the crime, and hard certified evidence was presented as requested by the court. The Federal Judges, the prosecuting attorneys from the office of the United States Attorney and the Internal Revenue Service collectively, were obviously aware of the evidence you submitted but chose to disregard it. They cannot do that!

These same officials later moved your tax case into the criminal arena. They were able to get an indictment, take you to court and later sentence you to prison. There is not much incentive there to report a federal crime!

Thirty-seven years ago, when I became a federal law enforcement officer, I took the oath of office and allegiance. I still remember the content of the oath. I swore that I would support and defend the United States Constitution against all enemies, foreign and domestic. Additionally, I swore that I would bear true faith and allegiance to the Constitution and that I would take the obligation freely, without any mental reservation or purpose of evasion and further, that I would well and faithfully discharge the duties of the office I was about to enter.

What does all of this mean? Apparently not much to some people. I believe the

16th Amendment fraud is hard, cold evidence of that statement.

The oath is not a group of empty words. Key Government employees are required by the Constitution to take the oath for a reason. Article VI clause 3 of the United States Constitution provides that, "The Senators and Representatives before mentioned, the Members of the several State Legislatures, all executive and judicial officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support the Constitution . . . "

Clearly, the oath is the child of the Constitution. It was included by the framers to protect the Constitution from those who would become legislators, administrators and judges; those who would be in charge. The wisdom of the framers of the Constitution was indeed great. They knew of man's propensity to stray, particularly those who would seek leadership in the Government; those who would seek their own interest before the interest of their country. The Constitution of the United States was created to restrict the Government and ensure the liberty of the people.

It is significant that these key officials must accept the oath to enter the Government. The President of the United States cannot assume office without first taking the oath. The oath seems such a small thing and is seldom thought of after entry into the Governemt but it is, in reality, an extremely powerful tool for keeping the Constitution clean and cleansing it, while it becomes sullied by personal agendas.

The oath of allegiance is a snare to those who purport to love and serve our country and its Constitution and at the same moment, passionately embrace a doctrine that is contradictory to their sworn oaths of office and the fine principles of the United States Constitution. That is precisely what is happening in the case of the 16th Amendment fraud. These informed Government officials are willingly and knowingly supporting and defending a doctrine foreign to the United States Constitution. The evidence is everywhere; it is a prosecutor's delight. These individuals have publicly made a personal commitment to support and defend the United States Constitution and have readily accepted any and all benefits that derive from their Constitutionally provided positions. They are a malignancy feeding on a gentle unsuspecting host.

In reality, they have chosen to follow the road of criminal intent. They have violated their personal oaths and the Constitution. Viewed from a Constitutional perspective, these informed, Constitutionally sworn individuals are traitors. Through their actions they proclaim their personal guilt. The world is an eye witness to their guilt. There is no legal defense for them.

In truth, these once trusted sworn Government officials who have knowingly and willingly participated in this travesty of justice, have stripped themselves of their official authority to act in the name of the people of the United States. They have willingly and knowingly violated the seldom considered oath of office and allegiance they took when they entered office. Once they have violated the oath,

they become amenable to criminal prosecution. Since 1984, these individuals have known the truth about the 16th Amendment and it has been their personal choice as well as their official policy to disregard the evidence, the law, the Constitution and the oath of office and allegiance. These individuals should be removed from their positions immediately. There is no justification to do otherwise. They have proven themselves unfit to serve the people. Indeed, the authorities would remove an embezzler from a bank once it was learned that he was embezzling funds. Governmental authorities would remove immediately a scientist who was passing secret information to an authority not authorized by law. Authorities must remove dishonest officials from public positions once it is proven they cannot be trusted. There is plenty proof of untrusworthiness of so-called Government employees involved in the 16th Amendment fraud. These individuals hide behind their positions and proclaim a new morality, but the awesome force of the oath of allegiance is there to meet them with reality. The snare is closed!

When these so-called sworn Government officials, from the IRS and the office of the United States Attorney, took your case to the grand jury, they added another dimension to their crimes. They had knowingly and willingly accepted the 16th Amendment fraud, which makes them accessories after the fact of the original 16th Amendment crime. They had willingly perpetuated this crime knowing that it is a violation and a destruction of the Constitution of the United States and violation of their personal oaths—this constitutes an inside conspiracy to overthrow the Government. The added dimension is the vicious, knowing and willful criminal action they have taken against you and thousands of other people of this Nation, in the name of the United States Government. The misery these individuals have caused is beyond measure. Truly, King George III would be proud of these individuals.

One of the more odious aspects of these crimes is the imprisonment of innocent people. This is a serious matter. Everyone involved in the presentation of a criminal matter to the grand jury must be legally aware of their own situation. The United States attorney has the monumental responsibility of presenting the unvarnished truth to the grand jury. The charges by the Government against the individual must be scrupulously accurate and true so the grand jury is not misled.

To knowingly and willingly mislead the grand jury with inaccurate statements and false testimony, written or oral, is a crime punishable by imprisonment. The same rule applies to federal agency officers who testify before the grand jury.

In 1984, the United States District Court in Chicago, Illinois, was presented with hard, proven certified evidence that the 16th Amendment to the United States Constitution had been ratified by criminal decision. This information was also provided to the United States Attorney in Chicago.

The law is the business of the court and the court officers. It is their only business. Federal judges and United States attorney become the trusted keepers of

the law. If they violate that trust, they violate their oath, and they violate the United States Constitution.

It is with this in mind that we should view the appearance of the United States attorney's activity before the grand jury when he or she presents a case bearing or relying upon an income tax legislation since 1913 and particularly since 1984.

It is immediately evident that the United States attorney who knowingly and willingly instructs the grand jury, and advances laws based on the 16th Amendment, is in violation of the oath of office and allegiance and is an advocate of the distortion of the United States Constitution. This class of individuals become personally responsible for such illegal acts through the oath and the criminal code. These individuals are passionately supporting and defending an authority that is not authorized by the United States Constitution. There is no legal justification for their actions. Simply put, they are criminals; enemies of the United States Constitution. These individuals have done what they have done because of their own agendas. They took the oath voluntarily and profaned it voluntarily. Therefore, let them pay the consequences for their voluntary actions.

All of their so-called legal actions and decisions since 1984, because of their criminal transgressions against their oath of allegiance, are without meaning, because they forfeited the privilege of the office they entered when they violated the oath. They have violated the offices entrusted to them by the people and have filled the offices with fraud. FRAUD VITIATES ANY CONTRACT INTO WHICH IT ENTERS!

I have singled out the United States Attorneys because that is the entry point into the criminal action. Everything I have stated about the United States attorneys applies equally and perhaps more than equally to the federal judges. They have judgemental responsibilities toward cases presented to them by the United States attorneys.

Applying the same test of appearance to the court that was applied to the Grand Jury for the United States attorney on the same issue, leaves us with the same finding. In the case of the 16th Amendment issue in the Court in Chicago, where the evidence was first presented, the judges did nothing to bring about a resolution to the problem. These judges knowingly and willingly permitted the United States Attorney to present your case in Court under false pretenses. The Court, the United States Attorney and the IRS were all aware the charges against you were baseless, yet they proceeded with your prosecution and the Court sentenced you to prison. Judge Roy Bean couldn't have done it better.

All of the individuals involved in your prosecution and the pre-prosecution planning, were so-called Government employees. They took the same oath of office and allegiance I took. They had a duty to perform to the Constitution and they did not fulfill that duty. Clearly, the certified public records presented as

evidence by you in your behalf were irrefutable. This is a classic example of the Government doing what they want, not what is right or legal. They should be removed from their positions, immediately! They have violated their personal oath to support and defend the United States Constitution and are actively promoting the destruction of same. As trusted keepers of the law, they have used the law to their own benefit and not the benefit of People of the United States.

While I am in the area of the trusted keepers, I would like to suggest a point you may wish to pursue with the United States Attorney. At the time of your indictment by the grand jury, the two prosecuting attorneys from the office of the United States Attorney, all of the IRS agents involved in your case and possibly the Federal Judge, were aware of the 16th Amendment Fraud. This can be proven. All of the charges and allegations were reduced to the written word and therefore, are obtainable. The United States Attorney knowingly and willingly proffered false and misleading information to the grand jury, which led to the concealment of the very important material facts relating to your case. Indeed, they did in fact, use false writing or documents knowing the same to contain false, fictitious and fraudulent statements. The outcome of the grand jury in your case may have been far different had the true facts been presented. Of course you recognized some of the verbiage in what I have written above. It is taken directly from Chapter 47 of 18 USC Section 1001. The United States Attorney, the IRS and the Federal Judge who heard your case are as subject to the law as you.

Unquestionably, this situation is different; unparalleled in the history of the United States. The branches of the Government that are charged with the check and balance procedures of the Government are locked criminally together in a conspiracy to force the people of the United States into submission on an issue that will eventually rip our form of Government asunder.

We are also faced with what is becoming all too evident when we deal with the United States Attorney and the Court, with the problem of who will correct the problem. The United States Attorneys and Federal Judges who have been knowingly and willingly prosecuting the people of this Nation under nonexistent laws are not now likely to willingly turn the force of the criminal code against themselves. That is the reason they must be removed. As it stands, we do not have a justice system; we have anarchy with only a very small part of the population calling the shots. Some may even wish to call it an undeclared dictatorship. I truly believe that is the intention but I do not believe it fits in the game plan at the moment.

The Constitution is alive and well; such is not the case with our politicians and corrupt Government officials. If we restore the integrity to the Constitution, the Constitution will restore integrity to our lives. It did it once and there is no reason to think it will not do it again.

Constitutionally yours,
Gary W. Phillips
21822 Military Road South
SeaTac, Washington 98198

To lend support and strength to Bill Benson's discovery, I have similarly named my book *The Constitution That Never Was*. Almost finished and soon to be published is my second book entitled, *The American Bench and Bar—A History of Organized Crime*. It should, when published, deliver the death knell to the lawyers, judges and to the Constitution that they have fraudulently established and kept in operation for over two hundred years.

It will be very difficult to find a publisher who would dare to print and distribute my books for fear of being sued. I will publish this first book myself. It will deplete my life savings and it would be a shame if I am not given the opportunity to prove to you that lawyers and judges have from the beginning organized to plunder, pillage and rob the American people. At this time, I request donations no matter how small from any one of you who has suffered an injustice under our system or those of you who believe that lawyers in their official capacity are a dangerous threat to the separation of powers and to an efficient and honest government. Every dollar donated, plus the money received from the sale of this book, will be used to publish my second book, which, almost finished, awaits your financial help. Please send donations and letters in support to Foundation for Rights, PO Box 17699, Rochester N.Y., 14617.*

Federal Courts: Hearing Bodies or Trial Courts?

The legislative, executive and judicial branches of government are distinct; each branch is possessed of a characteristic and particular authority. But the founding fathers confused the issue and made certain exceptions in not providing complete separation of the departments of government. For example, a bill requires the signature of the executive (unless passed over his veto). He participates in the legislative process. However, associated with the doctrine of

* See tear out sheet on page xiii.

the separation of powers is the principle that powers granted to a particular department of government cannot be delegated. Article II section 1 clause 1 commands: "the executive power shall be vested in a President of the United States of America." That means he has complete command of the military power and the officers he appoints to assist him. Likewise he has complete command over the civil power and the officers he appoints to assist him. Article III section 1 states: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." Congress created the courts, but in so doing it overstepped its authority in creating the office of Attorney General.

The term Attorney General wasn't mentioned in the constitutional or ratifying conventions nor does it appear in the text of the Constitution. Therefore Congress did not have the authority to create a new officer, an Attorney General, whom it could constitutionally involve in either the judicial or executive process; nor did Congress have the authority to create a new officer to be known as an "attorney for the United States." Congress was limited to establishing the federal courts. According to the terms of the Constitution, the federal courts could only be hearing bodies of judges limited entirely to deciding constitutional questions. The Supreme and inferior courts could not be trial courts if there was no Attorney General to act as attorney for the United States who could submit arguments in rebuttal to those of an aggrieved person seeking a judicial ruling. The word "trial" appears only twice in the Constitution and refers specifically to trial by jury, which "shall be held in the state where the said crimes shall have been committed." The word "suit" does not once appear in the Constitution.

However, the word "suit" appears frequently in the First Judiciary Act where the First Congress deceptively changed the role of the Supreme and inferior courts from hearing bodies to trial courts, where they would be the judge in adversarial proceedings. Congress was not authorized to change the constitutional function of the courts by creating the office of U.S. Attorney and giving these officers the duty "to prosecute in such district [court] all delinquents for crimes and offenses, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned."

The reader must carefully observe Article III section 1 and section 2 clauses

1 and 2 of the Constitution, which grants to the federal courts the right to sit as hearing bodies mostly in matters concerning the civil authority. There are limited exceptions where the federal courts could hear criminal cases. Most cases would relate to admiralty and maritime jurisdiction (matters done upon and relating to the sea).

Article III section 2 clause 3 clearly assigns the criminal jurisdiction to the people: "The trial of *all crimes* . . . shall be by jury; and such trial shall be held *in the State* where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as Congress may by law have directed" (my empahsis).

The Constitution doesn't state that criminal trials shall be held in one of the thirteen original federal judicial districts into which the First Congress divided the States. Federal juries, like the courts, were also hearing bodies who received all testimony and evidence from both the accused and witnesses and then after questioning all involved, without the assistance of an outsider, the jury would determine if a verdict of guilt or innocence should be rendered.

The people who ratified the Constitution in 1787 and 1788 recognized both the Supreme and inferior Courts as hearing bodies. The Courts, by themselves, could not conduct adversarial proceedings. If Congress wanted to change what the people had previously ratified on June 21, 1788, they had to propose an amendment which would then have to be approved by the people.

According to section 1 of Article III, Congress was only authorized to establish the Supreme and inferior Courts. The Judicial Article of the Constitution did not grant Congress the authority to create and establish the office of U.S. Attorney or U.S. Attorney General. Nor was there any authority to intrude into the Trial Jury process and change the Jury from a hearing body under which jurors could hear both witnesses and the accused to a so-called adversarial body in which opposing attorneys would usurp jury powers with the help of the presiding judge. It was those judicial officers who, with their legal invention called "plea bargaining," which usurped the true powers of juries.

Grand and Trial Jury powers belong exclusively to the people. It is the people's only means of enforcing Bill of Rights protections to see that justice is done. A jury also has the power to check constitutional abuses. If Congress

enacts a law which in any way abridges freedom of speech or press the jury has the final say. Grand Juries also have the right to refuse admittance to a U.S. Attorney or in the least to ignore his presence, for Congress, without the consent of the people, created the office of U.S. Attorney and thrust him upon the people. Why should the people on any Grand Jury accept this impostor who usurps their powers?

Rule 7(c), made by the Supreme Court, commands that all indictments "shall be signed by the attorney for the government." The Supreme Court would have us believe that an indictment not signed by the U.S. attorney is invalid. I have written in the next chapter about a Federal Grand Jury in Baltimore who had indicted several Congressmen in a major bribery scandal. Most of those congressmen were lawyers. At that time Attorney General John N. Mitchell ordered U.S. Attorney Steven Sachs not to sign the indictments so that those corrupt congressmen would not have to be exposed to a public trial. The Supreme Court would never have the courage to protect governmental corruption from populist Bill of Rights Jury proceedings.

The Attorney General is listed in the *Government Organization Manual* as the "chief law officer of the Federal government." By allowing him to be a member of the executive department, the Attorney General becomes the chief law *enforcement* officer of the Federal government. The Grand Jury should not heed the advice or actions of the Attorney General and the U.S. Attorney, impostor positions created by the unlawful First Judiciary Act, placing executive power in the hands of the Judicial branch. The Constitution declares that "he [the President] shall take care that the laws be faithfully executed." The Constitution authorizes that "Each House may determine the rules of its proceedings." The Constitution does not authorize the Supreme Court to determine the rules of its own proceedings. Certainly the Supreme Court cannot make rules concerning indictments or presentments that interfere with Grand Jury proceedings. The people's Bill of Rights were intended as a final check over those who would refuse to invoke constitutional checks. **The Bill of Rights must always be under the control of the people on juries as a separate and supreme instrument outside the realm of government.**

The Constitution does not authorize Congress to divide the states into judicial districts in order to assure Federal jurisdiction over criminal matters. The

Constitution states that "The trial of all crimes" shall be judged by the people on juries, "and such trial shall be held in the State [not the district] where the said crimes shall have been committed." The people who ratified the Constitution believed that they as jurors would be the sole judges of those indicted for criminal acts. There was nothing in the Constitution that an Attorney General or U.S. Attorney would participate in any Grand or Trial Jury proceedings. This departure from constitutional procedure would have to be authorized by an amendment. This was never done because the people would never have ratified such an amendment. Early Americans had long observed in the colonies under English rule how the State Attorney General and prosecuting attorneys cooperated with the crown judge to see that justice was not served. The people would never have accepted the First Judiciary Act as an amendment to the Constitution, which is why it was passed as a law instead. The offices and duties of Attorney General and U.S. Attorney were never constitutionally authorized.

The Constitution in Article VII states: "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." The people of those nine states who had ratified the Constitution had every right to believe that they would be a powerful check on the federal government. In Article III section 2 clause 3 it stated the independence of juries in that "The trial of all crimes . . . shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed." The Constituion limited the federal courts' criminal jurisdiction to those who engaged in the counterfeiting of securities and money of the United States and also to those engaged in "piracies and felonies committed on the high seas, and offences against the law of nations." The Constitution provides in Article I section 8 clause 18 that Congress shall have "The power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." However, that doesn't mean that Congress can by law divide the states into judicial districts of the federal government and then create an office known as Attorney for the United States. A trial is a hearing and judgment of a matter in issue before a competent tribunal. A jury, if left to its own recourse, is a

competent tribunal, and the jury has every right to hear testimony made under oath by a witness or witnesses and to agree as to guilt or innocence without any outside help. A jury has every right to ignore the judicial divisions made of its state and to prevent the admittance of a U.S. Attorney. This was all illegally accomplished under the First Judiciary Act and the deceptive clauses of the Constitution. The First Judiciary Act which created the office of the U.S. Attorney General goes on to give an attorney for the United States broad powers by stating that he: "shall be sworn or affirmed to prosecute in such districts all delinquents for crimes and offenses, cognizable under the authority of the United States, and all civil action in which the United States shall be concerned." The above stated officers have no such powers. The Bill of Rights were demanded by the people so that jury power (Grand and Trial) could be independently invoked against any officer of the government. The Bill of Rights were always to be a direct check upon the Constitution. The judges of our political courts must pay heed to Article 9 of the Bill of Rights which plainly states: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." They must also pay heed to Article 10: "The powers not delegated to the United States by the Constitution . . . are reserved . . . to the people." Upon their adoption, the Bill of Rights became "the supreme law of the land." Therefore, the members of the State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support the Bill of Rights that are vital to the peoples' freedom and liberties. The Constitution is not vital or sacred, it is merely a plan of government. And I must add it has been a poor plan of government always causing division among the people.

Under the Constitution there is no means by which the people can directly institute reforms. They have to depend upon their elective representatives for changes. The only thing the early Americans could have done was to call for a real constitutional convention. This was strongly opposed by George Washington and his former fellow delegates. Washington had attended the convention in Philadelphia, which was not authorized to draft a Constitution. Neither was Washington, as President, authorized to sign the First Judiciary Act into law. Besides amending the provisions contained in the Judicial Article, that Act also introduced the English Common Law into our courts. Washington was aware

that the monarchical and aristocratical institutions of England would be inconsistent with the republican principles of the Constitution. However, if he did not sign the First Judiciary Act, the Supreme and inferior courts could not have been accepted as recognizable entities. Without an identifiable Supreme Court, the entire Constitution would have had to be discarded and the people could have called for their own convention.

Deceptive Clauses of the Constitution

Constitutionalists frequently cite the importance of the supremacy clause, the commerce clause, etc., but they have never informed us of the deceptive clauses planted in the various articles of the Constitution and Bill of Rights which the lawyers then called upon to justify the creation of the office of U.S. Attorney General. The first deceptive clause of the Constitution that authorized Congress to create the Supreme and inferior Courts is contained in 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." From the authority given by those thirty words the members of the First Congress drafted a Constitution to complete the original Constitution by providing for a court to which the President could appoint six Supreme Court Justices.

The constitutional convention could have just as easily as the First Congress established a U.S. Supreme Court . However, the lawyers who dominated the Constitutional Convention did not dare to establish the inferior courts. To have defined clearly the relationship of federal to state courts would have raised an impassable barrier to ratification. From that deceptive clause containing those first thirty words of the Judicial Article of the Constitution would emerge a second constitution (the First Judiciary Act) containing 8,500 words which almost double the 4,543 words in the original Constitution. The deception was accomplished by referring to this major constitutional change as the First Judiciary Act, which only required a majority of each house and the signature of the president for passage. Instead it should have required a two-thirds vote by each House as an amendment which would have to be ratified by the people in conventions in three-fourths of the States. This document would surely have been rejected.

The appointments by the president of supreme court judges, inferior court judges, U.S. Attorneys General, attorneys for the government, etc., was made possible by another deceptive clause (better known as the advice and consent clause) which reads: "he [the President] shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, **and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law." The creation of a viable court where none previously existed, along with the creation of the office of an Attorney General, was all done without the consent of the people.** In order for the Supreme Court to become a constitutional court Congress had to submit an amendment to the people for their consent. That was never done.

I want to make the point that the second constitution (the First Judiciary Act) that amended the original Constitution had to be ratified by the same people recalled to their respective state ratifying conventions to see if they agreed to accept those amendments and many more contained in 35 sections consisting of over 8,500 words. Of course the people in those conventions would not have agreed to accept those outrageous amendments passed off as *An Act To Establish The Judicial Courts Of The United States.*

The ratifying convention of Virginia had proposed an amendment, the aim of which was to take from Congress the power to create federal courts inferior to the Supreme Court, other than courts of admiralty.

The New York convention included in their many proposed amendments a proposition limiting the jurisdiction of the inferior courts of the United States to the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies. In all other cases the causes would be tried in the state courts with the right to appeal to the Supreme Court. Other state ratifying conventions had also proposed amendments to limit the jurisdiction of the federal courts. Those amendments were completely ignored by the First Congress. In 1789 the people would have been very angry had they known the following facts:

- That of the fifty-five delegates in attendance at the Constitutional Convention, thirty-four were lawyers and they, like the lawyers who dominated the First Congress, had a vested interest in the courts.
- That all business conducted in the Constitutional Convention and in the Senate of the First Congress was conducted in secrecy. The lawyers in the

Senate drafted the second constitution which actually established both the Supreme and inferior Courts and gave the courts many additional powers not provided in the first Constitution.

- The lawyers introduced into the second constitution (the First Judiciary Act) the whole body of English law. The independence of the jury system was, as in England, undermined by adversarial proceedings supervised by the judges and conducted by attorneys for the United States.
- The second constitution created the office of "attorney for the United States" and also that of "Attorney-General for the United States."
- The lawyers in control of both Houses refused to propose the amendments submitted by the state ratifying conventions in which the people had demanded that the judicial power of the federal government be limited.
- Washington, Madison and others who attended the Philadelphia Convention did all in their power to prevent the people from holding a constitutional convention in which they could have established a constitution prefaced by a Bill of Rights which would have established a government of limited jurisdiction.
- The First Congress was made to serve as both a legislative body and a constitutional convention in which Ellsworth, Madison and company established a Supreme and inferior Courts and, to increase the influence of lawyers, the English common law was introduced into our courts. The judges were given the power of contempt and also the right to make their own rules. Both of these powers have been terribly abused by the judges.
- The lawyers of both Houses were certain that their lengthy second constitution would never be ratified by the people and therefore they avoided having to ratify their amendment by calling it the First Judiciary Act.
- At about the same time, in order to absorb the public attention, a diversionary tactic was employed. Congress released the long awaited Bill of Rights upon which the public immediately fixed their attention.

Chapter 10

There is No Meaningful Separation of Powers

Even though the founding lawyers often spoke about the need of a separation of powers they never provided for it in the Constitution.

Article I section 1: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Article I section 7 clause 2: "Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President. . . " for his approval and signature. If not given, the bill is returned to Congress where two-thirds of each House is required to override the President's veto.

Article II section 2 clause 2: "He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. . . ."

A treaty, a legislative act of the President, becomes the law of the land as stated in Article VI clause 2: "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made. . . under the authority of the United States, shall be the supreme law of the land. . . ."[1]

The President plays a major role in the lawmaking power. On its face the Constitution is incorrect in stating that "all legislative powers herein granted shall be vested in a Congress of the United States. . . ."

Article III section 1: "The judicial power of the United States shall be vested in . . . the Supreme and inferior Courts."

The Constitution is also incorrect in this for the following two reasons:

In cases of impeachment, the person charged must be tried by the Senate and convicted by two-thirds of the Senators present. The impeachment trial is a judicial proceeding, separate and apart from the court. That is why the Senators must take a judicial oath before the impeachment trial commences. "When the President of the United States is tried, the Chief Justice shall preside. . . ."

[1] Our Presidents also enter executive orders in the Federal Register where they become recognized and accepted as law.

Article I section 3 clause 6, but the Senate alone shall determine both conviction and judgment of the accused. Its decision is not appealable. This is judicial power exclusively placed in the hands of a legislative body and not vested in the Supreme or inferior courts.

Secondly, with the adoption of the Bill of Rights in 1791, it could no longer be claimed that the judicial power resides in the U.S. Supreme and inferior Courts. Article 6 of the Bill of Rights placed the judicial power squarely in the hands of the people, for it stated, "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury . . . ." Article 7 of the Bill of Rights provides in civil actions that "no fact tried by a jury shall be otherwise re-examined in any court of the United States. . . ." So the judicial power in the serious matters of life or death lies with the people.

Whenever there is a failure to maintain a proper separation of constitutional powers, corruption and injustice results. People on Grand and Trial Juries must therefore assume jurisdiction whenever a separation of powers is not properly maintained. Lawyers and judges never maintained a proper separation of powers. Gustavus Myers in his book *History of the Supreme Court of the United States*, tells it best. Myers briefly relates that Chief Justice Jay left the Supreme Court in April, 1794 to arrange a treaty with Great Britain. Much of that treaty provided merchants, landowners and lawyers the return of huge estates that "were confiscated by general acts during the Revolution." Myers wrote:

> To evade the confiscatory acts, estates were fraudulently conveyed to safe parties, while act after act was slid through legislatures during the Revolution, altering or emasculating the provisions of former acts, each successive law being more in favor of the absentee or expatriated landowners. The claims to a number of these confiscated estates, also, were bought by astute lawyers, or by capitalists for whom the lawyers were acting. These attorneys would never have purchased the claims had they not known of certain technical deficiencies in the laws by reason of which they had good hopes of recovering the estates or their equivalent, in the courts.
>
> As for the courts, they were filled with judges who had been attorneys for, or who were relatives of families whose estates had been confiscated. The large estates, too, of a number of Jay's relatives or personal friends, such as William

> Bayard, the Van Schaak family and others, had been confiscated; and what was true of Jay's circle was true of that of almost all other judges and high government officials. . . .
>
> The plan under way contemplated nothing less than a series of stealthy articles and acts by which the courts would be able to find specious grounds for gradually restoring certain confiscated estates, or for validating the purchases of claims by American politicians. This plan was certain to provoke the wildest outburst of popular resentment and anger. . . ."[2]

All the talk by the lawyers about maintaining a separation of powers was to confuse the people. Lawyers dominated all legislative bodies. In charge of the First Congress, they early on became a dangerous threat because many of the members were sworn into the federal court at its first sitting in New York City. Lawyers cannot be trusted to take two oaths, one to enact laws and another to practice on them.

Attorneys General

Thus, the great powers of making and adjudicating the law are in the hands of lawyers. With this in mind, we now examine the executive power contained in Article II section 1 clause 1. "The executive power shall be vested in a President of the United States of America. . . ." Here again most Presidents have been lawyers. In case they aren't, the First Congress created an office in which a lawyer was "to act as attorney-general for the United States."[3]

The Attorney General was placed in charge of the Justice Department when it was created in 1870. He soon became the real and active chief executive by having thousands of lawyers under his command who investigate infractions and enforce federal laws. With this huge staff, he also conducts suits in the Supreme Court in matters in which the United States is concerned.

With the specific purpose of convincing the American people that the federal Constitution should be ratified, Madison, Hamilton and Jay wrote a series of essays in 1788. All three were lawyers. All in one way or another had denied

[2] Gustuvas Myers, *The History of the Supreme Court in the United States,* pp. 203-04.

[3] Section 35 of the First Judiciary Act, US Codes 1. First Congress, Session I, Chapters 18-19, 1789.

the people input in making the Constitution. The following in #47 of *The Federalist Papers* shows Madison stating that each department was to be separate and distinct:

> One of the principal objections inculcated by the more respective adversaries to the Constitution, is its supposed violation of the political maxim, that the legislative, executive, and judiciary departments ought to be separate and distinct. . . I persuade myself, however, that it will be made apparent to every one, that the charge cannot be supported, and that the maxim on which it relies has been totally misconceived and misapplied. In order to form correct ideas on this important subject, it will be proper to investigate the sense in which the preservation of liberty requires that the three great departments of power should be separate and distinct.[4]

Madison was wrong and the adversaries of the Constitution were correct in stating their objections that the legislative, executive and judiciary departments were not separate and distinct. The many resulting abuses when a separation of powers is not maintained are shown throughout this book.

The Supreme Court's Appellate Jurisdiction

The Constitutional Convention, controlled by Madison and his fellow lawyers, gave the Supreme Court appellate jurisdiction, but "with such exceptions, and under such regulations as Congress shall make." That was done to allay the people's fear of a strong central court. The theory was that the people's elected representatives in Congress would be able to limit the Supreme Court's appellate jurisdiction whenever they chose to do so. The lawyers did not make known to the people that it was their intention to get themselves elected, in controlling numbers, to the various Congresses where they would allow the Supreme Court to strengthen the hand of the federal judiciary.

The Sixth Congress had passed an act on February 27, 1801 which provided for the appointment of forty-two justices of the peace, of which William

[4] *The Federalists Papers*, #47.

Marbury was one. The week before, they had enacted the Circuit Court Act of February 13, 1801, which bloated the federal judiciary with more lawyers, including judgeships for two sitting senators and one house member.

In the case of *Marbury v. Madison*, in 1803, when Chief Justice Marshall realized that President Jefferson would not honor a writ of *mandamus* compelling delivery of Marbury's commission, he tried to save face. He reversed the usual order of procedure and left the question of jurisdiction till the very last. This gave Marshall the opportunity to lecture the President on his duty to obey the law and to deliver the commission. But Marshall himself was not obeying the law. He was not legally authorized to perform any judicial duty because the Supreme Court lacked jurisdiction in the case before it.

> The opinion in *Marbury vs. Madison* is subject to two valid criticisms. In the first place the construction of the 13th section of the Judiciary Act, if not erroneous, was unnecessary since the section could have been interpreted, as it afterwards was, merely to give the Court the power to issue mandamus and other writs when it had jurisdiction but not for the purpose of acquiring jurisdiction. . . . . Secondly, there was good ground for Jefferson's criticism, which did not touch the constitutional features of the decision, but did inveigh against the temerity of the Court in passing on the merits of a case of which, *by its own admission*, it had no jurisdiction (my emphasis).[5]

Instead of rebuking the Supreme Court's conduct, the Seventh Congress, dominated by lawyers, remained silent and allowed Marshall to win undeserved recognition as a great jurist. If Congress had properly been composed of other professions besides lawyers, they no doubt would have voiced objections to the conduct of Marshall by declaring him wrong on all points he raised. Many of the same lawyers who served in the Seventh Congress had previously served in the Sixth Congress, which had passed the Judiciary Act of 1801.

[5] *The Constitution of the United States of America: Analysis and Interpretation.* Annotations of Cases Decided by the Supreme Court of the United States to June 22, 1964, Prepared by the Legislative Reference Service, Library of Congress. Page 628.

The Case of US v McCardle

Then, there is the *McCardle* case where Congress and the courts made a mockery of the Constitution. Under the authority of the Reconstruction Act, William McCardle was arrested by the army and bound for trial before a military commission. McCardle sought but failed to get his release on the writ of *habeas corpus*. He then appealed to the Supreme Court.

Congress, which wanted to prevent a judicial determination as to the constitutionality of its Reconstruction policies, quickly passed a bill which denied McCardle the Supreme Court's appellate jurisdiction. Robbed of its jurisdiction, the Court was unable to declare the Reconstruction Act unconstitutional, and McCardle was wrongfully denied his freedom.

The Supreme Court, in the McCardle case, should have asserted that—"judicial power" as stated in Article III section 2 clause 1, is in contradiction with that of Article III section 2 clause 2. It could have further stated that the Supreme Court's "judicial power shall extend to *all cases in law and equity* arising under this Constitution" (my emphasis). The Supreme Court had the authority to hear and determine a controversy brought before it by an individual who had challenged an act of Congress as unconstitutional because it denied due process as guaranteed by the Bill of Rights.

Article III section 2 clause 3 also states: "The trial of all crimes. . . shall be by jury. . . " Article 6 of the Bill of Rights states: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state wherein the crime shall have been committed." Congress, under Article III section 2 clause 2, cannot exempt its acts from constitutional scrutiny by denying the Supreme Court appellate jurisdiction. One of the fundamental conceptions of a separation of powers is that no department of government shall be the judge in or of its own cause. What we really had in the McCardle case was judicial tyranny—a Supreme Court consisting of all lawyers, acting in concert with a lawyer-dominated Congress that would do with the Constitution and Bill of Rights whatever it pleased.

Rule 7(c)[6]

The absolute necessity of maintaining a strict separation of powers is clear. The First Judiciary Act gave the Supreme Court the unconstitutional power "to make and establish all necessary rules for the orderly conducting business in the said courts, provided such rules are not repugnant to the laws of the United States."

Ever since, the lawyers of the Supreme Court have been making rules repugnant to both the Bill of Rights and the Constitution and have been getting away with it because the lawyers who dominate our Congress and Justice department have rendered the peoples' Bill of Rights ineffectual as a direct check upon constitutional officials. As long as we allow the shysters to run our government they will use unethical or unlawful methods to achieve their corrupt goals.

According to the Bill of Rights, the power of indictment is possessed only by the people. Rule 7(c), a rule invented by the Supreme Court, however flies in the face of the Bill of Rights by giving the U.S. Attorney the opportunity to nullify Grand Jury indictments. If all twenty-three persons on a federal Grand Jury voted to indict a corrupt Congressman on a charge of bribery, that indictment, under the terms of Rule 7(c), can be set aside if it is not signed by the U.S. Attorney. By one of its own rules and with the silent acquiescence of

[6] Rule 7 can be found in Title 18 - U.S. Criminal Code and Criminal Procedure. Here in part are rules 7A, 7B, and 7C as stated in the code:

Rule 7(A) ... an offense which may be punished by imprisonment for a term exceeding one year...shall be prosecuted by indictment or, if indictment is waived, it may be prosecuted by information....

Rule 7(B) Waiver of Indictment

An offense which may be punished by imprisonment for a term exceeding one year...may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment.

Rule 7(C) Nature and Contents

The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government....

Congress, the Supreme Court has made one single member of the judiciary a super one man veto upon a Grand Jury. He is able to overrule the direct check possessed by the people in their Grand Juries. In violation of the Bill of Rights, the U.S. Attorney was wrongfully granted Grand Jury powers. Not only can he negate an indictment voted by a Grand Jury, he can also accuse a person of a crime by simply signing a piece of paper called an "information," a type of indictment.

The Supreme Court brought about this abuse when it made Rule 7, which deals with the subjects of indictment and information. The Supreme Court has since made many rules "repugnant to the laws" and more importantly repugnant to the Bill of Rights. One of the worst of these was Rule 7 with which Congress, with the help of the Justice Department, would allow those they favor to escape indictment and punishment from criminal acts.

The Frenkil Case

Lawyers who control the legislative, executive, and judicial departments, in violation of the separation of powers, have used Rule 7 to corrupt governmental processes:

In 1970, a federal Grand Jury in Baltimore, Maryland indicted Senator Russell Long and former Senator William Brewster, both lawyers. Congressmen Hale Boggs, Clarence D. Long, Samuel Friedel and Speaker of the House John W. McCormack were also under further investigation in the same five million dollar bribery scandal with Maryland building contractor Victor Frenkil. The Grand Jury report listed forty-five overt acts through which Frenkil allegedly sought to defraud the government. All of the above-mentioned Congressmen, with the exception of Friedel and Long, were lawyers. U.S. Attorney Steven Sachs agreed with the Grand Jury that the charges were sound. **Attorney General John N. Mitchell ordered Sachs not to sign the indictments, thereby nullifying the indictments under the authority of Rule 7(c).**

Angered by the brazen misuse of Rule 7(c), the Grand Jury voted a presentment. Copies were directed to the court, the public, and the press in support of their original indictments and to inform everyone publicly of lawyer-corruption and obstruction in all departments of government. When the Grand Jury submitted the presentment to Chief Federal District Judge Roszell C. Thomsen,

they asked that the information therein be made public. Lawyers for Frenkil and others who were involved petitioned Judge Thomsen's court to prevent publication of the presentment. Judge Thomsen, in an unlawful order to the Washington Bureau of the *New York Times*, ordered the newspaper to show cause in the federal court in Maryland why it "should not be restrained from disclosing or publishing the contents of the presentment." The order said that the publication of the presentment by the *Times*, might "impair the jurisdiction of the court to grant effective relief." **Judge Thomsen, without lawful authority, suppressed the presentment and released a watered-down summary of his own.** He then expunged the presentment from the court records.

Judge Thomsen's court did not have jurisdiction to hear or dispose of the matter contained in the Grand Jury presentment that cited federal officials with wrongdoing. By what authority could his court "grant effective relief"? The improper conduct cited in the presentment could have resulted in impeachment. This power is solely within the constitutional jurisdiction of Congress. The lawyers for the *Times* should have advised all involved that the presentment should have been submitted to the House of Representatives instead of the court. Why didn't the House on its own motion take up the matter and commence an action for impeachment? Perhaps it was because Speaker John W. McCormack and members of both Houses were involved in that scandal.

I filed petititions with the House and Senate exposing the corruption of House and Senate members in that Maryland building scandal. I also exposed the cover up by the Justice Department and the Federal Courts. John McCormack, a lawyer, used his power as Speaker to see that my petitions never became a part of Cong*ressional Record.* I contacted the acting foreman of the Grand Jury to inform him to direct his Grand Jury presentment to the House for impeachment and also one to the press to inform the people. An impeachment action in the House, which could have been forced by an angry public, would have been a great opportunity for the people to learn all about the vital need of maintaining a proper separation of powers by preventing lawyers from dominating all three departments of government.

The Baltimore Grand Jury could have monitored the impeachment actions of both Houses. If the court dismissed the Grand Jury, its members could have refused to surrender their jurisdiction and could have instead challenged the court's jurisdiction to dismiss them. The Grand Jury could have informed the

people that the entire judiciary was involved in governmental corruption and cover up. It could have exposed the use of Rule 7(c) and could have challenged the Supreme Court, a judicial body, in that they were enacting rules having the power and force of law. The Grand Jury could have challenged the right of lawyers to be in either House because the lawyers had previously taken an oath to the judicial branch—thereby having taken office as a member of the judiciary.

Tyranny rules! The people have no place to appeal. The Supreme Court, which can make an unconstitutional law as Rule 7(c), cannot then sit in final judgment as to the constitutionality of that law. Lawyers are the greatest threat to constitutional government because they refuse to maintain a separation of powers. They are in controlling majorities in our legislative, executive and judicial departments and refuse to invoke checks and balances on their fellow lawyers who are involved in corruptions of every kind. In the case just presented, John W. McCormack was the Speaker of the House and Spiro T. Agnew was President of the Senate. Both were lawyers engaged in the corruption and cover up in Maryland scandals. At the head of the executive department was Richard M. Nixon, the President. His Attorney General, John N. Mitchell, was also involved in the cover up of the Baltimore building scandal. Nixon and Mitchell were also lawyers, both of whom were later involved in Watergate and related scandals.

All nine of the Supreme Court Justices were lawyers. William O. Douglas, an Associate Justice, was at that same time involved in a business in which he associated with organized crime members. In an earlier case in the Nixon administration, Supreme Court Justice Abe Fortas had resigned instead of facing impeachment and disqualification. Justice Fortas, while a member of the Court, had been doing business with a convicted felon. The lawyers in Congress refused to expose the two Justices to an impeachment trial where the public could see how badly the constitutional system was corrupted. The Attorneys General and U.S. Attorneys kept their Grand Juries on short leashes so they would not indict the Supreme Court Justices or any other corrupt members of the federal judiciary holding legislative or executive office in violation of the separation of powers. **Grand Juries are free to act and perform their duties independently of the government.**

We Must Have A Separation of Powers

Corruption hasn't stopped since March 4, 1789 and it won't end until we learn that the preservation of liberty demands that the three departments of government be separate and distinct. The beauty of it is that to achieve this end we do not need to call for a constitutional convention. In fact we don't even have to propose a single amendment to the Constitution or pass any law to bring the desired end. We have to educate each other that those three words, **separation of powers**, have a special purpose and must be used to achieve honest constitutional government. We can achieve this by voting every lawyer out of Congress.

A lawyer-free Congress could then repeal the First and all subsequent Judiciary Acts and instead adopt those proposed amendments that were submitted to the First Congress by the people in the state ratifying conventions who wanted to greatly limit the jurisdiction of the federal courts.

The New York convention included in their series of proposed amendments a proposition limiting the jurisdiction of the inferior courts of the United States to the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies. In all other cases the causes should be tried in the state courts with the right of appeal to the Supreme Court.

> The New York convention of 1788 proposed that a person aggrieved by any judgment of the Supreme Court, in any cause in which the court had original jurisdiction, should, upon application, have a commission review the case with power to correct the errors in the judgment, sentence, or decree.[7]

Other states also proposed amendments to greatly limit the jurisdiction of the Supreme Court, which were rejected by the First Congress. If the words of the people had been heeded by the First Congress in 1789 we would today have a workable government with a separation of powers instead of a judicial oligarchy controlled by lawyers.

[7] *Annual Report of the American Historical Association*, Vol. II. for the year 1896, Washington Government Printing Office 1897 by Herman V. Ames, Ph.D., University of Pennsylvania, pages 153, 154, 159.

Preface To Chapters 11, 12 and 13

State governments, like the federal government, do not maintain a separation of powers. Lawyers have dominated the legislative, executive and judicial departments of all of our governments. Constitutional process is constantly corrupted by them for personal gain.

After reading the following three chapters, alert citizens in every state should closely examine the membership of their own state legislature. They will find lawyers in command of all of them.

In addition I can inform you that judges, who are lawyers, also dominate every court in your state.

It is best that you also know that the Attorney General of your state and every county district attorney, who enforces the law, are all lawyers. So the legislative, executive and judicial powers in every state are dominated by lawyers. That spells big trouble.

When you finish reading the following three chapters and start investigating, you will find that your state, like mine, has been thoroughly corrupted. You might also feel foolish in that you once believed ours to be a government of the people.

Chapter 11

The New York State Liquor Authority Scandal

All states have been plagued by an unworkable legal system because they are all confined by constitutional ties to a corrupt federal judiciary. In the 1950s and 1960s New York State was gripped by a major scandal in which lawyers in all three departments of government were involved in corruption or its cover up. By cooperation, while in positions of public trust, these lawyers managed to contain exposure of this scandal, which I will expose to you. But first let's see how they managed to extricate themselves from the State Liquor Authority (SLA) scandal by placing the blame on only a few low level officials to satisfy an angry public. The public shouldn't have been satisfied because the entire state judiciary could have been exposed.

A clipping from the *New York Times*, May 4, 1966 with the caption: "Indicted Lawyer Keeps S.L.A. Role" illustrates my claim that we have an unworkable and corrupt legal system:

> Hyman D. Siegel, the former law associate of Attorney General Louis J. Lefkowitz who was indicted three years ago for conspiring to bribe officials of the State Liquor Authority, has continued to represent clients before the authority....
>
> Mr. Siegel, who according to the authority's records made his most recent appearance on March 31, 1966, has not yet been tried on the bribe charges.
>
> A preliminary motion in an attempt to learn whether eavesdropping devices were used against him has been tied up in the courts. Recently the New York Court of Appeals in a 4-3 decision ruled that the District Attorney did not have to reveal such information at this stage in the case. Mr. Siegel has asked the United States Supreme Court to review that ruling.
>
> Donald S. Hostetter, [a lawyer and] Chairman of the S.L.A., said recently that "nothing can be done" to bar indicted lawyers from practicing before the authority. He said that because of his concern about the problem he had asked the ethics committee of the Association of the Bar of the City of New York in early 1964 for an opinion on the matter.
>
> "The Bar Association agreed that there was no easy solution," he said, "and they conceded that it posed a problem, but they had said there was no way to keep a lawyer who had been charged with corrupting our people from practicing before us in the absence of a conviction or unless we were prepared to refer specific charges to the grievance committee of the bar."

Hostetter could have referred specific charges to the grievance committee of the bar. He should have informed the Bar Association that they were a party to the corruption in that Siegel, who was indicted three years earlier, was entitled to and should have gotten a speedy trial. But the Bench and Bar, with the help of the U.S. Supreme Court, had engaged in criminal conduct by delaying and covering up for Siegel to prevent exposure of a major criminal conspiracy involving lawyers and judges. The Bar's action had allowed lawyers, who have controlled the legislative, executive and judicial departments of the New York State government, to engage in continuing criminal conduct involving corruption in the making, enforcement and adjudication of the New York State liquor laws.

In the New York State Legislature, Senate Majority leader Walter Mahoney and Assembly Speaker Joseph Carlino, both lawyers, were in strong positions to make new laws or amend the corrupt laws governing the sale of intoxicating beverages. Instead they took advantage of bad laws and engaged in court actions to profit from them.

Gov. Nelson Rockefeller, Attorney General Louis Lefkowitz and District Attorney Frank Hogan used all the power of their respective executive offices to suppress a major state-wide scandal and limit it to practically only one county.

The New York State judiciary set a terrible example. Some of its judges were actively engaged in violating the liquor laws. All of them, by their silent consent, were involved in the cover up. That should be evident from reading the following:

A Grand Jury succeeded in indicting New York City Criminal Court Judge Benjamin Schor for liquor law violations only to have another judge, Justice Shapiro, quash the indictment and dismiss the charges for lack of sufficient evidence. It is the Jury's duty, not the judge's, to indict for what they believe to be sufficient evidence of a crime. **The Grand Jury should not tolerate the dismissal of any indictment by a judge, especially when the judiciary itself is on trial.** When Justice Shapiro ordered the secret Grand Jury minutes to the Appellate Division, the Grand Jury should have indicted him for obstructing justice.

The judges in the Appellate Division did not have a right to the secret Grand Jury minutes. Those Grand Jury minutes could have been used by the

judges of the Appellate Division as a tip-off. The judges knew that Governor Rockefeller was doing everything in his power to limit the scope of the State Liquor Authority investigation so that his administration would not be disgraced and his ambition of becoming a future President shattered. The judges of the Appellate Division also knew the people would lose all respect for the judicial system if the lawyers and judges of New York State were shown to be criminals.

The Appellate Court and the Court of Appeals destroyed their own worth as the final checks on constitutional abuse in that neither Court demanded a separation of powers between the three departments of government.

Why did New Yorkers tolerate a Bar Association that furthered its own corruption by publicly agreeing as a body that there is "no easy solution" to this problem? There indeed is an easy solution: if lawyers would voluntarily abandon all legislative and executive offices so that a proper constitutional separation of powers could be maintained, and meaningful checks and balances could be administered. However, I know from my reading of history that lawyers, like most tyrants and oppressors, will jealously guard their usurped powers. Until the people are made more knowledgeable about this lack of a separation of powers and its great effect on them, there will not be any real reform.

In 1958, many people told me they wanted to elect Nelson Rockefeller as Governor of New York State. They said he was a very wealthy man and would not be a crook like all the others who get into high public office. I remember telling them that men as wealthy as Rockefeller have a lust for power. Rockefeller therefore may use his money and influence to gain the office of Governor and then with an established base go on to seek the Presidency.

Lawyers Control Both Government and the Political Process

L. Judson Morhouse, a lawyer and state Chairman of the Republican Party, saw in Rockefeller an opportunity to use his wealth and influence to establish both of them as a major power in Republican state politics. Morhouse first championed Rockefeller as Republican gubernatorial candidate against considerable opposition. Morhouse traveled statewide lining up county chairmen

behind the Rockefeller ticket in advance of the 1958 state convention. One of the key leaders who went over to the Rockefeller camp at a crucial moment was John R. Crews, the Brooklyn party boss. It was later charged that Rockefeller had received the Republican nomination in 1958 as a result of a "deal" between Crews and Morhouse. Rockefeller later followed Crew's recommendations and appointed Martin Epstein Commissioner and later Chairman of the State Liquor Authority. Epstein, a lawyer and life-long friend of Crews, was just the man the politicians wanted. As Chairman he could play politics and grant favors to some people, and split lavish bribes with certain others. Under Epstein's management, lawyers, judges and political leaders soon became actively involved in sordid transactions.

As an example of how much money was involved in some of those transactions, the New York City Playboy Club agreed to pay a $100,000 bribe to Morhouse and $50,000 to Epstein just for a liquor license which at that time cost about $1,000. Epstein, as Chairman, received an annual salary of $24,000. The $50,000 bribe was more than two year's pay.

Many angry people across New York State were trying to get before a Grand Jury to expose the liquor authority corruption. The Districts Attorney in the various counties, however, did not let them get before any Grand Jury. Mrs. Ceil Leon of New York City tells of her fruitless four-year effort to get a license to relocate a package store. She described bribery demands by SLA officials and other illegal proposals by self-determined "fixers"; she said she reported it to the District Attorney in 1960 and would gladly testify before a Grand Jury.[1] I tried to locate Mrs. Leon, but was not successful.

Districts Attorney Aid and Abet the Corrupt Political Process

At that time District Attorney Frank Hogan certainly had to be aware of the ongoing corruptions in the State Liquor Authority and of Mrs. Leon's plight. District Attorney Hogan was first and foremost a politician. He managed to survive for thirty-two years as a popular District Attorney by playing ball with a corrupt judiciary and the rich and powerful. Hogan was also aware that Gov.

[1] *New York Journal American Newspaper*, April 6, 1963.

Rockefeller wanted the investigation suppressed as much as possible. Too much corruption would have been bad for the Governor's political image as well as Hogan's.

Hogan had to know that Attorney General Lefkowitz had received hundreds of complaints against the SLA from throughout the state. Since Hogan was taking it upon himself to extend his jurisdiction to another county, he should have invited the Attorney General to testify before the Grand Jury as to how extensive this corruption was. This wasn't done because the District Attorney knew that the Governor, under the executive law, could order the Attorney General to appear in person or by deputy before a Grand Jury to conduct criminal proceedings as the Governor may direct. Under this provision, the Attorney General may supercede a District Attorney in the prosecution of crime.

We will continue with Hogan's investigation, but first I must inform you that the investigation by the District Attorney accomplished little. The state judiciary was already scrambling to protect itself. It was feared that a runaway Grand Jury would issue a presentment that would have informed the people that private lawyers as well as judges, legislators and Districts Attorney were engaged in profiting from wholesale corruption of the State liquor laws.

I firmly believe this is the reason why the New York State Court of Appeals decided on February 23, 1961, in an unrelated Grand Jury case dealing with a County Highway Department that a Grand Jury could no longer make a presentment (a report) public. **The high court would silence any Grand Jury that would attempt to inform the people of judicial corruption.** Gov. Rockefeller was happy to support the Court in that decision as were Mahoney and Carlino, the leaders of the New York State Legislature. Both legislative leaders had allowed themselves to profit under the corrupt liquor laws and didn't want the voters to know about it in the event of a presentment stemming from a Grand Jury inquiry.

The decision by the Court of Appeals was in direct violation of the New York State Constitution which in Article I section 6 states:

> The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations [presentments] in connection wich such inquiries, shall never be suspended or impaired by law.

If at that time I was a member of any Grand Jury in New York State, I would have urged my fellow jurors to ignore the Court of Appeals and their 4-3 decision that would silence Grand Juries from exposing any ongoing governmental corruptions. Lawyers and judges in all three departments of the New York State government have at various times been involved in scandals—and they protect each other from being accused.

Grand and Trial Juries Must Independently Uproot Lawyer Corruption

All Grand Juries in New York State must disregard the Court of Appeal's decision and issue presentments letting the people know that their Grand Jury is exposing corruption and then invite persons who have been harmed by the judiciary to come before the Grand Jury.

In the first one hundred twenty-five years of our state government many Grand Juries successfully directed presentments to the State Legislature to impeach those involved in corruption or for legislative reform. Those presentments were also publicly presented to the people who could then urge their Representatives to take action.

Back when the King was the sovereign power, he often charged those he disfavored with the commission of a crime. The King's prosecutor would then browbeat the jury until they voted a conviction.

The people eventually rebelled and informed the King that any person so charged would have to appear before a Grand Jury of people, where the majority would have to agree that the criminal charge against a person was true. This was called a true bill. If the Grand Jury voted against the King's charge, the accused would have be set free.

In the process of seeking an indictment, if the Grand Jury finds extensive public corruption of which the accused will not help to expose, the Grand Jury issues a written report to the public. This is called a presentment and it is addressed to the public at large. A presentment informs the people that ongoing corruptions are being committed and additional witnesses are needed to assist the Grand Jury in corroborating its case against those involved. The

system worked very well until lawyers (prosecutors and judges) wormed their way into the confines of the people's Grand Juries. They then corrupted the purpose and meaning of the terms indictment and presentment.

Lawyers claim that a presentment differs from an indictment in that it is made by the Grand Jury on their own observation and knowledge, while an indictment is framed by the prosecuting attorney and given to a Grand Jury. The Grand Jury alone has the final power to make the accusation (indictment) upon which a Trial Jury will decide the innocence or guilt of the party involved.

A few hundred years ago, lawyers usurped the Grand Jury power by introducing the term "information." They claimed the "information" was an accusation like an indictment but differs in that it is set in motion by an attorney for the government instead of a Grand Jury. What the King was forbidden to do by the people, an attorney for the government must also be forbidden to do. Juries must only honor indictments that come from the people and a vote of not guilty should be returned to all of those accused by the government without authorization by a Grand Jury.

People must emulate our famous American forefathers. Paul Revere wrote, "about the closing down of the courts because the justices 'cannot git a jury' (not mentioning the fact that he himself was one of the many jurors who refused to serve under judges who from now on were to accept their salaries directly from England)."[2]

Today it might be difficult for the average trial juror to stand up to the impostors who run our courts, but the Trial Jury should demand to see if the indictment is that of the people; if not, a vote for acquittal is mandated.

Lawyer prosecutors have corrupted the jury function by drafting lengthy multiple-charge indictments in which they conceal loopholes. Defense lawyers, with the help of cooperating judges then use these indictments to spring their clients in plea-bargained deals. This worked well for all involved. The lawyer profits and the prosecutor generally gets a conviction so that he can display his record when seeking re-election. Justice, however, is seldom served. The plea-bargain system is mismanaged and unjust.

[2] Esther Forbes, *Paul Revere and the World He Lived In,* p. 217.

The people have allowed the meaning of the words "indictment," "presentment," and "information" to be corrupted by the judiciary. With this confusion, the people on Grand and Trial Juries do not know how to proceed or when to use their great powers to the people's best advantage.

Now we can return to the New York State Liquor Authority scandal to see how and why Grand Jury investigations failed to serve the people.

Grand Juries Must Resume Their Former Role of Leadership

First of all, a knowledgeable Grand Jury should not trust any prosecutor since he is part of a government. On its own volition, the Grand Jury should have called upon Mrs. Ceil Leon, a willing witness, who could have made a good start on exposing the corruption. The Grand Jury also failed when it did not call Edward Rager, an honest lawyer, who had charged that he had information linking Attorney General Lefkowitz to corruption in the State Liquor Authority. I had telephone contact with Mr. Rager and believe he would have been a great witness. That no doubt was the reason why the New York State Supreme Court dismissed Rager's $4.1 million libel suit against Lefkowitz. The judges did not want the State Liquor Authority to be exposed in a public trial. District Atorney Hogan must also be faulted for not calling Lefkowitz and Rager as witnesses before the Grand Jury.

Hogan and his staff corrupted the Grand Jury process when they allowed five different Grand Juries to engage in the SLA investigations. Each Grand Jury covered only a limited part of the investigation and, as a result, not one of the Grand Juries got to know that the entire New York State government was corrupted by that scandal. If there was a reason that five Grand Juries were necessary, then those Grand Juries should have been given the opportunity to meet at frequent times to exchange information. Any alert Grand Jury member could have informed the body that corrupt activities in the SLA were accelerating and that many lawyers and judges were involved in corruption or its cover up.

As a police officer in Rochester, New York with many contacts in other cities in the state, I was already aware of a statewide scandal. In 1960, I had

already interested others in forming the Association for Grand Jury Action (AFGJA). Our purpose was to educate people about Grand Juries—their great powers of indictment and presentment and how to use them to fight corruption. Membership increased when I began to predict accurately many things that came to be; two in particular were convincing. I told the members of the AFGJA that none of the "big wigs" or those closely associated with them would spend a day in prison. I told them that the judges of the highest state court had long been aware of the greedy involvement by the judiciary in the corruption of the licensing process of those in the liquor business. The highest court had no other way of controlling this corruption since the Governor, political heads, legislative leaders, the Attorney General and other judges were either directly involved in liquor authority corruption or in its cover up.

If at that time any Grand Jury had asserted itself and informed the public by a presentment that exposed this judicial corruption, there would have been a house cleaning in New York State. However, the highest court hid the corruption from the public by their 1961 ruling to stop Grand Jury presentments from being made public. It was much easier for the court to overrule a Schenectady County Grand Jury from exposing their County Highway Department because in that case there was no involvement by the bench and bar in corruption. The 1961 decision is still used by judges who unlawfully order Grand Jury presentments to be sealed. Grand Juries investigating governmental corruption must ignore that decision and publicize whenever they find wrongdoing and especially, judicial corruption. It's the height of stupidity for a Grand Jury to surrender its information to a court where judicial corruption can be sealed from the public. In giving in to the court, the Grand Jury is allowing the government to prevent the checking powers of the Bill of Rights.

I predicted that "none of the big wigs or those closely associated with them would spend a day in prison." That was because District Attorney Hogan did a better job of covering up than he did in exposing SLA corruption. Hogan allowed Liquor Authority Chairman Epstein, a kingpin in the investigation, to escape to Florida with his most important files. Those files contained the names of judges, legislators, Districts Attorney and prominent members of the bar who had engaged in bribery to obtain licenses or license relocations for their clients. **Although Epstein was indicted he never spent a day in prison.** The

story that Epstein was too sick to stand trial was spread to invite sympathy and compassion. Epstein wasn't too sick to accept bribes even when he was about to undergo major surgery in a New York City hospital. There is no doubt in my mind that Epstein had flatly warned that if he was tried and convicted all would be exposed. Those holding the highest offices in the executive, legislative and judicial departments of the New York State government were not about to let that happen.

The Court of Appeals Played a Major Role in Corrupting New York State

The Court of Appeal's ruling to silence Grand Jury reports was timely, for two months after the February 1961 ruling, Epstein was openly flouting the law. The following bribery was made public at the Morhouse trial. In April, 1961, Epstein had secured an agreement to a $50,000 bribe for a liquor license but demanded that the Playboy Club officials first see Morhouse, who then demanded $100,000 for himself. With such huge and easy pickings, is it any wonder why lawyers and judges in New York became corrupt?

Think about it. On February 23, 1961, when the Court of Appeals rendered its infamous decision to shield the state judiciary from the Grand Jury,[3] it became a party to the State Liqour Authority corruption and to other corruptions in New York. For example, a few years later in a scandal involving the sale of judgeships, Grand Juries were unconstitutionally prevented from issuing presentments that could have exposed the well organized criminals of the Bench and Bar.

The State and federal judiciary have both independently developed similar tactics to keep their own corruption from being exposed. For example, it is common practice in New York State for District Attorneys and judges to impede any petition or witness who would voluntarily attempt to inform a Grand Jury of judicial corruption. That was the reason why this author and others never got before any Grand Jury in New York State so that we could expose ongoing theft of public funds by the judges and lawyers in all three departments. This author could have explained to the Grand Jury how the New York Court of Appeals played a major role in planning and executing the cover up

[3] Wood vs. Hughes decided, February 23, 1961.

of pension fund thievery. The judiciary cannot claim a statute of limitations, for their theft is a continuing crime against the people. New York State taxpayers' money is being stolen. Even after I had twice informed Governor Carey of the corruption in the Legislative-Executive Pension scandal, Carey (also a lawyer) refused to empanel a special state-wide Grand Jury because the Court of Appeals and the entire state judiciary could have been exposed. Gov. Carey could also have lost his gubernatorial pension. In matters dealing with pension fund thievery, the same holds true on the federal level. The Grand Jury is a check upon all officials of the government and not the other way around. That is why we should have several permanent statewide Grand Juries in New York State. Anyone of them would have been in position to indict the four Court of Appeals judges who voted in 1961 in violation of the state constitution to obstruct the Grand Jury process of warning the public through a report (presentment).All seven Court of Appeals judges should have been indicted in their cover up of the pension theft scandal in 1975.

Morhouse had previously escaped indictment for another $100,000 payoff in a New York State race track scandal. This was probably because Governor Rockefeller had told him to return the money and he heeded the Governor's advice. However, for his involvement in SLA corruption he was convicted on four felonies and two misdemeanors in May 1966, for which he could have gotten the maximum penalty of forty-two years in prison. He was sentenced on June 15, 1966 to serve two to three years in prison. Morhouse's attorney, Sol Gelb, applied to New York Supreme Court Justice Samuel M. Gold and was issued a Certificate of Reasonable Doubt. The jury, which was not fully informed of the many other criminal activities of Morhouse, convicted him because they did not have a reasonable doubt as to his guilt in the case before them. Justice Gold, who was aware of much of Morhouse's criminal activities, took it upon himself to issue a Certificate of Reasonable Doubt so that Morhouse would be free on bail pending appeal. Morhouse appealed his case, but lost all appeals because the matter was too hot to handle. But in four and a half years people forget, so on December 23, 1970, Governor Rockefeller commuted Morhouse's sentence so that he would not have to do time in prison. Morhouse, like Epstein, both lawyers and the archcriminals in the State Liquor Authority scandal, escaped imprisonment for their many crimes.

Hyman Siegel, a lawyer engaged in the private practice of law, also had to be protected and assured that he would not be imprisoned for his many acts of bribing public officials.

I am sure that Lefkowitz as Attorney General had a great deal of evidence on Epstein and Morhouse. But he chose to cooperate with Governor Rockefeller and District Attorney Hogan in limiting the investigation to that of saving the two principles Epstein and Morhouse. It was agreed by all that Epstein must not be allowed to stand trial, for his activities touched everyone: Morhouse, Gov. Rockefeller, Attorney General Lefkowtiz, judges, legislative leaders and prominent lawyers. Morhouse would be tried but would not suffer imprisonment. There was still one private lawyer who could have blown the SLA scandal skyhigh if he was tried and sentenced to prison. That was Hyman Siegel. According to an article in the May 24, 1963 issue of the *New York Daily News*, Lefkowitz, Siegel and Winkler had been the most active liquor lawyers in the state, making ninety-five appearances before the State Liquor Authority. On the same day, the *New York Herald Tribune* reported: "For 27 years Mr. Siegel had been the law partner—or 'associate'—of the Attorney General. He had inherited Mr. Lefkowitz's flourishing liquor practice before the State Liquor Authority which Mr. Lefkowitz gave up in 1957 when he became Attorney General."

All lawyers who become governmental officials always claim that they have divorced themselves from their former partners or "associates." There is no way I would believe either Lefkowtiz or Lt. Governor Malcolm Wilson. Wilson denied a published report that his law firm represented a large liquor wholesaler before the State Liquor Authority in February 1964. Wilson said he had not engaged in the practice of law since 1958, when he was elected to serve with Rockefeller. There was a long list of other lawyers in state government who were likewise involved but they quietly split fees with their partners or "associates" when nobody was looking. Who could prove otherwise? Lawyers of the legislative and judicial departments of government were likewise involved in similar corruptions. Court of Claims Judge Melvin H. Osterman, another political appointee of Gov. Rockefeller, was engaged in the unlawful practice of law before the Liquor Authority after assuming his new judicial office.

In the case of Hyman Siegel, even after a jury found him guilty, there was

no way Siegel was going to prison. This was accomplished by delays. It was claimed that complications arose in regard to evidence obtained by wiretaps so the case was not diposed of until 1970. At that time Siegel pleaded guilty to the full indictment. He was fined instead of given a jail term on the grounds that he was over the age of seventy, the case was six years old, and because he was a lawyer, the Grievance Committee of the Bar could take action. Siegel was subsequently censured and suspended by the Bar Association.

In being allowed to quietly plead guilty before a judge, Siegel saved both himself and his "associate" Lefkowitz from any possible implication in an explosive criminal matter. Thus lawyers, judges, and Districts Attorney as a team managed to pull off a perfect statewide cover up of a scandal in which their fellow lawyers were the guilty principals.

District Attorney Hogan's lengthy Grand Jury investigation was itself a fraud. It resulted in the indictment and removal of mostly underlings such as State Liquor Authority officers E. Moss, M. Bernstein, G. Reinhardt and Sidney Appel, an investigator for the City Alcohol Beverage Board. To make it look good Judge Osterman was also indicted and convicted and made to serve nine months in jail. This no doubt was done because Osterman had openly bragged that he could fix State Liquor Authority cases.

Any people on a Grand Jury, if left on their own volition, could have done a better job than District Attorney Hogan in exposing that whole corrupt gang of lawyers and judges. There is an absolute need for a permanent rotating statewide Grand Jury system!

Commissions Without the Power to Conduct Investigations

Before closing the story of the New York State Liquor Authority scandal, I must alert the readers to another corrupt practice that should be prohibited because it obstructs the administration of justice. Appointed "commissions" such as the Moreland Act Commission should not be created. The Moreland Act Commission traveled around the State to interview complainants under the guise that a "major reappraisal" of the Alcohol Beverage Control law was needed. That law had not been revised in the previous twenty-nine years. A four page letter and questionnaire was sent to all package stores and restaurants across this state. The questionnaires ask for particulars on each com-

plaint. The final question asked the respondent to state if he wants to be interviewed by a commission staff member, who invites the licensee to write a detailed letter if the questionnaire doesn't cover all points. The purpose of the Commission and its letter was to get the people from all over the State to get everything off their chest. Once this is done the people feel like they have done their duty. Thus, the Grand Jury is deprived of much evidence that would have exposed the state wide corruptions. Instead of the Moreland Commission, the Grand Jury should have traveled across the state interviewing complainants. Gov. Rockefeller appointed three lawyers to sit on that commission. I was aware that Rockefeller wanted to supress evidence of corruption as did the lawyers on the Commission who were hearing damaging evidence against their brother lawyers. What good would the Moreland Commission do? It filed its report the next year with the state legislature where leaders Mahoney, Carlino and their law firms had themselves been involved in business with the corrupt State Liquor Authority. The New York State Court of Appeals enabled and encouraged all of this corruption by the entire state judiciary with its 4-3 decision in February 1961. This decision was meant to silence the people on Grand Juries who would dare to tell the people through presentments that our highest officials are also the highest of criminals.

Chapter 12

The New York State Pension Scandal

Governor Nelson Rockefeller emerged practically unscathed from the State Liquor Authority scandal and in less than ten years in office became a wheeler-dealer who offered the leaders of the 1968 New York state legislature the following deal: Pass a law for my benefit—the New York State Act to create the Urban Development Corporation (UDC) and in return I will, on a message of necessity, sign your lucrative Legislative-Executive Pension Plan. The "message of necessity" was given because the law of 1968, Chapter 219, would immediately become law, thus denying the people the opportunity to organize a protest. However, there was no emergency when Rockefeller signed that bill into law. The Act amended Sec. 80-a of the Legislative and Executive Retirement Plan. After reading the first sentence of the introduction to the plan I realized why the Governor and legislature wanted that Act passed before the people could get a chance to look into it. The introduction stated:

> An Act to amend the retirement and social security law, in relation to a retirement plan for the lieutenant-governor, comptroller, attorney-general and members and certain employees of the legislature . . . .

The above includes the top members of the executive department and the leaders and members of both Houses of the legislature. They were Lieutenant Governor Malcolm Wilson, Comptroller Arthur Levitt, Attorney General Louis Lefkowitz, Senate Majority Leader Earl Brydges and Assembly Speaker Anthony Travia. All of the above were lawyers who controlled their respective departments of government. Another group of lawyers (judges) were in control of the courts. Without a separation of powers, each official in his capacity could safely refuse to invoke constitutional checks to curb fellow lawyers. This immediately became evident. Upon passage of the new pension act in 1968, I checked the state constitution. In substance both Article III section 6 and Article XIII section 7 state that neither salary nor any allowance for any elected officeholder shall be increased during the term for which he was elected. Lt. Gov. Wilson, Comptroller Levitt and Attorney General Lefkowitz were all elected to office for the term beginning November 1966 and ending 1970. None were constitutionally qualified under the plan to be beneficiaries.

The state legislators who passed this act during the term for which they were elected had increased their own compensation, although payment was deferred and payable only at the time of retirement. But the Constitution in Article XIII section 7 also forbids the payment of compensation to anyone upon leaving office. Section 7 states: "Each of the state officers named in this Constitution shall, **during his continuance in office**, receive a compensation . . . ." If not re-elected or retired, an officer no longer can receive compensation, for it is only payable "during his continuance in office." So all elected officials who are or who had been receiving compensation after leaving their respective offices have been engaged in crime—the unauthorized and continued theft of the peoples' money.

By the way, most of the elected leaders who were responsible for the pension thefts were the same who had previously aided or allowed the liquor authority corruptions to be carried on. Let us more closely examine several of these dishonest officials. The first is Louis Lefkowitz, the Attorney General, who was officially the legal advisor to the Governor, to the heads of departments, and to the legislature. It is provided in Article XIX of the Constitution that any amendment proposed in the senate or assembly shall be referred to the Attorney General whose duty it is to render an opinion to the senate and assembly as to the effect of such amendment or amendments upon other provisions of the Constitution. Any Attorney General so knowledgeable about the Constitution should have also informed the state legislature that the new pension law (Chapter 219 Laws of 1968) was in conflict with the Constitution. This wasn't done because in the Act the Legislature made the Attorney General a beneficiary of the new pension plan. Furthermore, the Attorney General, the Lt. Governor, and the Comptroller were each granted a half-million dollar death benefit as an additional reward.

For his message of necessity and speedy approval of the pension plan, the Legislature rewarded the Governor by creating and passing the Urban Development Corporation (UDC), which the Governor was seeking. Those promised benefits encouraged the Lt. Governor, who presided over the Senate, to work for the speedy passage of the new pension plan.

The Comptroller also had to be bought for "The payment of any money of the state or any money under its control . . . shall be void" unless approved by him.

Pensions and death benefits are not mentioned in Article III or Article XIII of the New York State Constitution. Pensions and death benefits are therefore extra or "other compensation" or "perquisites of office" and expressly forbidden to the legislators, the Lt. Governor, the Comptroller and the Attorney General.

Non Feasance in Office

As legal advisor to the Retirement System, the Attorney General should have informed the legislature that under the terms of the Constitution, pension and death benefits were forbidden to him, to the legislators and to all other elected state constitutional officers. Lefkowitz instead thought it better to be the recipient of a half-million dollar death benefit and a generous pension and therefore refused to execute the duties of his office.

The Comptroller, Arthur Levitt, a lawyer and by law,[1] the administrative head of the Retirement System, is also sworn to support the Constitution. He should be familiar with the pension law and any constitutional provision that relates to that law. Since Levitt was to receive a pension and death benefit, he too refused to execute his duty to defend the Constitution.

Governor Wrong Too!

Chapter 219 was approved by Governor Rockefeller on "a message of necessity" on April 11, 1968 and made effective April 1st, 1968—a costly April Fools' Day for the people of this state. The state Constitution Art. III, Sec. 14 provides that "no bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the governor . . . shall have certified, under his hand . . . the facts which in his opinion necessitate an immediate vote . . . ."

The first part of that provision is to protect the people by preventing the rushing through of laws without the people being able to learn about them

[1] 1955 Chapter 687, Sec. 11 (a), New York State Retirement and Social Security Law.

before they are passed. The "unless" clause is intended for emergencies where the people need immediate help.

The Governor's "message of necessity" on this bill to the legislature was: "The Bill provides additional retirement benefits for members of the legislature, certain legislative employees and certain statewide elected officials effective commencing at the beginning of the state fiscal year 1968-1969." What was so urgent here? Not only did the law violate the provisions of the Constitution that bar pensions and retirement benefits as "extra compensation," but the Governor also violated the provision of the constitution as to improper passing of a law. The Governor shortly thereafter received from the legislators a $35,000 raise making his annual salary $85,000. Where are the checks and balances in our government? The ordinary citizen would have been charged with embezzlement and bribery for violating the laws in similar cases.

As Chairman of the Board, I, with Robert Kesel, President of our Association for Grand Jury Action, Inc., had interested the membership to engage in a court challenge in order to stop the unauthorized payment of public money for private gain.

In April 1971, we commenced a proceeding in the Supreme Court of Monroe County challenging this theft. The petition filed challenged the constitutionality of "The Legislative and Executive Retirement Plan," (Chapter 219 Laws of 1968). On a motion from the Attorney General's office, a change of venue to Albany County was granted purely to delay the proceeding and harass petitioners.

On June 25, 1971 the petition was amended to include the new $2,000 lulu (in lieu of expense) for state legislators which became law June 24, 1971. This $2,000 to each legislator was not only forbidden outright but in addition it was paid when neither salary nor allowances may be increased during the term for which legislators are elected.

The new $2,000 allowance plus the $3,000 general allowance legislators were already receiving made a total of $5,000 in expense monies forbidden by the clearly worded terms of the Constitution. The forbidden $5,000 annual expense money was and is still being computed along with salary in determining the amount of the pension each legislator or former legislator is or will be receiving.

Petitioners' motion to disqualify Attorney General Louis Lefkowitz from acting as attorney for respondents (state legislators) was denied by the Court. Our motion to disqualify him should have taken precedence over the Attorney General's motion for a change of venue since the Attorney General himself was a pension beneficiary to the act being challenged. Lefkowitz' authority to continue acting as Attorney General in this case was further prejudiced because he had wrongfully agreed to accept perquisites of office forbidden by the terms of the Constitution. So instead of opposing the state legislature for accepting similar benefits granted under the same legislative act, he resorted to defending their corrupt acts.

The courts throughout the entire proceeding were informed by petitioners that public officials were engaged in thefts of public money and in corrupting governmental process because a separation of powers was not properly maintained. However, the courts did not heed our warnings. The reason was that the judges were also in a serious conflict of interest dealing with the separation of powers. We were aware of this. An explanation of this conflict will be forthcoming.

To inform the reader of the most essential facts of our petition before the court we will quote briefly from the Record on Appeal before the Court of Appeals.

> Julius L. Sackman, being duly sworn, deposes and says: He is an Assistant Attorney General in the office of Louis J. Lefkowitz, Attorney General of the State of New York, counsel for respondents herein and is familiar with the facts and circumstances of this proceeding . . . . This affidavit is made in support of respondent's motion to dismiss the petition herein . . . .A motion by the respondents for a change of venue from Monroe County to Albany County is now pending before this Court, returnable May 10, 1971 . . . . On April 9, 1971 petitioners moved to disqualify the Attorney General as attorney for the respondents by reason of an alleged conflict of interest. This, motion, too, was adjourned to May 10, 1971. It is the position of the respondents that neither the instant motion nor the motion to disqualify the Attorney General should be heard or passed upon until this Court has ruled upon the motion for a change of venue. If the latter motion is granted the instant motion and the motion to disqualify should be referred to the Supreme Court, Albany County, for hearing and disposition.

At this point it must be stated that the entire proceeding was one of delay and cover up. The Supreme Court is a court of statewide jurisdiction. Citizens who seek to expose governmental corruption by the legislative and executive departments should not have legal obstructions placed in their paths by the courts. My motion to disqualify the Attorney General should have been given first preference, for it would have enabled the people (petitioners) the opportunity to expose the entire fraud—a pension plan for the elected officials of New York State. In a public trial I could have informed the people that the Legislative and Executive Retirement Plan (L. 1968, c. 219, as amended by L. 1968, c. 1090) was purposely planned to violate the separation of powers. The state legislature could safely enact a lucrative pension plan for both its membership and the chief elected officials of the executive department. As an additional inducement those executive department leaders were given a half-million dollar death benefit, which was twice the amount given to the legislative leaders. The passage of that act was an act of bribery. The bribed officials could be depended upon to ignore the prohibitions of the state Constitution in Article III section 6 and Article XIII section 7, which forbids elected officials any other extra compensation other than a salary or fixed allowance. Elected officials also are not to receive "fees or perquisites of office or other compensation." Elected officials are allowed to receive salary or compensation but only "during his continuance in office." A pension is pay after one leaves his office.

Lawyers Deny the Proper Separation of Powers

The above is a perfect example of why separation of powers must always be maintained. If it is not maintained, constitutional government with its checks and balances ceases to exist. The state legislature, with its majority of lawyers—including its leaders Brydges and Travia—had passed a self-serving pension act with the understanding that it would be speedily signed into law by the Governor. The Constitution provides that the people elect a Comptroller who shall hold office for the same term as the Governor. Article V section 1 states: "the payment of any money of the state, or of any money under its control . . . except upon audit by the comptroller, shall be void . . ." Arthur Levitt had taken an oath to uphold the terms of the Constitution. He was duty bound to refuse to deposit the payment of money into the state pension fund for

the benefit of elected legislative and executive members because they are not to "receive any other extra compensation" nor shall they receive "any fees or perquisites of office."

Article XIX section 1 requires that proposed amendments to the Constitution must be referred to the Attorney General. Since the Attorney General is supposedly the guardian of the Constitution, he should have scrupulously avoided any personal conflicts, e.g., accepting membership to a forbidden pension plan under which he was granted a half-million dollar death benefit. Attorney General Lefkowitz made no attempt to challenge the constitutionality of the Legislative-Executive Pension Plan that granted him forbidden "perks." Instead, he attempted to deny us our day in court to prevent us from exposing him and all the other lawyers who were corrupting the government.

Lt. Governor Malcolm Wilson, a lawyer, used his high office as a leader in the Senate to argue for passage of the pension law that would grant him forbidden perquisites of office, including a half-million dollar death benefit.

New York State had lawyers in control of both the legislative and executive departments who ignored the Constitution in order to serve their own interests.

That left the citizenry one department available to petition for a redress—the courts. We expected that we would have our day in court so that we could inform the judges that the Governor, Lt. Governor, the Attorney General, the Comptroller and the entire state legislature had played havoc with the state Constitution in order to serve their own selfish ends.

However, we were never allowed to have our day in court on the constitutional issues that we had presented for argument and clarification. The judges were not about to do anything that would expose lawyers in their various positions of trust so they side-tracked us to the issue of "standing" to avoid the constitutional issue that would publicize their theft of public money.

Supreme Court Justice John H. Pennock saw the picture clearly when, in his opinion, he stated:

> The simple question thus presented is whether the petitioners have legal capacity to sue regardless of the procedural method . . . The Court of Appeals has set the guidelines which this court must follow when it stated that "We have always held that the constitutionality of a state statute may be tested only by one personally

aggrieved thereby, and then only if the determination of the grievance requires a determination of constitutionality . . . Under this ruling the unaggrieved citizen taxpayer petitioners lack standing to challenge the constitutionality of legislative acts. Recently there have been strong dissenting opinions in the Court of Appeals . . . Associate Judge Fuld (now Presiding Judge of the Court of Appeals) strongly urged a change of the court-made rules prohibiting a taxpayer from being a proper party to enforce the legislature to follow and comply with the constitution . . . .In the present case the Attorney General represents these executives and the members of the Legislature who defend the act as constitutional . . . .

The courts of this state have painted the Legislature with a brush of immunity by the court-made rule that a citizen taxpayer is not an aggrieved person. There is no specific provision in the State Constitution that prohibits a court scrutiny of a legislative act. I don't believe that the framers of the Constitution ever perceived that the courts would deny citizens and taxpayers the court forum to test the constitutionality of a statute, and the courts have agreed except that the test of aggrievement is applied . . . .

Thus we come to the conclusion that no person or persons in the State of New York qualify either as officers or as citizens or as taxpayers to bring an action or civil proceeding in our courts to test the constitutionality of an act of the Legislature as there is no one who apparently can fit the illusive definition of "aggrieved person." Law dictionaries define such as follows; "a party who is injuriously affected by the act or omission of another" . . . .It is a legal term which apparently the courts have not equated with a taxpayer who foots the cost of government. Faced with the recent decisions of the Court of Appeals, I am not at judicial liberty to make a general finding that payment of taxes is a pecuniary interest, however, the silencing of a citizen taxpayer is an assumption of infallibility of the Legislature. All reason dictates otherwise.

Therefore, to apply that court-made rule to the instant case would be unequitable and unfair because unlike all of the cases passed upon by the Court of Appeals this case the act under constitutional question involves every possible public official who could conceivably be an aggrieved person who would be aggrieved by an adverse judgment, as they are the beneficiaries of the retirement benefits provided for by the Legislative act (Chapter 219 of the Laws of 1968). The act defines inter alia, "1. Legislative and Executive members, 'A person who is Lieutenant-Governor, Comptroller, Attorney General, a Senator, an Assemblyman (Legislative and Executive retirement plan, New Plan Section 80a)" This court in its judicial conscience cannot deny the right of taxpayers who shall be paying the cost of this governmental plan his right to a review of its constitutionality, particularly when the acts in question create benefits for the legislature and certain executive officers. It would seem that the respondents would consent to a submission of the contro-

versy based upon their own commitment in respect to its constitutionality.

The court further finds that this petition shall be considered as a judicial proceeding (CPLR 105d.) The defenses raised in respect to Article 78 are without merit.

Motion to dismiss denied and an answer shall be submitted by the respondents who were properly made parties. Any member of the Legislature may move for severance and dismissal on the plenary trial of the issues.

Submit order.

Dated October 20, 1971.

The Issue of Standing

"Standing" is the legal right of a person or group to challenge the conduct of others in a court. The term is an invention of lawyers and is terribly abused because it is often used to cover up judicial corruption. This I will demonstrate by showing how the highest courts in this state misused the issue of standing to prevent public exposure of ongoing lawyer corruptions in the government. For the purpose of information I publish excerpts from my brief before the New York State Supreme Court Appellate Division, Third Department:

The Court has been given authorization of its questionable power to "regulate practice and procedures in the Court" by the New York State Constitution Article VI section 30. That provision may have been approved by the people, but it is wholly defective in that associated with the doctrine of the Separation of Powers is the principle that granted power cannot be delegated.

The Legislative authority (Article III Section 1), is the power to enact laws, rules and procedures for all departments of government where not specifically stated in the Constitution. A two year term of office for legislators is a check against possible excesses by them. The lengthy term of office for judges (14 years) must absolutely preclude their right to exercise the Rule making or Legislative Power. Abuses of legislative function by long-term Judicial authority could result in disaster to the people. There could be no check by the people on such tyranny.

In decisions effecting proper and just government, the people are the final authority. They are the principal, and those entrusted with the functions of judicial, legislative or the executive capacity are merely their agents with certain, but limited powers. The agent must never become superior to the principal . . .

The Broader Question Presented

The question that must be answered is the broader question, as perceived by Supreme Court Justice John Pennock: Can a court-made rule that denies citizen/taxpayers the right to challenge Legislative enactments, which result in allowing officials of the Legislative and Executive branches to defy their oaths for personal gain, be permitted? Justice Pennock clearly answered, "No." Petitioners-Respondents challenge the validity of a 100- year old court practice that itself is violative of Constitutional principles.

Facts

Chapter 219 of 1968, the Legislative-Executive Pension plan is a clear bold attack on the entire concept of the Separation of Powers, absolutely basic and necessary to our Constitutional system of checks and balances. The State Legislature enacted the Legislative and Executive Retirement Plan and a budget statute providing for payments to state legislators in lieu of expenses (lulus). Clear and concise provisions in the State Constitution forbid both such pension and expense payments to elective members of the Legislative and Executive Departments of government. To escape the checks and balances of the Executive Department, the Legislature succeeded in offering and having accepted, without challenge by the Executive, a pension plan more lucrative than their own, including a death benefit of a half-million dollars.

It must here be noted that lawyers are serving in their many capacities as legislators, as comptroller, as attorney general, former lt. governor and are without excuse because of their knowledge of the law. They are allegedly guilty of the crimes of grand larceny (theft of state monies) bribery, collusion and conspiracy in this matter.

Our case before the court, the third and remaining branch of government, is the final check against Constitutional abuses culminating in complete breakdown of the Separation of Governmental Powers.

At this time a question of standing before this Court must not be denied any citizen for the very fabric of government is at stake . . .

If Petitioners-Respondents accept the dictum that the Court has a right to prevent our day in Court, we will be admitting that Court rules are superior to the Constitution. We will be conceding that public officials who violate the law at will may escape challenge from the people in a court of law. We will be conceding that the Courts can deny a challenge unless citizens specify and prove in depth their injuries. Injuries to one's government are the most abominable and costly of all

injuries for they eventually lead to the loss of all liberty and property without redress . . .

Our Position Supported

Justice Pennock has seen this obvious abuse to Constitutional government. He has stated not only his opinion, but also that of former Chief Judge of Court of Appeals, Stanley Fuld. He has invited members of the Legislature to step forward and defend themselves on a voluntary basis. They have been to date unable, unwilling, or both, to defend their actions by stepping forward. Legislators and others instead hide behind Court rules, which would deny Petitioners-Respondents standing . . .

Those who violate the Constitution for personal gain must not be permitted refuge in a Court-made rule to escape an accounting of their action . . .

Further Considerations and Obligations of the Court

Judges who would deny standing to citizens who expose public crimes and wrongs violative of the Constitution, become themselves guilty of a contemptible wrong and make the Court a party to such a crime . . .

To accord to judicial opinion the compliment of infallibility is to agree that the first judge who makes a decision upon any question has complete and perfect knowledge of the matter even before all the facts of the matter could be assessed by history and experience. The court-made rule on the right of standing by citizen taxpayers must be cast aside and the case judged on its merits.

Dated: April 19, 1974
Respectfully submitted,
RALPH BORYSZEWSKI
Petitioner-Respondent In Person

Attorney General Lefkowitz appealed Judge Pennock's ruling on the grant of standing to the Appellate Court which then reversed Pennock's decision. It then was our option to seek an appeal from the five-member Appellate Court to the seven-member New York State Court of Appeals that would make the final determination but only to our right of standing.

On three or four occasions when I tried to argue the constitutionality of the pension plan before the court I was quickly and sternly informed that I was forbidden to bring it up until I had first won the right of standing. I then boldly

informed the judges of the Appellate Court and later the judges of the Court of Appeals that the matter before the Court was more serious than the ongoing Watergate scandal in Washington because only the executive department was involved in that situation. However, with the pension and lulu scandal in New York State, two departments of the government were deeply involved and here was the opportunity for the court, the third department, to cover up by denying us standing. I ended up by warning the judges in both courts that if we were denied standing in seeking redress in our civil action we would petition the Governor of New York State to impanel a special Grand Jury of state-wide jurisdiction for the purpose of seeking the indictment of all state officials involved in the pension and lulu thefts and also those who were a party to the cover up of those crimes.

The Appellate judges bridled at the idea that their decision could provoke such a reaction, but with good sense prevailing, granted us the opportunity to appeal the issue of standing to the highest state court.

The judges of the Court of Appeals would later take an entirely different approach. They were friendly and hoped to win us over by flattery. On July 3rd of 1975 there appeared on the front page of the *Albany Times Union* an article by Shirley Armstrong. The caption in half inch type claimed: "YOU CAN FIGHT STATE LAWS." It read as follows:

> For the first time, any New York State taxpayer may challenge the constitutionality of state legislation, in accordance with a landmark decision handed down Wednesday by the Court of Appeals.
>
> The same decision upheld the constitutionality of the state's legislative and executive retirement plan, and dismissed as "imprecise" a challenge to the constitutionality of lump-sum "Lulus" in lieu of legislator's expenses.
>
> In what might be termed a "semi-split" decision, Judge Dominick Gabrielli concurred only in the constitutionality findings on the two specific issues before the court in an action by three Rochester taxpayers.
>
> Gabrielli voiced dismay that "the majority here has chosen suddenly to break the venerable rule of pure 'taxpayer' standing, and to open wide the gates for taxpayer suits, apparently without limitation or guide." And he suggested that a "disgruntled legislator" might take advantage of the new ruling to bring suit to "test" a statute he does not favor before it has become effective.
>
> But Judge Hugh Jones, writing the majority opinion, declared that failure to grant the full taxpayer standing would "erect an impenetrable barrier to any judicial

scrutiny of legislative action." This, he said, would be "particularly repellant today, when every encouragement to the individual citizen-taxpayer is to take an active, aggressive interest in his state as well as his local and national government . . . "

Heretofore, status to challenge state laws in the courts has been limited to persons "personally aggrieved," and then only if the claimed grievances requires a determination of constitutionality.

Judge Lawrence Cooke took no part in Wednesday's decision, since he was a member of the Appellate Division, Third Department, when it handed down the decision, which the higher court modified Wednesday.

Reversing its own earlier position on the taxpayer standing issue, the Court of Appeals held that the appellate Division erred when it dismissed litigation by Ralph Boryszewski, Robert E. Kesel and Ralph Miller on grounds that they lacked standing to bring suit against the retirement plan and the budget statutes.

The many people who wrote to or praised us in person for winning for the people "a landmark decision," had not carefully read the newspaper article. The second paragraph stated that the high court in the same decision that granted us standing to sue also "upheld the constitutionality of the state's legislative and executive retirement plan, and dismissed as 'imprecise' a challenge to the constitutionality of lump-sum 'lulus' in lieu of legislator's expenses." **The Court of Appeals was not authorized to rule on the constitutionality of the Pension plan or related matters. It was only authorized to rule on the issue of standing on appeal.** Remember, we had asked the Court of Appeals to overrule the Appellate Court's decision which had denied us the right of standing to argue before the lower courts the constitutionality of the Legislative-Executive Pension plan.

Constitutionally, and by their own rule, the Court of Appeals was limited to hearing only the issue of standing through which they had sidetracked our case for more than four years. In exceeding its authority by ruling and disposing of a case not properly brought before it, the Court of Appeals had decided to cover up the official acts of thievery by the state legislature and Governor Rockefeller assisted by the Lt. Governor Malcolm Wilson, Attorney General Lefkowitz and Comptroller Levitt. The highest state court therefore became, according to Black's Law Dictionary, an accessory after the fact. The following taken from Black's Dictionary states: "all persons who, after the commission of any felony [pension theft], conceal or aid the offender, with

knowledge that he has committed a felony, and with intent that he may avoid or escape from arrest, trial, conviction, or punishments, are accessories."

We now had to make good on our threat to the Court of Appeals that if we weren't given the opportunity to sue in a civil proceeding, we would commence an action for criminal prosecution of all public officials who had engaged in stealing public money through a fraudulent pension plan and those involved in the cover up of these thefts.

Through proper legal service, Governor Hugh Carey was notified. A thirty-four-page Petition plus exhibits was served upon him in which we asked that he call up a "Special Statewide Grand Jury to Probe Taxpayers' Money Used as Gifts and Bribes and Cover-up by the Courts."

We also directed our Petition "to any Grand Jury sitting now or in the future to pick up from the facts and initiate an investigation at any time because the money involved in pensions and lulus were continuing thefts from the state treasury and therefore a statute of limitation could never be invoked.

The media and newspaper reporters were also notified of the legal chicaneries by the Court of Appeals, but none of them responded. Perhaps they never realized that they had a major story to which the public would have shown an intense interest. Or perhaps they received pressure from the highest offices in the state not to pursue the story.

Governor Hugh Carey, a lawyer, also became a party to the cover up because he ignored our urgent request in the petition that "a special State Grand Jury is the only body that would have jurisdiction in this serious matter and must be called for by you as Governor and must be empaneled speedily." The Governor was told that the people were not properly informed "that raids on the State treasury were being legally challenged by taxpayers in a civil action for over four years - all the way to the highest court in New York State. The case is cited as *Boryszewski vs. Brydges* 372 N.Y.S. 2d 623. Brydges was former State Senate Majority Leader Earl W. Brydges now deceased."

Governor Carey was informed that: The judges of both the Appellate Division and the Court of Appeals were personally warned by petitioners in open court that unless the matter was properly heard and disposed of, petitioners would seek criminal indictments before a Grand Jury. The Grand Jury is now the only proper body with authority to fully investigate this matter so that justice can be done.

Petitioners herein or in the Record on Appeal, have personally named and accused Legislators, officials of the Executive Department and Judges of the state's highest Courts of wrongdoing. These officials have recourse to the Courts with a jury trial if they believe they have been libeled or slandered. The state Constitution provides that in prosecutions for libel " . . . **the jury shall have the right to determine the law and the fact.**"

Attorney General Louis Lefkowitz failed to perform required duties (nonfeasance), by not advising and warning the Legislature, the Governor, the Lt. Governor, the Comptroller, and the Judges (all beneficiaries under the challenged law) that they were not only violating provisions of the state Constitution insofar as their pensions and expense monies were concerned, but also that all branches were engaged in wrongdoing. This consisted of collusion, bribery, larceny, and obstruction of justice by successfully removing all checks against crimes by not properly maintaining a meaningful separation of powers.

The Attorney General offered no defense of the allegations of wrongdoing. Instead, he sought to have the case dismissed on the grounds that we as petitioners were not personally aggrieved and, therefore, lacked standing before the Court to maintain the action.

In its opinion, the Court of Appeals claimed that the Appellate Court erred when they "disposed of the case on the standing issue." The Court of Appeals overruled the Appellate Division's decision on standing, but then took upon itself the substantive issue of the pension and lulu challenge.

The Court of Appeals acted improperly since it is not authorized to hear a case of original jurisdiction because of two basic Constitutional reasons:

1. It is not a Court of original jurisdiction.
2. If it was allowed to be a Court of original jurisdiction, all petitioners would then be denied the right of full arguments and appeals on any Constitutional issue through all Courts to the highest Court.

Due Process Denied

In our case the issues as to the constitutionality of the Legislative-Executive Pension and lump sum expense monies were not permitted to be argued in the lower Court. The Appellate Division and finally the Court of Appeals also

did not permit us to argue the constitutional issue, only the "**procedural issue of standing.**" In over four years of litigation we were denied our day in Court.

Therefore, the Court of Appeals (not the Appellate Division) wrongfully decided a constitutional issue which was not properly brought before it on appeal and, furthermore, without even arguing the many serious charges made by petitioners.

More Judicial Errors

The Court of Appeals further erred when it decided the issue of Legislative Pensions separate and apart from the issue of lump sum expense money to state Legislators.

A Legislator's pension and expense monies are **inseparable.** The amount of money a Legislator is to receive for his final pension is based on his total earnings including both salary and expense monies (lump sum or itemized). Therefore, the constitutionality of the pension issue cannot be decided (by any Court) apart from a Legislator's expense money especially when both (pension and the expense money) are charged as unconstitutional.

Constitution Supports Petitioners

The Court of Appeals, not the Appellate Division, erred procedurally by violating the New York State Constitution Article VI section 3 and subdivision b (4) in matters relating to appeals.

Article VI section 3 states: "The jurisdiction of the Court of Appeals shall be limited to the review of questions of law . . . ."

Article VI section 3 subdivision b (4): "From a determination of the Appellate Division of the supreme court in any department, . . . where the Appellate Division allows the same and certifies that one or more questions of law have arisen which, in its opinion, ought to be reviewed by the Court of Appeals, but in such case the appeal **shall bring up for review only the question or questions so certified;** and the Court of Appeals shall certify to the Appellate Division its determination upon **such question or questions.**"

The only question under review before the Appellate Division and the Court of Appeals was the issue: Does a person or persons who are not personally

aggrieved have standing to present their case to a Court for adjudication?

Even when specific wrongdoing was brought to the attention of the Courts by petitioners, the Courts permitted out-and-out fraud by letting the state Legislature pay one of its members who had died before he had served or performed any public service. The family of Edward J. Speno, one such deceased state Senator, received $10,000 unlawfully because the state Legislature passed such an act in violation of the state Constitution.

Separation of Powers Violated

The High Court erred most when it overlooked its most serious constitutional obligation: to see that a fundamental and proper separation of powers is always maintained between all branches of government, legislative, executive and judicial.

Bribery Charged

Members of the Appellate Division and the Court of Appeals failed to provide the final check to downright thievery that enriched members of all three branches of government. The judges, of course, are all lawyers.

Courts Obfuscate the Issue

When costly efforts and sacrifices must be made by petitioners with no personal or financial benefits or rewards in return, does the Court have the right to deny citizens their day in Court? **If citizens can be denied such basic rights by judges, then the Courts have in reality reduced the ordinary citizenry to a lower caste or standing than existed before the establishment of a Constitution.**

How Sweet It Is !!!

One of the big advantages of public pension systems in New York State is that of portability. A person can change public employers and keep building

pension benefits. If this is done carefully, an employee can greatly increase his retirement remuneration. The scheming lawyers in the state legislature decided it would be good business to include the state judges in the Legislative-Executive Pension Plan. All departments of the state government would then be better able to thwart any citizen's attack against pension or compensation issues.

Consider Assemblyman "A", who served sixteen years in the legislature before becoming a state Supreme Court justice. As a judge, he earns a much higher salary, $48,998; $23,998 more than he earned as an Assembly Committee Chairman. Judges' retirement is based upon 2% per year of final average salary but Assemblyman "A", now a Supreme Court justice, remains in the Legislative and Executive Pension Plan and is entitled to a 2-1/2% retirement based on his salary as a judge. He reaps the benefit of both the Legislative Plan and a high judicial salary. (The above figures are based on the year 1973.)

Of course, Judge "A" is only forty-four years old, but he was elected for a fourteen year term. If he retires when his term expires, he'll have nearly thirty years of service. This would qualify him for the maximum benefit: 75% of final average salary, or in Judge "A's" case, a pension of $36,749 a year even if salaries weren't raised during that fourteen year period.

A Self-Serving Decision

In its opinion, the judges of the Court of Appeals rendered a self-serving decision to thwart our constitutional challenge which would have prevented judges and other elected officials from receiving benefits under the Legislative and Executive Pension Plan. If petitioners were properly allowed their day in court, we could have proven the unconstitutionality of the plan and would have shown that a substantial number of judges in our state courts are or will be receiving lucrative benefits under the Legislative-Executive Plan. Petitioners have many valid arguments which the Courts refused to let us make public in a trial proceeding.

Other Judges May Benefit

In our petition to any Grand Jury sitting now or in the future we listed over fifty judges who qualified because of their previous service in the state Senate

or Assembly. However, that list does not include many other judges who qualified for membership in the Legislative and Executive Pension Plan because they had previously served in the legislature as annual or session employees. Under the plan, five years of service is required for membership, however, judges and others with only one term (two years) as a legislator could still qualify for the plan by counting up to three years maximum World War II service time between July 1, 1940 and December 31, 1946.

Vested rights can also be earned by judges and others who served as a delegate, officer, or employee of the Constitutional Convention of 1938 or 1967, or both. For example, suppose a judge served only two years as a legislator or as an employee of the legislature but had only two years of qualifying military service. He could still qualify for the pension if he was a delegate or employee of only one of the Constitutional Conventions. Under the law, there are still other ways for judges to attain membership in the Legislative and Executive Pension Plan.

Separation of Powers Violated

This pension plan violates the principle of the **separation of powers** necessary to Constitutional government in that the checking power of every department of government, including the courts, was compromised for personal gains.

Where are the checks and balances supposedly built into our Constitution? Can there really be any checks and balances if we, the people, don't strictly maintain a separation of powers by denying lawyers the control of three branches of our government?

A Judicial Cover up

The Court of Appeals and the Appellate Division covered up the judiciary's interest in the Legislative and Executive pension issue by dismissing petitioners' action and claiming that the Plan was constitutional. The courts, therefore, criminally obstructed the administration of justice in a three-branch involvement in the theft of millions of dollars annually by refusing to send the issue to the lower courts for argument on the total unconstitutionality of the Pension Plan.

My Plan: Get the Court to Hold Me in Contempt

The press failed when it had an opportunity to make an exposé that was very much needed. The reporters weren't alert. They should have questioned the individual justices on why they did not hold me in contempt. I did threaten the court's members with Grand Jury indictment if they failed to carry out their rightful duty to adjudicate the pension issue.

I knew the High Court would never dare to accept head-on the legal challenge as to the constitutionality of the pension plan, so I purposely tried to anger the Justices to take immediate contempt action against me in hope of attracting public attention to the corruption of the New York State government. The Justices wisely held their anger under control. The Court realized that it could not have held me in contempt without exposing itself to many public questions and perhaps an inquiry by a Grand Jury into the legislative and Executive Pension Plan thefts. Each of the Justices knew that he, as every other legislative and executive officer, was constitutionally limited to receiving a compensation but payments would only be receivable "during his continuance in office" (Article XIII Section 7). The pension plan makes payments to those who are no longer in office and who are not providing any service for those payments.

The Justices knew from my comments that I already had the groundwork laid for a Grand Jury investigation of the New York State legislature and the entire leadership of the executive department. Their unconstitutional plan to enrich themselves at the taxpayers' expense would not go unchallenged. Best of all, I also had many judges who were beneficiaries due to the portability of pensions provided by the new plan.

All of this had the Justices on the highest Court frightened about being placed by me in such a precarious position. They would have taken delight in punishing me for my bold and brazen actions. Instead they were so relieved in not being exposed themselves that they rewarded me with a landmark decision, hoping that flattery would silence me. However, like a bad penny, I have returned with this book to expose all of them who have been a party to the corruption and its cover up.

Judges Taken Care Of

Meanwhile, our lawyer-dominated legislature was also providing our highest state judges with greater compensation than Justices of the United States Supreme Court. Before the last federal pay increase (March, 1977), the Chief Judge of the New York Court of Appeals received $63,143; the six Associate Judges got $60,575. United States Supreme Court judges were, then, receiving $60,000 a year.

New York Court of Appeals judges were also receiving $6,000 yearly in expense money, which increased their pensions, but this was eliminated during the time our pension and lulu case was pending, probably so the judges would not be embarrassed by our challenge to the $5,000 legislative lulu (unaccountable expense money).

These same judges then decided to dismiss our case against unauthorized expense monies for legislators (lulus) which deprived petitioners of the right to prove our case in the courts. We could also have proved that the salary and lulu benefits are tied in together, when determining the total pension as a pension benefit, and therefore, could not be dismissed by the court as a separate issue.

Pensions Are A Payoff

Illegal pensions and unauthorized extra compensations provides even greater opportunities for payoffs for votes and decisions favorable to the political power structure and against the interests of the people. If a legislator votes "correctly" or if an elected executive follows the power structure's orders, **if he is not re-elected, he will be given an appointive position until he has five years of service and qualifies for vested rights in the Legislative-Executive Plan.** Thus, the losers turn out to be sure winners by following the directives of a less than honest administration. The federal government employs a similar unconstitutional pension plan that encourages corruption of the entire political process.

Lawmakers' Health Plan

The public isn't aware that our state legislators are receiving other forbidden compensation. They have a complete medical and dental health plan. The state pays the entire premium for legislators and 75% of the cost for dependent coverage. The coverage is on a year-around basis for lawmakers and their families.

Nowhere in the Constitution is there provisions for Health and Dental Care for state legislators and, of course, we didn't elect a legislator's family.

The Constitution, which our legislators refuse to obey, states: "He (a legislator) shall not be paid or *receive any other extra compensation*" (Article III section 6) (my emphasis). Dental and doctor bills paid from taxpayers' monies are other and extra compensation.

The Attorney General Covers up Criminal Activities

Like so many other scandals connected with his office, the Attorney General Lefkowitz has always managed to use his lawyer training and legal connections to outmaneuver any attempts at exposure and justice. Because of his position as the state's watchdog and chief enforcer, he was often given the top payoffs.

Again, when our case was pending before the courts, the Attorney General also received from the legislature an extra $15,000 annual expense allowance, which the Constitution also expressly forbids. He was given forbidden money to further influence him to seek dismissal of the matters then under litigation. Damaging facts adversely affecting the Legislature and many other elected officials were not allowed to be made public in a Court fight.

Courts Warned

In May, 1974 before the Appellate Division, 3rd Department, in Albany, petitioners warned the five members of that Court that we were prepared to expose before them a scandal of the magnitude of Watergate. We warned the

Court that they could help expose this scandal or cover it up. They chose to cover it up. A year later the Court of Appeals made the same choice—to cover up.

Judges Named

The following are the Appellate and Court of Appeals judges who unlawfully but successfully used their Court to cover up a major scandal in which many judges were beneficiaries:

Appellate Division
Ellis J. Staley, Presiding Justice
Lawrence H. Cooke, Associate Justice
Michael E. Sweeney, Associate Justice
Paul Kane, Associate Justice
Walter B. Reynolds, Associate Justice

Court of Appeals
Charles D. Breitel, Chief Judge
Mathew J. Jasen, Associate Justice
Sol Wachtler, Associate Justice[2]
Jacob Fuchsberg, Associate Justice
Hugh R. Jones, Associate Justice
Domenick J. Gabrielli, Associate Justice
Lawrence H. Cooke, Associate Justice - disqualified from sitting since he moved up from the Appellate Court where he previously ruled on the instant case.

By its decision, the Court also saved itself, the Attorney General, and others the embarrassment of defending a charge which was constitutionally indefensible.

We tried in all ways to get before a Grand Jury so that we could expose the members of the government who were involved in the grand theft of public money. In October 1977, the Association for Grand Jury Action Inc. prepared a thirty-four-page petition, which was directed to and legally served on Governor Hugh L. Carey. In this petition we prayed that he as Governor empanel "A Special Statewide Grand Jury to Probe Taxpayer's Money used As Gifts and

[2] Chief Judge Wachtler, an inmate of our prison system, has recently been released.

Bribes and Cover Up by the Courts." Governor Carey, a lawyer, made no attempt to empanel a Special Statewide Grand Jury that would have exposed our judiciary as organized criminals. Our only other recourse was to get our petition before any one or all County Grand Juries in the state.

The United Taxpayers' Association of New York State had slated a meeting to be held in Monroe County. That was our opportunity to get help. I approached some of their officers and showed them our petitions directed to the Governor or to any Grand Jury for an investigation of the many allegations of corruption. They were impressed and I was the first to be allowed to address the Taxpayers' delegation. I explained to the audience that our Association for Grand Jury Action had spent much time and money in pursuing thieving officials and that we needed money and help in getting our petitions before Grand Juries in every county across the state. Many took extra petitions. One delegate paid $90 and took thirty copies of petitions and exhibits and told me he definitely would get "that rotten corruption" before a Grand Jury in his county.

We all failed to get it before a Grand Jury. We weren't **allowed direct access to any Grand Jury**. Names of Grand Jurors are no longer published and one must go through the Districts Attorney, all of whom are lawyers. **As long as Districts Attorney are allowed to be closely associated with Grand Juries, there will be corruption of the Grand Jury process.**

Later at a town meeting in Rochester, New York, I had the opportunity before several TV crews to personally serve Governor Carey a second time with a copy of the same petition calling again for a Special State Grand Jury. This time I chastised him publicly, telling him he should have been indicted and impeached for failing to act in the public's interest when he was legally notified, the first time, that lawyers in the three departments of government had corrupted all Constitutional processes in order to steal the public's money. Would you believe, he again failed to do what was required of him?

In 1967, as a petitioning witness before the Bill of Rights Committee of the New York State Constitutional Convention, I had warned the delegates that we **needed a statewide Grand Jury with a rotating membership to be run on a continuing basis and to which the people were to be allowed direct access.** Most if not all of the Bill of Rights Committee members were lawyers or judges, so my proposal fell upon deaf ears. Many delegates then currently on leave

from legislative and judicial posts didn't want a Grand Jury to be probing into their pension thievery or other sordid corruptions.

If the Convention had taken my advice and created a continuing statewide Grand Jury body to which aggrieved persons could have direct access, I would now have the opportunity of getting former Governor Hugh Carey indicted for obstructing governmental operations. I would also be able to get the former members of the New York State Court of Appeals for using the judicial process to cover up a grand and continuing theft planned and committed by the New York State legislative and executive authorities.

Since the pension theft by each recipient is a continuing one, the statute of limitations cannot be invoked. Therefore I urge every county Grand Jury to indict all former state legislative, executive and judicial officers in your own region who are presently receiving pension payments under the so-called Legislative-Executive Retirement Plan.

It is legal and proper that all lawyers, judges, Districts Attorney and the Attorney General of the state of New York be disqualified from participation in any judicial proceeding involving pensions. The above have all failed to honor the New York State Constitution and their oath of office to uphold it.

If I have done nothing else here than to show the reader how ridiculous it is to run a government in total violation of the separation of powers, I have achieved my purpose and I am willing to forgo the resulting shame and chaos of wholesale indictments. There no doubt will be mindless people out there who will still be claiming: "But we must work within the system!"

Grand Juries Must Protect our Property, Due Process Required

All of the above corruption is a result of the ignorance of the people. We often hear them exclaim that "it doesn't matter what party you vote for, they are all crooks." I always advise them to vote against all lawyers and judges (no exceptions) at the polls so that we can establish a separation of powers. In electing non-lawyers we will be more capable of invoking necessary checks and balances. We can then for the first time, have a government of the people.

Our Bill of Rights provides that the people on Grand Juries be the judge of whether a person should be indicted for a crime he is charged with by the executive department of the government. A citizen is provided the protection

of two separate groups of people before he can be judged guilty and deprived of his life, liberty, or property. At least twelve people on a Grand Jury must indict him and twelve people on a Trial Jury must convict him.

The Grand Jury affords an initial protection in that Grand Jurors must be careful not to put an indictment into motion; if a person is falsely accused and indicted, he or she can be rendered a pauper under our costly and dishonest adversarial court system.

The United States Constitution and most, if not all, of the state constitutions contain the following provision "No person shall be deprived of life, liberty, or property without due process of law." Our lives and liberties are generally protected by Grand Juries, but not our property. This we can blame on the lawyers and judges who wrongfully by-pass the Bill of Rights protection afforded by Article 5 requiring Grand Juries instead of the courts to give their consent before any lawsuit can be settled or moved before a jury. The lawyers permit a corporation or individual (generally through an attorney) to get permission from the court instead of a Grand Jury to commence a proceeding (suit) in which a defendant can be deprived of his or her property. But the court is not a Grand Jury, and only the people on a Grand Jury are specifically entrusted to assure "due process" guaranteed by the Bill of Rights to see that "No person shall be deprived of . . . property."

I have shown the reader how the judges of our highest New York State courts have corrupted the judicial process by denying me and my fellow petitioners for over four years the right of "standing to sue" the lawyers in the legislative, executive and judicial departments who corrupted all constitutional processes in order to enrich themselves at the public's expense.

Lawyers Use Lawsuits to Intimidate Citizens Who Attempt to Expose Corruption

Lawyers not only profit greatly from this **unBillofRightable** system, they also use lawsuits on many occasions to intimidate honest citizens and prevent them from exposing corruption in which lawyers and judges are involved. At different times, I have been threatened with lawsuits. I voluntarily appeared before the Bill of Rights Committee of the 1967 New York State Constitutional

Convention. The Vice-Chairman of the Bill of Rights Committee, Richard Bartlett, a lawyer, threatened me with libel when I proceeded to expose corrupt judges and legislative leaders. His threat didn't work—I asked him how can the people bring about reforms if we aren't allowed to tell this Convention of the inequities and failures of our present system? I said, "Mr. Bartlett, I traveled for miles so that I could express my many grievances. Let me speak the truth before this Bill of Rights Committee which is supposed to guarantee to each of us our most basic of rights and then you will have the opportunity and right to sue me." He instead informed me that I had only three minutes to speak. I told him that the District Attorney of Erie County had been previously allowed to speak for a half hour and then said nothing of importance. I told the Committee that it was peculiar that all forty of my copies that I was required to send in advance to this Bill of Rights Committee had been lost. Were they purposely lost because I had listed the names of judges, legislative leaders and members of the executive department who had engaged in criminal acts? I attempted to continue to inform the Committee that some of the members of this Constitutional Convention had previously engaged in criminal acts for which they were convicted.

At that point Bartlett abruptly shut me off before I could inform the Committee and the large public audience that Mr. Bartlett himself had been a New York State legislator from 1959-66 and for part of that time he was the Republican whip in the Assembly. This was at the height of the time when the officials of the executive, legislative and judicial departments of the New York State government were either involved in the Liquor Authority scandal or its cover up.

The Constitution provides the New York State Assembly with the power to commence an impeachment action. On many occasions I have petitioned the state assembly to impeach certain state officials so that a much needed investigation could have been commenced. During this time Mr. Bartlett, in his leadership capacity in the Assembly, never once mentioned impeachment. If we had an independent Grand Jury system, any Grand Jury in New York State could have defied the ban of the New York Court of Appeals and issued a presentment highly critical of the New York State Assembly. The presentment could have informed the Assembly and the public that a majority of that body

including its leaders were lawyers who themselves were subject to impeachment. That Grand Jury could also have informed everyone concerned that lawyers had also been involved in a race track scandal and that its key officials were never brought to justice. Other Grand Juries could have publicly criticized the Assembly for not invoking impeachment charges against lawyer officials who were involved in the New York State Nursing Home scandal, the Albany Mall scandal, the Judges for Sale scandal and more.

Citizens who want to expose corruption in government are often frightened by the threat of libel. This is bad, for if people are deterred by a libel threat, political and governmental corruption can soon become unmanageable. **That is another good reason why Grand Juries must first give consent before any sueable action can be commenced.** This will give a defendant the right to show a Grand Jury why he should not be sued. If Grand and Trial Juries are truly to be the guardians of our rights they must insist on being the judge of the facts, as well as the merits of any lawsuit.

Lawyers who write the laws abuse the legislative process because they enact laws to protect themselves from attacks by the public. For example, New York State Assemblyman Dale Volker sent me a threatening letter claiming that I had libeled the Speaker of the Assembly. This is a common practice by lawyers to frighten people into silence. I informed the members of the Association for Grand Jury Action, Inc. that the entire six pages of our June 1974 newsletter would be used to publish his letter and my open letter in answer to the Assemblyman who had threatened me with libel.

Lawyers and public officials who write threats to scare off people don't want their constituents to know about such letters, so they pass laws which forbids the publication of personal correspondence. One such law claims that the recipient owns the physical letter itself but that the writer of the letter controls the right to reproduce it. Nonsense. The federal Bill of Rights states that "Congress shall make no law" that would abridge "the freedom of speech, or of the press." Article I section 8 of the New York State Bill of Rights states: "Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press." Both the federal and New York State Bill of Rights makes very clear the right of speech and press.

Volker wrote his threatening letter to me on Assembly stationery making it official, not personal, correspondence. His constituents should know of his high-handed tactics. If the Assemblyman believed that I was "responsible for the abuse of that right" he could sue me but first must seek permission from the people via a Grand Jury, not from another department of the government (the courts) who were not entrusted with Bill of Rights powers. If the Grand Jury would uphold my right to free speech and press and voted against a suit, the case would end. If an erring Grand Jury allowed the court to put my case on the docket that would give lawyers the opportunity to inflict "cruel and unusual punishments" against me. For win or lose, "excessive fines" or excessive lawyer fees would be forced upon me in violation of the New York State and federal Bill of Rights which both forbid "cruel and unusual punishments." To be forced to enrich lawyers who are causing most of our grievances would indeed be to me a "cruel and unusual" punishment.

Perhaps the following explanation will make it more clear: A Grand Jury can refuse to indict a person whom the government has accused of committing a criminal act; it can also protect a person whom the government (the court) forces to be a defendant in a lawsuit that could, in violation of the Bill of Rights, deprive him of his property by denying him due process of law.

Judges of our courts have for two hundred years wrongfully neglected to refer those charged with libel to the due process protection of a Grand Jury. A person is entitled to and must be given the initial right to appear before a Grand Jury in defense of a written article attributed by the government as libelous.

The people (Grand Jury), not the government (the court) must make the first rightful determination of what constitutes freedom of press or speech before a person can be tried before a jury.

People can't even trust their own lawyer because lawyers make big money when they get their clients involved in trial proceedings. That is why a lawyer for the defense never makes a motion before the court that his client who has been charged with libel is entitled to the initial jurisdiction of a Grand Jury hearing. Under the terms of the Bill of Rights, a Grand Jury can assure civil as well as criminal protections by dismissing the need of a time consuming, costly jury trial. Lawyers and judges have instead clogged our courts with thousands

of cases involving unnecessary civil and criminal litigation in which the individual is wrongfully deprived of his property. This is done "without due process of law"—meaning Grand as well as Trial Jury protection.

I publish at this time Assemblyman Dale M. Volker's letter and my open response to his threat to sue me for libel:

The Assembly State of New York
Dale M. Volker Assemblyman 148th District
State Capitol, Legislative Office Building
Room 731, Albany, New York 12224

May 23, 1974

Association for Grand Jury Action, Inc.
67 Northampton Street
Rochester, New York 14506

ATT: Ralph Boryszewski

Dear Mr. Boryszewski,

I had intended to comment long before this on your February Newsletter, which at the top is listed "Common Sense 20th Century." The so-called newsletter is certainly not common sense, and in fact represents one of the very reasons why many people are advocating the abolition of grand juries.

Let me say first of all, as a lawyer and legislator, your so-called newsletter is much more than unwise, it is in fact libel. You obviously do not know anything about law, and your comments certainly are sueable in court. I indicated that to the Speaker of the Assembly, Perry B. Duryea, Jr., but he suggested he was not interested in a law suit. If he were, he would certainly be exposed to a considerable judgment. I could not allow your newsletter to go without pointing out the very grave problem that you yourself have involved your association in.

First of all your newsletter indicated that Speaker Duryea never denied he committed the alleged acts. If you knew anything about law you should know that when a person pleads not guilty to criminal charges, he automatically denies he ever committed the acts. It might be interesting for you to know that in addition to the fact that the statute was unconstitutional, that the Speaker and some of aides were charged under the facts of the case that did not even fit the indictment, that is

the allegations in the indictment did not jibe with the statute. It seems clear to many of us that what happened in Manhattan was a political indictment which frankly, in this day and age is becoming more prevalent.

Most grand juries are attentive and mete out justice because most district attorneys attempt to see that justice is served, but it seems clear that some are neither just nor do they in fact enforce the kind of law that this nation stands for.

I would suggest in the future that you make generalizations about problems confronting grand juries rather than send out newsletters about things that you know nothing about. The newsletter which you sent out can only serve to convince more legislators and lawyers alike that grand juries have well outlived their usefulness. I personally still believe in grand juries, but organizations such as yours truly make me wonder.

Very truly yours,
Dale M. Volker
DMV:df

COMMON SENSE - 20TH CENTURY
NEWSLETTER - JUNE 1974

The following is an open reply to Assemblyman Dale Volker whose letter to me was in response to our February Newsletter concerning the indictment of Assembly Speaker Duryea.

Let me say first of all, as a lawyer legislator, you are in violation of the Separation of Powers which is basic to Constitutional government and checks and balances. I will attempt to show you just a few of the many cases of abuse and injustice resulting from control of Legislative, Judicial and Executive powers in the hands of lawyers. Madison, a lawyer, authored Article 47 of the Federalist Papers, "The accumulation of all governmental powers Legislative, Judicial and Executive in the same hands whether one, many or few, is the essence of tyranny."

The first and most basic abuse (still continuing today), was as a result of the Marbury vs. Madison decision . . . Chief Justice Marshall would never have had the opportunity to get away with declaring Section 13 of the Judiciary Act of 1789 contrary to the Constitution and, therefore, invalid, if the Seventh Congress was properly one of non lawyers. The Act itself was authored by Senator Oliver Ellsworth (a lawyer) and passed by a majority of lawyers who, both influenced and controlled the Congress. A Congress of non lawyers would have immediately

checked the Court's zeal. They would have obeyed the Constitution and limited the Amendment process to that specified by Article V of the Constitution and not to Amendments by judicial decree by non-representatives of the people holding life-time appointments. With a non-lawyer Congress, we would have had limited government and any Congressional Act challenged by the Supreme Court would have been immediately reviewed, corrected, rejected or submitted as Constitutional Amendments to the States by the Congress, as it was originally intended. We have only touched lightly on this subject for reasons of space. There is much more.

Control of the state legislatures were also gained by the lawyers selling the people on the idea they were more qualified since they knew the law best.

By domination of all of government, the lawyers have created a judicial oligarchy with legal chaos and tyranny. They have looted and plundered our government until they have all but destroyed it.

The Bar Associations are more powerful and corrupt than organized crime. Its members rob from estates (or whatever) and when challenged, the courts (more lawyers), defend and rescue them. The highest state court recently upheld a Monroe County Bar Association fee schedule a Rochester lawyer used to compute his over $13,000. fee for 48 hours work on an estate. This comes to about $273. per hour. The court ruled the practice of law is a profession not a business and is not subject to state anti-trust laws. The canons of Judicial conduct states that judges are not to sit on cases where they have an interest.

When judges are not re-elected or retire, they don't become butchers or bakers, they return to the practice of law from which they continue to benefit.

It wasn't enough that lawyers controlled the three branches of government, they put their own kind (District Attorneys) in leading positions with Grand Juries. This was done to protect their own interests, not the peoples'. Occasionally, a few intelligent people on a Grand Jury . . . make public their findings (Presentments).

In 1946, lawyer legislators put bills in to stop Grand Jury Presentments from being made public. It was passed in both houses, but Governor Dewey, with the presidency in mind and heavy pressure from citizen groups, vetoed it. That legislative act would have violated Article I section 6 of the New York State Constitution.

Again, at the height of the New York State Liquor Authority scandal, so many lawyers sitting as judges, legislators, districts attorney and political leaders of both major political parties, were involved in payoffs, cover ups and bribery, that they knew they had to do something quickly, for "victims" were attempting to get before various County Grand Juries across this state. One runaway Grand Jury could have exposed much and alerted other such bodies to do their own probing and exposing of wrongdoing lawyers. The Judiciary couldn't afford such a major

scandal.

The Court of Appeals in a case before it (Wood vs. Hughes), ruled that Grand Juries could not make public their findings. It was a 4 to 3 decision by the highest state court. Associate Judge Stanley Fuld cast the deciding vote and wrote the majority opinion, which unconstitutionally killed Grand Jury powers, as of February 1961. Grand Juries were told they could only indict, but they could not vote to tell the public how extensively involved many public officials were in apparent wrongdoing.

Shortly thereafter, with mounting pressure from people involved in the liquor industry, Grand Jury action commenced in the New York City area. District Attorneys in the various counties held their Grand Juries in check (no doubt by telling the members that a Grand Jury investigation was already being conducted). To divert pressure and full exposure, the lawyer legislators authorized the Moreland Act Commission and Governor Rockefeller made the appointments to same. He knew he would never be elected ever again to any office if a real probe and exposé was made. The Moreland Commission (all lawyers, also with a staff of lawyers), was also unconstitutional, for people were invited to come before it and bare their soul. This deprived the investigating Grand Jury of much pertinent information and localized what should have been a state-wide investigation. As a rule, this is the procedure corrupt administrations use. Localize a scandal, with the Grand Jury investigating, then create a commission of lawyers and give them widespread latitude. Call in witnesses or experts from all over the state. Let witnesses get everything off their chest. Those parts dangerous to public officials are kept secret. Much of the rest, in general terms, is released . . . .

As a result, the State Liquor Authority scandal ended with little accomplished. The investigation was delayed and dragged on until public interest died down, with only a few token indictments. One Court of Claims judge (Melvin Osterman was indicted and made an example of because he quite openly advertised that he could "fix" liquor cases) . . . .

After public pressure, the state legislature pretended by law to restore the Presentment power back to the Grand Jury. However, the Presentment would first go to a judge (lawyer). All, part or none of the Grand Jury report, that the judges approved, could be made public. The lid has been kept on many lawyer-involved scandals in this state by this law. In fact, the law took effect July 1st, 1964 and could only apply to Grand Juries impaneled after that date. This was to prevent disturbing those involved in the Liquor Authority scandal, including lawyer legislators who voted for this law. The Grand Jury power is both a constitutional and inherent check by the people to prevent corrupt government. To permit lawyers, who have usurped and corrupted all of government the right to curb the Grand

Jury, is the same as letting the felon put handcuffs on the police officer.

Since Judge Fuld helped kill Grand Juries from telling the people about corrupt politicians, he was rewarded. He was permitted to run unopposed with the endorsement of four major political parties to serve as chief judge of the highest state court.

A transcript was given to Chief Justice Fuld and presiding Justice Harold Stevens in late 1970 that made serious allegations against Manhattan Supreme Court Justice Gerald Culkin. This transcript was ignored by Judge Fuld, whose previous vote (1961) rendered Grand Juries as mere tools in the hands of lawyer prosecutors, instead of vigorous checks for the people against wrongdoers in government. Justice Culkin has been investigated by the Bar Association, the State Investigation Commission and the Joint Legislative Committee on Crime. All these groups are comprised of lawyers, and they have protected their own kind very well.

In addition, Justice Fuld, as head of the Court on the Judiciary, permitted corrupt Supreme Court Justice Mitchell D. Schweitzer to escape indictment and impeachment by secret meetings with top State judges. An independent Grand Jury Body, we believe, would have exposed Schweitzer and other judges involved with organized crime figures. There has been another Supreme Court judge who was involved in ambulance-chasing rackets with lawyers. The full facts were kept suppressed, AND THESE ARE THE JUDGES THAT OUR LAWYER-CONTROLLED STATE LEGISLATURE GAVE THE AUTHORITY TO SEAL GRAND JURY WARNINGS FROM THE PEOPLE. SHOULD THE PEOPLE ON GRAND JURIES WORK WITHIN THE SYSTEM AND LET THE JUDGES COVER UP THEIR JUDICIAL CORRUPTION?

As for my claim that Speaker Duryea never denied that he committed the alleged acts he was indicted for; it's customary, in fact, mandatory in some cases, to plead not guilty by those charged with a crime. You lawyers only understand legalism not justice, morality or ethics. What I said was that Speaker Duryea never publicly protested nor denied what he did as an innocent man who was framed would have done. Duryea was rescued by judges who made the law, not his criminal act wrong. If the Grand Jury was misled and used as a tool for a political indictment, why aren't charges made against those who were responsible? Why didn't Supreme Court Justice Burton Roberts order that another Grand Jury look into this matter, as provided in the Criminal Code under General Powers and Duties — "Duty of Grand Jury . . . to furnish reasonable protection against malicious and unfounded prosecutions." The penal charge of "official misconduct" could also apply. If high officials were behind this "political" indictment, let them be discovered.

The Grand Jury that indicted Duryea, also issued a Presentment. Information has been leaked that the Presentment was edited. However, the report recommended legislative and administrative action to end "abuses of the New York State Election Law, abuses of the public trust, and waste of public funds." There was discussion in the Grand Jury room about bringing larceny charges in connection with state no-show jobs. However, our lawyer legislators saw to it that no specific descriptions of the jobs investigated existed, therefore, there could be no misrepresentation as to the no-show jobs. This is the way lawyer legislators write the law and get away with costly abuses. They create such "no-show jobs" for those who help corrupt the elective process and deceive the taxpayers who pay for the whole mess. I have checked your introduction of bills in the Legislative Record and Index and find that you did not introduce any bill to end this shameful practice of creating "no-show jobs." We don't need most of the laws you lawyer legislators write and pass. They mostly serve your own interests financially or politically; financially, since you enlarge, by new and ever-changing laws, the necessity of more intrusion into our lives by lawyers; politically, since your legislation favors special interest groups at the expense of the general public. More and more the average citizen is before the courts. The special interests work for and convince others that their favorite legislators should be re-elected.

A special sheet will be sent in the near future to show that your bills are not exceptions to our statement. You have already received our petition to the New York State Legislature in protest over your bill 11474, which violated both the federal and state Constitutions. We have already received response that action will be taken again to repeal that law.

The only laws we really need are those urged by Grand Juries in their Presentments that should also be made public at the Grand Jury's determination, not Judges who have sealed Grand Jury Presentments for fear of public exposure of their self-serving interests and corruption of the legal fraternity.

An unconstitutional body of laws has been created by lawyer legislators and the courts to keep Grand Juries from becoming a threat to a corrupt power structure. Space doesn't permit elaboration at this time.

I already have Speaker Duryea and the New York State Legislature in court. I have charged in open court that larceny, collusion and conspiracy between the former Governor, the Legislature, the Lt. Governor, the Attorney General and Comptroller had to exist and has resulted in the theft of public monies. The Attorney General is afraid to argue the case of unconstitutional pensions and lulus appropriated to members of the New York State Legislature by their own self-serving acts. The Attorney General wants the courts to be the cover up for this State Watergate scandal and deny me "standing" (the right to sue the Legislature).

The Attorney General knows that he himself is involved in illegal conduct for which he should be made to answer. It would be difficult, if not impossible, to impeach him, since the Legislators and their leadership are the culprits in the first instance.

Supreme Court Justice John Pennock saw the legal chaos and threw the hot potato to the Appellate Division of Supreme Court 3rd Department, where I argued the right to "standing" on May 16, 1974. We are awaiting that decision.

I am enclosing a copy of our Grand Jury information entitled, "Certificate of Reasonable Doubt." The court issued such a certificate after Judson Morehouse (a lawyer) was indicted and convicted of only a small part of his corrupt involvement.

The question we pose: By what authority can a judge issue a "Certificate of Reasonable Doubt" when the jury convicted him "beyond a reasonable doubt." The criminal process "indictment" and "conviction" belong solely to the people. That process has been distorted and corrupted by lawyers who violate the separation of powers, sitting in three branches of our government and negating all checks and balances to serve their interests, not the peoples', nor justice.

Enclosed is a separate sheet, showing some of our New York State Judges involved in crime and wrongdoing.

The State Investigation Commission (S.I.C.) and the Court on the Judiciary are composed of lawyers and is used by our politicians to thwart the Grand Jury process when large-scale scandals, involving the Judiciary, are exposed. Neither body has the power of indictment, therefore, should not interfere or infer what the Grand Jury should look into . . . .

Our pleadings before the State Constitutional Convention in 1967 that a state-wide continuing Grand Jury be created was rejected by a majority of lawyers whom the people ill-advisedly elected to that convention. It was too much to expect that lawyers, who abused us as legislators, judges and administrators, would work for reforms at a Constitutional Convention.

That Constitutional Convention should have adopted our suggestion for the creation of a state-wide continuing Grand Jury Body, with one third of its oldest serving members leaving that body and acquiring new replacements every month.

Such a state-wide Grand Jury could have speedily and effectively prevented: (1) The carnage at Attica in 1971 and could probably have prevented it by looking into the Auburn riot that preceded it. Although New York State is the heaviest taxed state in the nation, its administration of its prison system is very poor. (2) Investigate fully Supreme Court Justice Mitchell Schweitzer and the Judiciary's tie in with organized crime and the delay, secrecy and cover up by the Court on the Judiciary. Schweitzer was permitted to resign and receive his pension by that body. (3) Investigate why convicted Judson Morehouse never spent a day in prison during the period of June 13, 1966 to December 1970 when his sentence was

commuted by Governor Rockefeller, along with prisoners who actually did serve long stretches in prison. This was to deceive the public into believing that Morehouse served his sentence. (4) Investigate the whole corrupt procedure of the exchange of a lush illegal Pension Plan for state legislators for the Urban Development Authority that Governor Rockefeller wanted. (5) Investigate complaints of overcharging, fixed fee rates and corruption by lawyers that the Bench and Bar have whitewashed. They have also violated the canons of conduct and ethics in passing judgements on these matters since they themselves have direct interest in such matters.

With our compliments, we are sending you the following:

1. "Stop Government by Lawyers."
2. A pamphlet entitled, "Questions you Always Wanted to Ask Your New York State Legislator, But were Afraid of the Answers."
3. "Biggest Fraud New York State has ever seen—The Case of Illegal Pensions and Death Benefits."
4. Our Brief before the Appellate Division.
5. Attica Petition to State Legislators.
6. Petition for Impeachment of Judge Boehm.

BOX SCORE APRIL AND MAY OF 1974

The following are Judges in New York State who were supposed to know right from wrong and who are also supposed to be trusted. There would be many, many more, if the people saw to it that Grand Juries were completely independent of prosecutors, judges and elected non-lawyers to our legislative bodies.

1. Family Court Judge Martin Ginsberg—indicted for Grand Larceny, Bribery and Perjury. (He is a recent graduate of the New York State Assembly).
2. Supreme Court Justice Dominic Rinaldi—indicted.
3. Judge Ross DiLorenzo—indicted.
4. Supreme Court Justice Albert Bosch—Criticized by Senate Committee and State Investigation Commission.
5. Supreme Court Justice Wilfred Waltemade—subject to disciplinary proceeding by First Judicial Department.
6. Judge Abraham Margulies—subject to disciplinary proceeding by Queen's Bar Association.
7. John Monteleone—accused of making false statements to State Investigation Commission.
8. Supreme Court Justice Gerald Culkin—criticized by Bar Association, State

Investigation Commission and Joint Legislative Commission on Crime (all lawyers).

9. Supreme Court Justice Paul Fino resigned (his term would have expired in 1982).

10. Supreme Court Justice Joseph Corso—under investigation.

11. Supreme Court Justice Irwin Brownstein would only testify under grant of immunity when questioned by Grand Jury.

Having read Assemblyman Volker's letter and my response, do you believe, from the facts presented, that the government should have the right to harass me by making me subject to a corrupt libel proceeding that is completely dominated by lawyers who are most often the targets of my attacks? I believe that the people (Grand Jury), not the government, have a compelling interest to make the initial decision whether a citizen has abused the right of free speech or press before the government can bring a libel case before a Trial Jury.

For over two hundred years the lawyers and judges have been violating due process by obstructing the administration of the double protection of Grand and Trial Juries for every person before he can be sued in a civil action or tried for a criminal act.

At the same time that the lawyers and judges have been successfully separating the people from the protective arm of the Grand Jury system, they also have been corrupting Jury trial proceedings by engaging in Jury tampering in order to win decisions for the government that are harmful to the people.

The Grand Jury must, at stated times, be open to any person without a member of the government present.

Jack McLamb

The tampering charge I make is not mine alone. It has been made by thousands of law enforcement officers over the years who have been viewing the corruptive influence of the judges and lawyers in trial proceedings. It is only recently that a few brave officers have come forward to denounce the judges

who engage in jury tampering. Let me here first praise Jack McLamb, a brilliant police officer now retired due to injuries incurred in the line of duty. Jack has given me permission to publish an article by him that appeared in *Aid and Abet*, a newsletter that serves police officers and soldiers (active and retired).

Aid and Abet Newsletter
P. O. Box 8787
Phoenix, Ariz. 85066
$20/year or $3 single issue

U.S. JUDGES ACCUSED OF JURY TAMPERING

By: Officer Jack McLamb (Ret.)

In all 50 states it is a felony to influence, threaten, or intimidate a juror, or jury, in an attempt to alter the outcome of a trial. In most states it is a class 4 felony.

Officer R. Stevens of New York State says, " . . . not a day goes by that we (police officers) don't bear witness to the manipulation of juries, and their decisions, by members of the Judiciary."

I know that already some of my police colleagues are stunned by the contents of these first few lines—and well you should be!

I read such a statement, since we lawmen have never in the past been allowed to openly utter any statements which might in some manner cast aspersions on, or deglorify, members of the Judiciary.

The topic, JURY TAMPERING BY THE JUDGE, is far overdue for discussion and ACTION by concerned Americans, including those in enforcement . . .

JURY CONTROL A CRIMINAL ACT

It seems that many police officers strongly consider a judge's secret control of the jury as a serious crime against the People. I say this because the most consistent question that comes up on this issue, from our brother and sister lawmen across the U.S. is, "Why should we law enforcers be sworn to arrest all those we see committing such infractions as 'misdemeanors' and then be restrained from taking action against a judge for committing felonies regularly in our presences?" (Jury tampering equals "felony" to a police officer!)

In the judgment of many U.S. police officers, when a judge covertly controls the decision of a jury without the jury members having knowledge of such manipulation, this is a CRIMINAL ACT.

Such harsh words! Personally, this editor is proud to know that so many of you lawmen agree that it is past the time for SPEAKING OUT about this and other very important issues.

Yes, your oath of offices does say, "I promise to protect the Constitution from all enemies both foreign and domestic", and the right to a "fair and impartial trial by a jury of our peers" is a most essential part of that document.

In addition, what you officers are also reaffirming is one of the oldest, most essential pillars of our justice system, namely: "In America no one should be above the law."

SILENCING POLICE OFFICERS

Before we continue pursuing this subject, let me digress . . .

One very effective tactic police department superiors commonly use to silence "forbidden" inquiries or discussions is to tell you: "You police officers, as sworn officers of the law are not citizens; you therefore have no Constitutional protections regarding such things as the right to privacy or free speech."

Be assured—this is a now-proven prevarication perpetrated by some government officials to keep police officers in line, and prevent their protesting (or even discussing) any dishonesties, inequities or corruption in the present governmental system. It is especially designed to stop "Officers of the Law" from expressing their true feelings to those for whom they work and have sworn an oath to serve and protect, namely the PUBLIC . . .

JUDGES ARE GOVERNMENT AGENTS

Police officers who witness judicial activities in courtrooms today, can attest to the fact that a judge can, at will, decide the outcome of any jury trial that comes before him in which he or his special benefactors have a special interest.

Many police officers understand that today it is a fact—unspoken and unholy as it is! that generally speaking, "his Honor's" first duty, as a purely political appointee and government agent, is to protect the government's philosophies and political agenda from the Public.

And yet the poor misled Public is kept uninformed and forever fed the lie that: "Judges are there to protect the Citizen's right to a fair trial." Give us a break!

POLICE OFFICERS AS EXPERT WITNESSES

Police officers have witnessed this behavior in the courts regularly for decades. Some years ago one concerned and rather outspoken officer put it this way:

"Under present judicial rules and customs the social or political aims of any particular sitting judge (or those of his overseers) can, at the judge's discretion, overpower the free will of the jury. Due to its illicit nature, this usurpation of power, the actual control sequence, is always accomplished without the jury being made aware of its application." Officer Jack McLamb (June 1985)

Although not so labeled, these are "high crimes" and violations of the very foundation of Constitutional mandates covering the American jury system. The Public is never to know this because it is believed that they would not tolerate such subversive totalitarian activities.

Another police officer from Texas (a 14-year veteran) in his July 1989 letter shared with me his own and others' concerns in this fashion:

"Some of us (officers) have quietly discussed this activity on several occasions, but must confess that we have never understood why a judge is allowed to jury tamper. It is a unanimous conscience here that, regardless of how right and legal our protests might be, any officers involved in bringing public attention to such powerful, clandestine, political controls, would probably be the only ones punished. What we need is mass support for such changes." Sgt. M.T. of Texas, July 19, 1989.

It is not difficult to relate to the frustration of our fellow officer as he and others at his department struggle to resolve this dilemma. It is hard to regularly witness such systematic illegal activity, and at the same time endure a sense of helplessness, for knowing there is probably not the sufficient support needed to bring corrective enforcement action.

Sgt. M.T. is probably absolutely right. Can't we just see one of the totally political yes men that are appointed today as Police Chiefs standing up and taking on this one! Some of the good 'ole Sheriffs who are elected by the People and feel answerable to the People might take a stand, but not most of today's Police Chiefs.

After many years as a Cop, and having witnessed once again this nefarious usurpation of power by a member of the Judiciary at a murder trial, in Superior Court of Maricopa County, AZ., in October of this past year—believe me, your editor, too, knows first hand whereof he speaks!

OUR SYSTEM REPLACED

"Before one can evaluate what is wrong, he must first know what is right." (Sound logic from your editor!)

For those of us who may have forgotten some of what we learned in "Government 101" (and today supposed to work) it might be well to review for a moment the Constitutional system we were given, and then notice how that system has been supplanted (uprooted) and been replaced by the corruption that is in operation today.

America's system of justice was built upon some very sound, basic principles, several of which are these:

1). The 6th and 7th Articles of the Bill of Rights guarantee us a trial by jury (a jury of our peers).

2). The Jury is to judge the LAW as well as the facts in the cases brought before them.

3). The Jury is to hear all witnesses and examine all the evidence of the case. How else can informed decision be reached?

4). The Jury is to determine the penalty (sentence) of the guilty party.

5). The judge is to serve as an unbiased resource for the jury, to answer questions on the law, and as unbiased referee on points of contention.

Although there are more, these five basic parameters are viewed as vital for a fair and just system of dispensing justice. If observed they would effectively prevent any and all despots from ever gaining dictatorial control over America!

Our forefathers knew the importance of the above controls on government. They had just come out from under a system where the King, through his agents/ judges, would get rid of dissenters by holding phony trials and then simply eliminating the 'guilty' dissenter.

It was no accident, therefore, that our nation's founders built safeguards into our system of government in hopes of preventing this from ever occurring in the new law.

THE KING'S MEN ARE BACK

In the main, today's American public still believes, however naively, that these Constitutional safeguards are still in place and presently functioning.

Most do not know (what ALL judges, attorneys and some of their local police officers do) that very gradually, behind their backs, their LAWFUL right to a fair trial, as well as their powers as Jurors have been secretly removed.

Those "in the know" understand clearly that we once again have the "King's Agent/Judges" back in control of our courts . . .

Let's contrast the five basic judicial parameters identified above—and which were to have guaranteed a just and honest system in America—with the manner in which today's secret injustice system works.

"SECRET" SYSTEM ALLOWS JUDGES TO CONTROL JURY

Under rules that the American Aristocracy has set up for itself Government Agent/Judges are politically appointed.

Under this set-up, private political dynasties are protected, and lifelong immunity from prosecution is virtually guaranteed them, as is also the security of perpetual wealth and power.

Listen: Here are but a few of the changes that have been implemented which allow these elitists to control the outcome of any jury trial they wish.

1). Denying a selected defendant the right to a trial by a jury of his peers.

2). Selectively withholding evidence and testimony from the jury.

3). Hiding from the jury their lawful right and duty to decide *if a law is fair and just* as it applies to each specific case.

4). The judge wrongly deciding the punishment of the guilty party.

5). Using despotic "contempt" charges to silence or intimidate any who challenge these and other autocratic, corrupt and illicit practices.

Several other of the judge/agents' "favorite" oppressive courtroom tactics which often heavily influence the outcome of jury trials are listed:

The ability of a biased and corrupt judge to overrule the objections of the Defendant's counsel and sustain the *objection of his government teammate, the Prosecutor.*

In other words, the judge will stop opposing counsel from presenting to the jury all the facts, (some of which may even be crucial factors in a fair evaluation of the case).

Then he will allow his secret "partner"—the government prosecutor, to tell the jury almost anything he wants.

In this manner, we see the government agent/judge controls the information going to the jury and therefore controls the outcome of the trial.

The subtle and deliberate destruction of the Defense counsel's credibility before the jury by the Judge's use of "prejudicial treatment and statements" (i.e., snide remarks, belittling and demeaning remarks and voice inflection leveled at opposing counsel solely for the benefit of the jury) thereby instills prejudice in their minds throughout the trial.

Think about it. With the use of these and other slick covert manipulations, who really decides the outcome of the trial?

We (police officers) see this Jury Tampering all the time and are amazed that it is done so expertly that the Jury never suspects a thing.

Americans have always taken great pride in proclaiming that ours is a "government of law and not men." But is it?

From even the sketchy glimpse given here of what transpires in U.S. courts today, can any thinking person say that LAW and JUSTICE reigns there today?

We can certainly see we no longer have the justice system that our forefathers set in place . . .

THE GOOD, BAD AND UGLY

Far beyond the obvious unlawfulness, there are real problems with such a biased system that allows government agent/judges to give "selected" defendants (perhaps a friend or colleague of the judge) a particular style of "justice" and then someone that the agent/judge or his Controllers label "BAD GUYS" get the certain extra amount of injustice.

The most important issue when using such an unfair system is WHO is it that is put in charge of doing the "choosing and labeling" of who are the Good, the Bad and the Ugly in our society today.

Are we sure that it is the JUDGES (LAWYERS)—(OR THOSE WHO CONTROL THEM) that we want to put in charge of picking those among us that are to be considered the "BAD GUYS"?

The "LAWYERS" "God in heaven protect us!"

Do we see the inherent problem in such a system? Oh yes, it would be wonderful if we could always be assured that the right people, THE REAL BAD GUYS, would be the ones to receive this extra special "injustice".

However, as you have surmised by now, the big problem with the system is, one week the person or group that is doing the "choosing and labeling" may be someone who agrees with us as to who the BAD GUYS are. But, what about next week?

Suppose these all-wise chooser/judges decide for example, that all police officers who speak out against abusive government tactics, a corrupt judicial system, etc., are from now on criminals and must go to jail? . . .

We can see that under this unfair, unconstitutional system, even police officers, with their own set of quirks, might have trouble with this imaginary new CHOOSER, and might conceivably end up in jail, or worse!

JUSTICE DEMANDS SAME JUSTICE FOR ALL

The above scenario is why our founding fathers decided it was better to have the same equitable justice system for EVERYONE. One that a power hungry judiciary, or anyone else, could not tamper with. And this is why our present system is absolutely wrong! And what it is, is a complete fraud and deception, for such an "activist judge" to tell the jury that they (the Jury) will ultimately decide the outcome of the trial.

As we officers have seen over and over again, in monitoring courtroom performances that not in all cases do judges feel the need to wield their secret controls.

If the defendant is a good old-fashioned murderer, rapist, child molester, etc., the judge will many times just sit back and let the chips fall where they may. In such cases the jury is allowed to decide the outcome! Then again, judges with particular political and social bias have been known to use their secret controls to set free "poor misunderstood victims of society" (hardened criminals) who are a serious threat to society and belong on the gallows or in jail. Officers know this happens far too often.

PUBLIC ENEMY NUMBER ONE

Some of you who have closely monitored these activities realize that there are certain type Americans who come before a state or federal court that almost guarantees his or her "HONOR" becoming an active part of the GOVERNMENT prosecution/defense and invoking these aforementioned, illicit Judicial controls.

This person is "any citizen who might give 'BIG BROTHER' a bad time such as by bringing suit against the Government or any of its agents for any number of present-day unlawful and/or tyrannical government actions." . . .

Officers know that if any of these type individuals come before the court, it is assured, with few exceptions, that the Jury decision in those select cases will be expertly, precisely, and secretly controlled (and decided) by the government agent/judge.

TYRANNY IN THE HIGHEST

It is important that we understand with total clarity that these "Activist Judges", through the use of onerous, unlawful powers, are committing serious FELONIES on a consistent basis, and therefore are in violation of their oath of office, which is to uphold the People's rights and the natural and Supreme laws of our nation.

BEWARE OF MAKING EXCUSES FOR JUDGES. I understand that some of our judges are our personal friends. I have several that I like on a personal basis also.

However, let me see if I can put this into a clear and simple perspective:

We all understand that a person's right to "a fair and impartial hearing by a jury of their peers" is one of the most important of all the personal safeguards of our Constitutional Republic. If we lawmen know this, could anyone believe that highly educated individuals, such as professional judges and lawyers, who have made the study and application of laws of this Republic their lifelong profession, WOULD NOT KNOW IT?

Do I hear any disagreement?

Let me add here that state judges are equally as guilty of Jury tampering as are the federal judges. However, many police officers will not dare to speak out against our corrupt judicial system because they are seeking promotions to better themselves. For instance, I was told that because I spoke out against the system I would never be promoted; sure enough those times when I was at the top of the civil service list I was always skipped. On other occasions I was told that the first chance they got I would be put up on charges and removed from office. I had to walk a very straight line for they almost succeeded.

In one of my cases I was put up on charges for making the following statement: "We have gambling, prostitution and after hour drinking joints in our city because of the silent consent of our public officials." I could have proven that I spoke the truth and probably could have blown the lid off a festering pot. On the third day of the trial, I was put on the stand where they merely asked my name, rank and time of service. They then quickly stated that there was no further question. There is no doubt in my mind that had I been given the opportunity to speak, public officials would have been subject to indictment. Later when I was interviewed by the press I stated that the Grand Jury should look into this matter. But nothing happened. There is no question if any members of the Grand Jury said they should look into this matter, the District Attorney would have discouraged them.

The Police Union paid a $500 dollar fee to the lawyer who represented me. However, he and every other lawyer in the county that we asked refused to countersue the city for depriving me of a basic right. Furthermore, the lawyer-dominated American Civil Liberties Union and the lawyer-dominated Federal

Bureau of Investigation refused to help me, for I had dared to expose lawyers as the source of most of people's problems.

The Grand Jury had a duty to act because as an honest police officer I should not have been forced into a public hearing or trial in which city officials had no intention of discovering the truth. To question me fully, they would have had to expose their own corruption. They would instead order their Commissioner of Police to fire me and get me out of the way. To his credit and honor Commissioner Mark Touhey refused and shortly thereafter resigned.

It is obvious what is wrong. Organized criminals of the Bench and Bar are corrupting our local, state and federal governments and at the same time are dominating Grand and Trial Juries. This accumulation of all the powers of government "may justly be pronounced the very definition of tyranny." The day will come when this false system will fall under the weight of its own corruption. All of the people who have been wrongfully sued and deprived of their money and property must have recourse against the impostor judges, prosecutors and lawyers who were responsible because they have all supported the false dynasty under "The Constitution That Never Was." The story is so strange that it should be written into a comedy so the people can cry or laugh at themselves. Over the years people prosecuted for the unauthorized practice of law were in reality more authorized to practice law than those impostors who falsely claimed that right.

When these judges and lawyers are brought to justice, they will lie to the end and tell us they have immunity from prosecution. Nobody should have immunity and certainly not the organized criminals who corrupted this land and caused so many to suffer. You lawyers will have to make amends for all of your wrongs.

Chapter 13

A Consolidated Federal Judiciary is the Cause of Our Destruction

Thomas Jefferson warned "the dissolution of these United States" would be brought about "by the Federal Judiciary," which he called a corrupt group.

At first I thought the federal judiciary was composed of the following: All judges of the Supreme and inferior courts, all of the lawyers in the House and Senate who dominate the Congress, the Attorney General, along with the U.S. Attorneys, who run the executive department, and all lawyers who have been admitted to the federal bar.

You may be surprised to know that upon taking the oath of office to uphold the federal Constitution, all of the judges of the state courts and all of the lawyers who dominate every state legislature also become members of the federal judiciary. The Attorney General of every state and the Districts Attorney in every county also become members of the federal judiciary. It doesn't end there. Every lawyer, whether a defense lawyer or one who is only interested in practicing real estate law, all become members of the federal judiciary even though many of the above may never have been admitted to the federal bar.

Article VI of the Constitution requires every person who is about to become a member of the bar to "be bound by oath or affirmation to support this Constitution." Upon taking that oath, all lawyers of both the state and the federal bar become members of the federal judiciary because they then will be required to obey and support the federal Constitution as "the supreme law of the land."

But the people in the states did not want a powerful central government whose laws would be the supreme law of the land. They wanted a central government with clearly specified and limited powers to provide only for the common defense of the states and to peacefully regulate commerce between the states and to fix a common standard of weights and measures among them. The people wanted the central government to establish a common money system and to regulate the value of this currency. The central government was also to manage the post offices and maintain postal roads. The states themselves would be supreme over all other powers but limited also by their state constitutions.

Presently, if a lawyer or any other person from any state, refuses to take the

United States' Constitutional oath of office on the grounds that it would violate the established basic premise that a clearly defined separation of powers between the states and the federal government must be obeyed, that lawyer would be denied his right to the practice of law. Any person elected to office who refused to take the Constitutional oath of office would be denied office.

In being required to be members of the federal judiciary, the state judges and lawyers have helped to defeat the entire purpose of a central government originally organized by the states to provide for certain limited but basic powers. **In consolidating the federal judiciary, the independence of the state judiciary was destroyed.**

The state judiciary, by virtue of their federal oath, have betrayed the people and the state. They regularly will not rise to the defense of the people and the states by refusing to invoke the protections of Article 9 and 10 of the Bill of Rights, which was to be the final and ultimate protection of the people and the states from abuses arising under the federal Constitution. However, I must add the people on Grand and Trial Juries do have the authority to invoke all "reserved" powers on their own volition.

The germ that has caused the dissolution of these United States was placed in the very Constitution that was supposed to protect us.

Clause 3 of Article VI states: "The senators and representatives . . . and the members of the several State legislatures, and all executive and judicial officers [lawyers are judicial officers] both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution . . . " But the Constitution was defective in that an actual Constitutional oath was not provided in which House and Senate members could be sworn before they could assume constitutional functions, especially that of creating a Supreme Court that was not even described in the Constitution.

You can prove this for yourself. Carefully examine Article III of the Constitution. **You will see it only speaks vaguely of the existence of a Supreme Court and does not state the number of judges or clearly defines the actual existence of such a court. Then compare Article III with the first two Articles, which do clearly define the legislative and executive branches of the government. The original Judicial Article exists today unchanged exactly the way it was presented to the people in 1787. That means that a described**

and viable Supreme Court never constitutionally existed. It was therefore incapable of being formed and activated by a mere act of Congress (the First Judiciary Act of 1789).

Article V of the Constitution gives Congress the authority to propose an amendment to the Constitution in which Congress could establish the number of Supreme Court Judges. However, such a Supreme Court could not acquire constitutional status unless "ratified by the legislatures of three fourths of the several States, or by conventions [of people] in three fourths thereof." This was never done for fear the people would not ratify. Therefore a valid Constitution of three departments of government never existed. For over two hundred years our state and federal governments have been in the hands of impostors who took advantage of millions of American people. They even succeeded in getting hundreds of thousands to suffer or die in a war to "preserve the Union" that was neither legally nor rightfully established in the first instance. We can blame it all on the treachery of the federal judiciary that falsely consolidated all existing state governments under "The Constitution That Never Was."

How American Patriots are Jailed, Suppressed and Tortured by the Government

While thousands of alert Americans have been actively battling the system (of a consolidated federal judiciary), millions of others have been going about their daily business unaware of the terrible tragedy their indifference has caused America. I entered the battle against the government in 1948 when it was highly unpopular. In my frequent Letters to the Editors to our local paper, I tried to alert the people to the impending disorder that would, in time, change the face of America. I had taken on the cause because, as a police officer, I had seen the injustices suffered by many people. In 1953, the local government intensified its efforts against me. I was several times refused earned promotions even though I was at the top of civil service lists. My immediate superiors had only praise for me. However, when I continued the battle against the local, state and federal governments by petitioning the courts, legislative bodies and executive heads to see that justice was done, most of my superiors were forced to become hostile. Some had secretly warned me that the highest officials were

going to trump up charges so they could fire me. Charges did come on two occasions but I prevailed. I believe this was largely because of the evidence of corruption that I had quietly gathered. I had gathered this evidence so that at least I would be able to expose local and state officials if I was given the opportunity.

I discovered early on that lawyers, in their various positions in local, state and federal governments were responsible for most of the corruption and cover ups. Therefore I continued my pursuit of challenging government. In forty-seven years I have acquired enough information and evidence to fill several books that the people can use to overhaul our corrupt legal system. It is claimed that 75% of all the world's lawyers continue their operations in the United States, which has only 2% of the world's population.

Let me tell you here and now that I, as well as those who have supported me, would not have been able to continue in the battle for liberty and justice if it were not for America's unsung heroes. They do not happen to be lawyers. There are many of them, which could make a book in itself, but let me sing the praise of four of them at this time.

The first, Jack McLamb, a brave, intelligent young man, retired as a police officer because of injuries received in the line of duty. Jack, like myself, saw the threatening dangers befalling the nation. So he started an organization of both active and retired police officers and national guardsman to prevent our eventual destruction. He is the publisher of *Aid and Abet*, a hard-hitting newsletter. About two or three years ago I ask permission from Jack to republish an article he had written (see chapter 12), in which he charged that federal judges were engaged in the practice of jury tampering, and questioned why they weren't arrested for committing such felonies. I had been making similar charges but it was good to see another officer's opinion that supported mine.

Jack sometimes appears at public gatherings in his officer's uniform. Attached to his uniform he proudly displays the official badge he received upon retiring from the City of Phoenix Police Department. Recently, Jack was arrested and is being prosecuted for impersonating a police officer because he was wearing a police officer's badge of insignia without authority. Now let me tell you that Jack could have worn that badge everyday and nobody would have complained. However, once he attacked federal judges for jury tamper-

ing, he had enraged the federal judiciary—a corrupt group—as you should now recognize.

From accounts that I have read, I understand that Jack is going to be denied a trial by jury and will be subject to two years of imprisonment when a judge finds him guilty. If this is a true report, then every man, woman and child must resist this tyranny. If the public allows the jailing without a jury trial of those few of us who speak out against corruption, who then will be willing to step forth in *your* behalf when you or a family member is similarly jailed?

Another account stated that an unnamed sheriff in the adjacent state of Utah was presented with a copy of *Aid and Abet*. He did not like the publication and wanted to know who in Utah might be involved, so he contacted Phoenix and asked that a subscriber list be forwarded to him. Phoenix then ordered Jack to supply the sheriff with a list of subscribers. Jack rightfully refused under protection of the First Article Rights of Speech and Press. If the sheriff was so concerned, why didn't he properly bring the matter to the attention of a federal judge or U.S. Attorney? The federal judges had too long been waiting to strike back at Jack for his articles in *Aid and Abet* that accused them of jury tampering. The sheriff may try to deny it, but it is my belief that it was the federal judges and U.S. attorneys who were guilty of encouraging the sheriff to start the case, which, I believe, was not on his own initiative as claimed. The sheriff no doubt was assured that the District Attorney in Phoenix would take on the prosecution and bring it to a conclusion so that Jack McLamb could be punished and another effective organization dedicated to reform would be rendered helpless by a consolidated federal judiciary, a criminal organization working within the state and federal governments.

Every person on a federal Grand Jury and especially those in the federal district that encompasses Utah is duty bound to summon the Utah Sheriff as well as those officials of Phoenix, Arizona who cooperated in the obstruction of justice as it concerned McLamb. It is most important that they be questioned. Why would a sheriff concern himself by wanting to know who in Utah might be a subscriber to a publication in Arizona?

The second revolution has begun. Every honest American must stand by the Jack McLamb's and all others who expose our criminal judiciary. Let's all get to the bottom of this. If Jack is jailed and fined, every involved member of

the consolidated judiciary and the sheriff who cooperated with them, must suffer similar punishment by imprisonment and fines triple the time and fine suffered by McLamb.

Two other patriots, Bill Benson and Red Beckman, have also been made to suffer greatly. Let me first explain: a patriot is one who loves his country and its people, but not necessarily his government. Bill and Red had exposed "our" government as a criminal one working against the better interests of the American people. Traveling from state to state to do their intensive research, they discovered that the 16th Amendment to the Constitution, which established the federal income tax, was fraudulently ratified. All of the facts in this case have been documented by them. There were forty-eight states in the Union when ratification took place in 1913. Every one of those state legislatures were dominated by lawyers so we must hold lawyers responsible for this gigantic fraud that has enabled "our" government to steal trillions of dollars from the American people. Succeeding generations of lawyers in their various positions of authority have been allowing this thievery to continue. I received information from different sources, ample evidence had been produced, but the case was never properly prosecuted in the courts. For his persistent efforts to expose official corruption, Bill was framed and served fifteen months in prison. Because Bill again attempted to expose, he has been sent back to prison. For their efforts in helping Bill to expose this tyranny, the federal government has ousted Red Beckman and his wife Earlene from their home.

In an article by Larry Dodge of the *Fully Informed Jury Association*, he rightfully warns the American people: "If the government can single out leaders of the freedom movement and destroy them financially, confiscate their land and bulldoze their homes, they can neutralize the whole movement." Keep in mind that this is the first thing all dictators—Hitler, Stalin, etc.—do when they are seeking power.

Every man, woman and child should rise to the defense of those who expose the real criminals—the lawyers who run the government and profit from its corruption. There have been thousands of men like McLamb, Benson and Beckman who have been sacrificed for working to uncover the crimes committed in the name of government.

Another patriot is Andrew Melechinsky of Enfield, Connecticut. He traveled miles to support patriots who were arrested for defending their freedoms and liberties guaranteed by the Bill of Rights. I know of at least thirty-two arrests that Melechinsky has suffered through as a result of his dedication to justice. The following is a reproduction of an article concerning Melechinsky that appeared in the Enfield *Journal Inquirer* on July 2, 1980.

"He and two other thugs then proceeded to pull on my hair, twist my ears, gouge at my temples, press my cheeks against my teeth until blood was flowing inside my mouth and then squeeze more.

"They mashed my nose and mouth, smashed my jaw and knocked me off my feet . . .

"They call such *torture* and beating 'necessary force.'"

That description is in an affidavit written by tax resister Andrew Melechinsky about his treatment while an inmate at a federal prison in New York city three weeks ago.

Melechinsky said Tuesday he retained New York lawyer Harvey Michelman to sue the prison and its officials for violating his civil rights.

The 57-year old Fairfield Road man was ordered imprisoned by U.S. District Judge Raymond Pettine of Providence, R.I., who found him in civil contempt of court for refusing to divulge financial information to the Internal Revenue Service.

The IRS took him to court in Providence because the information sought deals with his position as president of a Rhode Island company.

Melechinsky acknowledges he has not paid federal income taxes since 1972 and contends that payment of such taxes is a purely voluntary matter according to his interpretation of the Constitution.

After Pettine found him in contempt and ordered him imprisoned June 10, Melechinsky was taken to the Federal Metropolitan Correctional Center in New York City.

His affidavit says he arrived at the prison at noon June 11 and was not given any food until the following day.

He says he informed prison guards that he did not intend to cooperate with their efforts to process him into the institution because he did not consider himself a criminal.

He says he pointed out that his imprisonment was not punitive, but was a coercive measure imposed to make him talk. His affidavit says he told the guards he was willing to supply them with only his name, address, phone number and date of birth.

He was confined for his first 14 hours in a holding cell, according to the affidavit, until he was ordered to strip and to submit to being photographed and fingerprinted.

He says he told a Lt. Jacobs he "could not submit voluntarily and would resist non-aggressively to the best of my ability."

Jacobs "and two other thugs" then pulled his hair, twisted his ears and pressed his cheeks against his teeth until blood flowed inside his mouth, the affidavit says. It says he was also smashed in the jaw and knocked to the floor before "I was put into various extremely painful arm and wrist locks and dragged in front of a camera."

While in front of the camera, he says he was punched in the midsection. He says he was then placed in a standing position, still naked, and a guard "kicked and punched me while the others stood by without remonstrance."

After being "dragged" to the fingerprint shelf, the affidavit says, "my right thumb, index and middle finger and left thumb and index finger were forced backwards until I was gasping with agony."

He says he was dropped to the floor while a steel handcuff was tightened around his wrist "against the bone as far as it would go."

He says the handcuff was twisted and yanked" and the guards continued to force my thumbs and fingers backwards."

I heard my left thumb snap and then the snap of my right middle finger," he says in the affidavit. "I think my left was snapped (dislocated) twice."

"All this time," the document continues, "I was shouting from pain and outrage. Once of the thugs pounded on my adam's apple repeatedly until the shouts changed to gasps."

Melechinsky says his left thumb and wrist are "still very painful. I cannot use them for any task which requires pressure."

He says prison officials told him "this type of treatment is part of official policy. They call such *torture* and beating 'necessary force.'"

Michelman, the New York lawyer who is filing the lawsuit on his behalf, said he saw Melechinsky's bruises a day and a half later and believed at the time he had a broken finger. He said he had no doubt the Enfield man was punched and kicked.

Melechinsky remained in the federal prison for 10 days until Pettine ordered him freed when he told the judge the records sought by the IRS no longer exist.

These horrible tortures of honest men are occurring daily in America. The average American believes that he has constitutional rights. He also believes that you cannot be a resister and must work within the system. But the uninformed American doesn't know that the system has been totally corrupted.

The Constitutional system is rigged. In order to escape the tyranny of lawyers and their corruptions the people must peaceably work outside the system. Therefore, when people serve on Grand and Trial Juries, they must separate themselves from the U.S. Attorney (District Attorney), all judges and Attorneys General, federal and state and resist their presence and advice. The people have this authority because the lawyers who controlled the Constitutional Convention had unanimously rejected a Bill of Rights. Article VI of the Constitution commanded that the constitution, laws and treaties of the United States "shall be the supreme law of the land." The Constitution lost that status when the Bill of Rights became effective on December 15, 1791. The Constitution and its three departments of government then became subject to all Bill of Rights commands. The Constitution could no longer be "the supreme law of the land." The people's Bill of Rights had taken over. Even if we assume the supreme court is a legal entity (which it is not), it is only capable of judging those provisions contained in the Constitution. It has no authority whatsoever to hear or judge any Bill of Rights matter.

You lawyers, judges, U.S. Attorneys and all member of the consolidated federal judiciary are the real law breaking criminals. You have violated the rights of McLamb, Benson, Beckman, Melechinsky and others because they have exposed you.

The people's inattention has allowed you lawyers to render the Bill of Rights as practically useless, especially since the application of Rule 7(c). This was done by a political court that you would have us believe has supreme power.

We the people must urge members of all Grand and Trial Juries to resist you criminals of the bench and bar who would deny us the right of self-government, and command over our Bill of Rights.

Woe unto you, lawyers.

Chapter 14

Reforms

People who seek reforms must first be made aware of the truth of certain facts that I will now explain.

The people are the supreme and sovereign authority. The term "supreme" therefore cannot be cheapened or belittled by affixing it to a court—"Supreme Court" that at best, was only assigned the limited power of explaining the meanings and workings of a plan of government (the Constitution). The plan was drafted in the summer of 1787 at Philadelphia without the authority or input of the sovereign people. It was claimed that the officials, who were elected and appointed to the then newly created departments of government, were to be checks and balances among themselves. They were to make the law in one department, in another department they would be responsible for the enforcement of those laws, in a third department, judges were granted the limited power of deciding controversies arising under the entire plan. There was no direct check by the sovereign people over the plan. The plan did give the people two votes, one for a two-year term for House members and the second was an indirect vote for the President, who was to be finally selected by electors. The Senators, who were elected to a six-year term in a continuing body were for the first hundred twenty-three years picked by the States. Judges who were given life terms were picked by the President but had to be confirmed by the then unelected Senate. One can plainly see that the lawyers, who dominated the Convention, did not want a government of the people.

At the Convention, a motion was made and seconded that called for a Bill of Rights as a direct check over the Constitution by the sovereign people, but the delegates from the States had unanimously rejected that motion. Upon learning of this, the majority of the people under the leadership of Thomas Jefferson, stated that a Constitution without a Bill of Rights for the individual and collective protection of the people, would be a threat to their rights and liberties. The founding lawyers, fearful that "their" Constitution would be rejected, agreed that if the people would ratify it, the First Congress would present a Bill of Rights for their approval. The Bill of Rights should have been presented to the same state ratifying conventions for their final approval. This wasn't done because it was feared that the people in the conventions would have quickly discovered and challenged the claim that the Constitution was "the supreme law of the land."

Federal and state judges were bound by the terms of the Constitution that was adopted on June 21, 1788. That was when New Hampshire, the ninth state, ratified the proposed new Constitution, which did not contain a Bill of Rights. The Bill of Rights became effective on December 15, 1791 so the federal and state judges who had previously taken their oath of office could no longer support the Constitution "and the laws . . . made in pursuance thereof" as the supreme law of the land. The Constitution gives Congress wide latitude in its law-making powers. Clause 18 of section 8 states: "The Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States . . ."

However, upon its adoption, the Bill of Rights greatly limited the powers which Congress may think necessary and proper. For example, Article 1 of the Bill of Rights prohibits Congress from limiting the free exercise of a religious faith. It also commands against abridging freedom of speech, press, assembly and petition. Article 2 limits Congress and also the President in the making and enforcing of laws. The army raised by the Congress is to be commanded by the President to both attack and repel any foreign enemy who would invade our country. Contrary to clause 15 of the Constitution, the militia (the people) cannot be called upon "to execute the laws of the Union." The militia has a main and special purpose to guard "the security of a free State" from all enemies be it the central government, their own state government or a foreign enemy. Therefore, contrary to clauses 15 and 16, Congress is without the power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States." Nor can Congress reserve to the States "the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress." Under the devious plan of the founding lawyers, the officers will be sworn to uphold the Constitution as the supreme law of the land and to obey the orders of the President, who is the commander in chief. The truth is no part of any militia can be federalized for it's members can then be used against a militia in any state that would attempt to protect the security of their state. We must not allow our corrupt judiciary (the government) to continually divide the people.

To protect and honor our Bill of Rights, we the people must, at every

opportunity, challenge and disqualify all federal and state judges from sitting in judgment of our rights. Clause 2 of Article VI states:

> This Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The last clause, "anything in the Constitution or laws of any State to the contrary notwithstanding" cannot apply to the United States Bill of Rights. If the judges still insist that they do, then the entire purpose and meaning of the Bill of Rights have been negated by them and the Constitutional fraud that was commenced in Philadelphia continues on.

Before we begin to fight anyone, Americans must first recognize that our own government is the enemy and our unelected judges are holding us hostage.

We have never had a government of the people. Most if not all authors and reformers, who have exposed Constitutional or governmental corruption, instruct the people in what they should do in order to bring about their suggested reforms. They have all failed because they all have worked within the system. The reformers themselves have never learned that from the very beginning the Constitutional system was dishonest because it was purposely made unworkable by the founding lawyers, who, as its managers, have kept it that way for over 200 years.

It is time that we the people reject the Constitution as a fraud worked upon all of us. The great majority of Americans are not sworn to obey the Constitution. We therefore must wage war against the senators and representatives and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states who are bound to support the Constitution as the supreme law.

So in the secrecy of the respective Jury rooms, we as Grand and Trial Jurors must reject any oath our criminal government unlawfully tries to put us under. To provide a guarantee of our basic rights, each member must instead take only the following meaningful oath of office:

> To see that justice is done, I will faithfully execute the office of Grand or Trial Juror and will to the best of my ability preserve, protect, honor and defend the Bill of Rights as the supreme law of the land. So help me God.

Under the overall authority of the ninth Article of the Bill of Rights, a Grand Jury is empowered to indict any official who would wrongfully use his authority to deprive any person of his liberty or property. Article 9 of the Bill of Rights commands that "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means the people on a Grand Jury have the power to indict for acts manifestly subversive to powers specified in the Bill of Rights. Conduct clearly destructive or dangerous to the well-being and liberty of the people need not be specifically defined by statute.

Under the authority of the sixth and eighth Articles of the Bill of Rights, Trial Jurors have the absolute right and duty to immediately accept Grand Jury indictments and act upon them. And as the follow-up team, you must determine the guilt or innocence of any public official charged in indictment or indictments. Any judge (or official) who would interfere in any way with the peoples' checking powers contained in the Bill of Rights shall be immediately indicted. The determination of the meaning and enforcement of the 8th Article of the Bill of Rights belongs exclusively to the people on the Jury who must fit the punishment to the crime in the particular case before it. This is the only way that "cruel and unusual punishments" by the government can be prevented. In taking the above Bill of Rights oath, justice administered by the people will be more evenly and fairly served. People can no longer allow lawyers and judges to continue to manage our Constitution and interfere with the checking power of "our" Bill of Rights.

If what I am saying here is claimed to be sedition, then let my accuser make the most of it.

Sedition is defined as the stirring up of discontent, resistance, or rebellion against the government in power. I am presently stirring up discontent and resistance against *The Constitution That Never Was*, and my readers agree with me that there was never a valid Constitution so any government that was established under its authority is null and void.

No Court or judge ordained and established under this *Constitution That*

Never Was, has jurisdiction to sit in judgment of me because no court can sit in judgment of a case in its own cause.[1]

Likewise neither the Chief Executive nor the U.S. Attorney General have the authority to arrest me for sedition for they are all creatures of the same false Constitution that should never had been permitted to operate in a land made free by the people.

I do however feel I must be heard on any or all charges so I invite the American people to be my jury and judge, and I present this book as the first evidence. But there is much much more that will acquit me and further cause the downthrow of my accusers. I shall earnestly and persistently continue to urge all true Americans to recognize and live up to the old revolutionary maxim, "Resistance to Tyranny is Obedience to God."

This chapter is made up from reforms already presented in this book. You can use my proposals to seek justice the next tme you serve on a Grand or Trial Jury or when you petition the government for a redress of a grievance. But whenever you petition the government for a redress, you must also direct a copy of the same petition to a federal or local Grand Jury for follow up action. From years of experience (1946-1995) I can attest that federal, state and local governments invariably do little or nothing to help aggrieved petitioners. Instead lawyers and judges in command of all departments of government immediately go into action to cover up corruptions that they themselves are responsible for and are the chief cause for which people petition. That is why our criminal judiciary places a U.S. Attorney or a District Attorney in close proximity to Grand and Trial Juries. This is done to keep us from informing our fellow citizens on Grand Juries about the criminals who are running our government.

The U.S. Attorneys or Districts Attorney intercept our petitions to Grand Juries and the judge assists in all their cover ups. The judge threatens the brave and the bold with contempt and warns the naive and perplexed citizen that he must "work within the system."

[1] Canons of Judicial Ethics.

Indeed you are told to work within the system in which lawyers have always been in command of the three departments of government and have now also completely infiltrated the Jury system so that it cannot be an effectual means of getting a real redress. But this can be changed.

Reforms Can Be Put Into Immediate Motion by the Individual Citizen

As an individual you can inform others and work with them to establish a workable separation of powers by voting to keep lawyers and lawyer-judges out of every office. Lawyers present a great danger to our rights and liberties since every one of them is a member of the consolidated federal judiciary. That consolidation of lawyers, sworn to uphold the Constitution as the supreme law of the land, has denied the people a real voice in maintaining our Bill of Rights as the ultimate check on all Constitutional officials.

As a Juror (Grand or Trial) you also should cautiously inform other jurors, whom you may think trustworthy, to join with you in taking the oath which maintains that the Bill of Rights is the supreme law of the land. By doing this as individual jurors, you must then quietly reject all advice and instructions from the U.S. Attorney (District Attorney) as well as the charge from the judge, who maintains the Constitution is the supreme law of the land. Remember the Bill of Rights: **use it or lose it.**

Again, as individuals, we must inform and urge all patriotic young men and women to refuse to join any military unit, including the National Guard and Reserve Corps, unless as members they are allowed to take the oath to honor and defend only the Bill of Rights. If they do this, they cannot be ordered by the Commander-in-Chief to arrest or shoot their own brothers and fathers for refusing to surrender their arms when called for. Their brothers must bear those arms as members of Citizen Militias for the ultimate protection of the people and their states. That is the reason why all militias must always be entirely independent from government that too often becomes corrupt and oppressive.

The militia is never to "be employed in the service of the United States." The militia is the citizenry of each state, that, as a last resort, has the right to resist tyranny by protecting and maintaining "the security of a free State" from all enemies domestic and foreign.

The Grand Jury is the Ultimate Power Commanded by Private Citizens

The Grand Jury system is the protector of the rights and liberties of the people. To be effective checks on those in government, Grand Juries must be continually in operation much like the United States Senate. But its members would serve only a four-month term instead of six years.

Grand Juries must be directly and easily accessible to those who have suffered an injustice or who want to expose public or private corruption.

Grand Juries must be free of all governmental influence. At present, most Grand Juries serve as a rubber stamp for the U.S. Attorneys and Districts Attorney. For example, the following is a statement from a current Grand Juror, taken from a conference on the Internet:

> From my first morning on the Grand Jury, it sure looks like a rubber stamp for the District Attorney's office. If the DA were to bring charges against somebody for the "felony" of peeing in the lake, the Grand Jury would indict "as long as there is enough evidence for a trial." Nobody wants to talk about whether or not the DA might have better things to do than hassle petty street criminals for piss ant offenses that ought to be misdemeanors. Of course a Grand Jury doesn't listen to misdemeanor charges.
>
> Tell me, if the DA looks the other way and only prosecutes certain crimes and criminals, why shouldn't a Grand Jury help him screen out cases by refusing to indict cases and criminals they aren't interested in?
>
> "You're only supposed to consider the evidence presented and decide whether or not there is sufficient evidence for a trial," the DA and the brain dead sheeple on the jury keep telling me.
>
> "Oh yeah," I answer. "If that's all we can do, then why should we have a Grand Jury? Why even have a trial? Just let the DA do whatever he wants. Heck, just let the cops shoot 'em in the streets. It'll save us all from having to waste our Friday's for three months.

Grand Juries have great powers that they are not even aware of. They aren't using them because our lawyer-controlled court system have denied us a people-controlled justice system. For a start, read: *The People's Panel: The Grand Jury System in the United States* by Richard D. Younger. You will learn much about the history of a once powerful Grand Jury system.

In order to function properly as the protector of our rights, Grand and Trial Juries must be free of all government influence from U.S. Attorneys and judges. For instance, as the Grand Juror quoted above said, why even have a Grand Jury system if it is only a rubber stamp for the U.S. Attorney's office? Grand Jurors must reject laws and rules that obstructs them from writing their own indictments and presentments. We must reinstate independent Grand Juries to protect our rights.

> The Supreme Court has ruled on various occasions that free speech and press are not absolute rights. The government does not have authority to curtail basic rights by making such a broad general rule. The people on juries are the only authorized protector of rights, each of which must be determined on an individual basis, first by a Grand Jury free of the influence of any government officials. The Trial Jury in any Bill of Rights case must also reject any influence from the judge including his charge to the jury. In his charge to a jury the judge instructs the members as to what principles of law they should apply in reaching a decision. In this charge, the instructing judge must follow the rulings of the Supreme Court that free speech and press are not absolute rights. Under this system, the judges and lawyers had early on wrongfully assumed control over the Bill of Rights. (12-13)[2]

In my book, I state that the Bill of Rights is separate from and supreme over the Constitution, therefore the Bill of Rights is the supreme law of the land. I furnish many reasons throughout the entire book in support of this claim. Grand Juries and Trial Juries apply the Bill of Rights as a check on the Constitution, and that check is absolutely necessary, and must remain in the hands of the people.

> Also as Grand and Trial Jurors, you will be in a perfect position to reject the Constitution and instead uphold the Bill of Rights, the people's document, as the supreme law of the land, by virtue of being the inalienable and indefeasible check upon the Constitution. (20)

[2] The numbers in parentheses state the page number where you'll find the idea quoted.

The people should have direct access at all times to the Grand Jury; the Grand Jury should decide independently which cases should or should not be brought to trial.

The independence of the people who serve on Grand orTrial Jury bodies must be preserved if they are to be a proper Bill of Rights check upon the government.

Grand Juries also serve to maintain the vital principle of the separation of powers. Whenever a Grand Jury notices a government official acting contrary to his oath of office, it must vote a presentment. For instance, a Grand Jury could have presented Chief Justice John Jay when he took an executive department postition in negotiating a treaty with Great Britain. A Grand Jury should also issue a presentment declaring a president is without the authority to enact and enforce an executive order. A presidential executive order sidesteps the constitutional provision that, "All legislative Powers . . . shall be vested in . . . Congress." A president has no authority to make law, only to sign and enforce the laws made by Congress. Judges as well have no authority to make law and should be informed when they do so. One of the reasons our system of government is now so corrupt is because there is no separation of powers. Grand Juries can and must work to restore this essential doctrine.

> The preservation of liberty requires that the three departments must be separate and distinct. If they are not, the resulting tyranny must be resisted and openly attacked by brave and intelligent people whenever they serve on Grand and Trial Juries. Jurors must maintain their independence by resisting the intrusion of lawyers and judges who continue to pervert the Bill of Rights as they have already done with the Constitution. The people must always remember that the rights contained in the Bill of Rights are inherent and inalienable, separate and apart from the Constitution, and supreme over it. (32)

Jury nullification of bad or unconstitutional law is necessary to our form of government. Through the jury system, the people have their own fundamental and powerful check upon the government. See Appendix A for further information on Jury nullification, as well as quotes and information about the Fully Informed Jury Amendment. At the end of Appendix A is a list of organizations and publications you may want to contact.

A law enacted by Congress cannot "be the supreme law of the land" if the people on a Bill of Rights Jury refuse to convict the person who was charged with breaking that law. Under the Bill of Rights, twelve people have more power than the Congress and the President who enacted and signed the law. A law enacted by Congress must be taken off the books if the people on juries repeatedly nullify it. (48)

Lawyers, as Attorney General and U.S. Attorneys, are in positions where they can influence jurors, or with the help of judges, unlawfully override decisions made by Grand and Trial Juries. (71)

Federal juries have another little-recognized power. They can convict the guilty and then establish the punishment to fit the crime in each individual case. (76)

You will find discussions of Supreme Court Rule 7(c) throughout the book. This is an example of a court writing laws that apply not only to the functioning of the court, but to every federal indictment. You will discover how this self-serving rule works to the detriment of justice.

Every sitting Grand Jury must inform the U.S. Attorney for the government that the power to indict belongs exclusively to the people through powers authorized by the Bill of Rights and that the U.S. Attorney is without the power to sign any indictment per Supreme Court Rule 7(c).

Both the making and/or enforcing of Rule 7(c) are in themselves indictable crimes, for their intended purpose is to obstruct the administration of justice. (78)

The people on every federal Grand Jury must therefore resist Rule 7(c). If it is allowed to stand it will in time succeed in negating the entire Bill of Rights because none of the articles of the Bill of Rights will be able to be enforced by the people without the consent of the government through its attorneys for the government. Therefore all Grand Juries must take aggressive action against any interference with their checking powers. As their first order of business, each Grand Jury must make it known that only the people have the power to vote a "presentment or indictment." Their initial presentment must be a declaration directed to the heads of the three departments of government and one to the public at large and should read as follows:

This is to declare that we the people on each and every Grand Jury are free and independent of all Constitutional officials. And we will not tolerate any interference with our rightful duties and powers of keeping the Government honest and limited.

Officials of our runaway federal government will be subject to indictment if they fail to carry out the mandates of this or any Grand Jury. The Constitution does not give the Supreme Court the power to make its own rules, nor does Congress have the authority to delegate the rule-making power to the Court. If a Supreme Court rule is challenged, the Constitution itself becomes open to challenge. Section 2 of Article III states "The judicial power shall extend to all cases, in law and equity arising under this Constitution. . . ." Remember, no judge or court can sit in judgment of its own cause. In making rules, and in particular, Rule 7(c), the Supreme Court would acknowledge indictments as true or valid only when signed by the U.S. Attorney, which further corrupted the peoples' checking powers. Grand Juries are the supreme and final authority to end this outrageous abuse of the rule-making power.The Constitution does not even mention the term Attorney General nor assign any duties to the office of an Attorney General. Likewise the Constitution does not assign any duties to or person to act as Attorney for the United States. Therefore lawyers holding those offices are impostors and are without any powers.

The executive power is only "vested in a President of the United States" whom the people elect. The President's executive powers are listed in the second article, which do not give the president the authority to limit in any way the power of Grand Juries.

When the Constitution was ratified on June 21, 1788, a written Bill of Rights did not exist. But there was a definite agreement that a Bill of Rights would be drafted and presented so that people on Grand and Trial Juries would be able to use their great powers as a check upon the conduct of all Constitutional officials.

We declare Rule 7(c) to be null and void and like all other Supreme Court rules cannot be used to prevent or pervert Bill of Rights' checking powers.

Therefore everyone is put on notice that an indictment will be drafted and directed against any official who would obstruct the proper administration of the Bill of Rights as the peoples' only direct checking power over their government. The Supreme Court does not have jurisdiction to sit in judgment of a challenge to Rule 7(c) because the Bill of Rights and Jury Power were to be a direct check upon the government. The Supreme Court cannot, to the contrary, be given the opportunity to uphold its own corrupt, self-serving rules that negate Bill of Rights powers possessed only by the people. (79-80)

Grand Jurors must remember every U.S. Attorney for the government is not a constitutional officer. All of them along with the Attorney General are impostors. Their offices were not created at the Constitutional Convention. In fact, such offices weren't even discussed at the convention nor are they mentioned in the Constitution. Their offices were unlawfully created by the First Congress without the consent of the people.

If Rule 7(c) is not set aside, Grand Juries have an immediate remedy. They can turn the tables on our corrupt government. People on federal Grand Juries must vote only to indict criminals who murder, rape and commit crimes against people. They must not indict any patriot who resists this tyrannous government. For years tax resisting patriots have been unlawfully imprisoned when instead the U.S. Attorneys and judges should have been imprisoned for prosecuting and enforcing "The Law that Never Was." These U.S. Attorneys and judges have knowingly and willfully committed crimes against the people and must themselves be challenged and indicted by federal Grand Juries. Let's see if the public believes our criminal officials when they refuse to sign their own indictments per Rule 7(c). (80)

The next reform also involves the Bill of Rights. The people must continually fight to protect these rights and to refuse to take any oath that states that the Constitution is the supreme law of the land.

To be truly "impartial," all people on Grand and Trial Juries must take an oath to uphold only the Bill of Rights. All Juries must refuse to take advice from judges, U.S. Attorneys, the Attorney General and special prosecutors who have taken an oath "to support this Constitution" as "the supreme law of the land." This is the first move for major Bill of Rights and constitutional reform that can immediately be put into motion by the people. (97)

First of all, the Bill of Rights was adopted as a check against constitutional abuse, not the other way around.The jury is upholding the Bill of Rights when it decides to believe the evidence presented by the police officer accused of obtaining the evidence by an unreasonable "search or seizure." The jury, not the judge, makes the determination as to what is an "unreasonable" search or seizure. (98)

Constitutional officials were granted limited powers, which were enumerated and defined. All other powers are retained by the people; meaning that the doctrine of implied powers is false, because it is self-serving and without constitutional restraint, except by that of a political court. A law enacted against the interest of

the people can be rendered invalid by the people serving on Grand Juries who can consistently refuse to indict those who break it. The people's Trial Jury is the second line of defense, in which they can render the law invalid. (102)

The Delancey Court could only defend the Governor and itself by instructing the jury that truth is not a justification for libel (one of the many good reasons why judges should never be allowed to instruct or influence juries). (120)

Grand and Trial Juries must separate themselves from our greedy judiciary and demand that nobody can be sued in our corrupt courts and be deprived of their property until such action can be adjudged by the Grand Jury as rightfully sueable. The Bill of Rights compels that only the Grand Jury has the power to see who is to be judged before he is to be deprived of life, liberty, or property.

The government cannot indict you for committing a crime which can later result in the loss of your life or liberty. Only the Grand Jury can do that.

Likewise the government cannot commence a sueable action against any person unless the Grand Jury first examines and consents to the reasons in which a person can be deprived of his **property**. (133)

Grand and Trial Jury powers belong exclusively to the people. It is the people's only means of enforcing Bill of Rights protections to see that justice is done. A jury also has the power to check constitutional abuses. If Congress enacts a law which in any way abridges freedom of speech or press the jury has the final say. Grand Juries also have the right to refuse admittance to a U.S. Attorney or in the least to ignore his presence, for Congress, without the consent of the people, created the office of U.S. Attorney and thrust him upon the people. Why should the people on Grand Juries accept this impostor who would usurp their powers? (176-77)

Whenever there is a failure to maintain a proper separation of constitutional powers, corruption and injustice results. People on Grand and Trial Juries must therefore assume jurisdiction whenever a separation of powers is not properly maintained. (184)

I firmly believe this is the reason why the New York State Court of Appeals decided on February 23, 1961, in an unrelated Grand Jury case dealing with a County Highway Department that a Grand Jury could no longer make a present-

ment (a report) public. **The high court would silence any Grand Jury that would attempt to inform the people of judicial corruption.** Gov. Rockefeller was happy to support the Court in that decision as were Mahoney and Carlino, the leaders of the New York State Legislature. Both legislative leaders had allowed themselves to profit under the corrupt liquor laws and didn't want the voters to know about it in the event of a presentment stemming from a Grand Jury inquiry. (199)

The decision by the Court of Appeals was in direct violation of the New York State Constitution which in Article I section 6 states:(199)

> The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations [presentments] in connection wich such inquiries, shall never be suspended or impaired by law. (199)

All Grand Juries in New York State must disregard the Court of Appeal's decision and issue presentments letting the people know that their Grand Jury is exposing corruption and then invite persons who have been harmed by the judiciary to come before the Grand Jury. (200)

In the process of seeking an indictment, if the Grand Jury finds extensive public corruption of which the accused will not help to expose, the Grand Jury issues a written report to the public. This is called a presentment and it is addressed to the public at large. A presentment informs the people that ongoing corruptions are being committed and additional witnesses are needed to assist the Grand Jury in corroborating its case against those involved. The system worked very well until lawyers (prosecutors and judges) wormed their way into the confines of the people's Grand Juries. They then corrupted the purpose and meaning of the terms indictment and presentment. (200-201)

Today it might be difficult for the average trial juror to stand up to the impostors who run our courts, but the Trial Jury should demand to see if the indictment was that of the people; if not, a vote for acquittal is mandated. (201)

The 1961 decision is still used by judges who unlawfully order Grand Jury presentments to be sealed. Grand Juries investigating governmental corruption must ignore that decision and publicize whenever they find wrongdoing and especially, judicial corruption. It's the height of stupidity for a Grand Jury to surrender

its information to a court where judicial corruption can be sealed from the public. In giving in to the court, the Grand Jury is allowing the government to prevent the checking powers of the Bill of Rights. (203)

Think about it. On February 23, 1961, when the New York State Court of Appeals rendered its infamous decision to shield the State judiciary, it became a party to the SLA (State Liqour Authority) corruption and to other corruptions in New York. For example, a few years later in a scandal involving the sale of judgeships, Grand Juries were prevented from issuing presentments that could have exposed the well organized criminals of the Bench and Bar.

The State and federal judiciary have both independently developed similar tactics to keep their own corruption from being exposed. For example, it is common practice in New York State for District Attorneys and judges to prevent any petition or witness who would voluntarily attempt to inform a Grand Jury of judicial corruption. That was the reason why this author and others never got before any Grand Jury in New York State so that we could expose ongoing theft of public funds by the judges and lawyers in all three departments. This author could have explained to the Grand Jury how the New York Court of Appeals played a major role in planning and executing the cover up of pension fund thievery. The judiciary cannot claim a statute of limitations, for their theft is a continuing crime against the people. New York State taxpayers' money is being stolen. Even after I had twice informed Governor Carey of the corruption in the Legislative-Executive Pension scandal, Carey (also a lawyer) refused to empanel a special state-wide Grand Jury because the Court of Appeals and the entire state judiciary could have been exposed. Gov. Carey could also have lost his gubernatorial pension. In matters dealing with pension fund thievery, the same holds true on the federal level. The Grand Jury is a check upon all officials of the government and not the other way around. (204-05)

Any people on a Grand Jury if left on their own volition, could have done a better job than District Attorney Hogan in exposing that whole corrupt gang of lawyers and judges. There is an absolute need for a permanent rotating statewide Grand Jury system! (207)

We needed a rotating statewide Grand Jury to be run on a continuing basis and to which the people were to be allowed direct access. (232)

The United States Constitution and most, if not all, of the state constitutions contain the following provision "No person shall be deprived of life, liberty, or property without due process of law." Our lives and liberties are generally pro-

tected by Grand Juries, but not our property. This we can blame on the lawyers and judges who wrongfully by-pass the Bill of Rights protection afforded by Article 5 requiring Grand Juries instead of the courts to give their consent before any lawsuit can be settled or moved before a jury. The lawyers permit a corporation or individual (generally through an attorney) to get permission from the court instead of a Grand Jury to commence a proceeding (suit) in which a defendant can be deprived of his or her property. But the court is not a Grand Jury, and only the people on a Grand Jury are specifically entrusted to assure "due process" guaranteed by the Bill of Rights to see that "No person shall be deprived of . . . property."

I have shown the reader how the judges of our highest New York State courts have corrupted the judicial process by denying me and my fellow petitioners for over four years the right of "standing to sue" the lawyers in the legislative, executive and judicial departments who corrupted all constitutional processes in order to enrich themselves at the public's expense. (234)

Citizens who want to expose corruption in government are often frightened by the threat of libel. This is bad, for if people are deterred by a libel threat, political and governmental corruption can soon become unmanageable. **That is another good reason why Grand Jury bodies must first give consent before any sueable action can be commenced.** This will give a defendant the right to show a Grand Jury why he should not be sued. If Grand and Trial Juries are truly to be the guardians of our rights they must insist on being the judge of the facts, as well as the merits of any lawsuit. (235)

The Bill of Rights: Use It or Lose It

That means that the people on a Grand Jury have the power to indict for acts manifestly subversive to powers specified in the Bill of Rights. Conduct clearly destructive or dangerous to the liberty of the people need not be specifically defined by statute. (4)

We must educate the people to stop believing that the Bill of Rights are amendments to the Constitution, which makes their meaning subject to judicial interpretation or constitutional repeal. The truth is that the Bill of Rights is a direct check by Juries on the actions of Congress, the President and the Courts. (34)

Our freedoms and inalienable rights are protected by the Bill of Rights. The people must swear only to defend, honor and preserve the Bill of Rights. The people never had an obligation to honor, support and defend the Constitution which first enforced slavery and then the conscription of our men for aggression or for protections of foreign governments. (42)

The Bill of Rights is not and never was an amendment to the Constitution. It **did not effectively amend a single article or provision of the Constitution.** Amendments to the Constitution should have been made at that time because the Bill of Rights and the Constitution were in drastic contradiction to each other.

The Bill of Rights was intended by the people to be direct checks upon constitutional officials. "The Congress shall make no law . . . abridging the freedom of speech," etc. The judicial and executive departments were likewise commanded by the terms of the Bill of Rights to obey "the rights of the people." The Bill of Rights is a direct check by the people upon the Constitution. As a check upon the Constitution, the Bill of Rights is superior to it. The people must take an oath to uphold only the Bill of Rights. An individual must never take the constitutional oath, for if he swears to uphold the Constitution, he places himself at the disposal of the judges, congressmen and executive officers, federal, state and local. All of those officers swear and are wrongfully bound by their oath that the Constitution "shall be the supreme law of the land." (42-43)

The Bill of Rights was demanded as a direct protection to prevent a Congress and a President from abusing citizens while the Supreme Court looks on. In order to successfully accomplish a direct check the people had to have Bill of Rights Grand and Trial Jury bodies completely independent of the government. (46)

Article 8 of the Bill of Rights gives the jury (the people) not a judge (the government) the right to determine if a fine of five thousand dollars is "excessive" and imprisonment for up to five years is "cruel and unusual punishments inflicted" on persons for trying to stop a criminal government from committing crimes against the people. (46)

Again, judges of the state and federal governments could have prevented the inevitable break-up of the federal government in 1861 if they had respected the Bill of Rights. The Constitution itself was responsible for the debacle because of its claim that the Constitution "shall be the supreme law of the land." The Bill of

Rights commanded basic rights for all. The Constitution commanded slavery for many and only limited powers to the so-called free people. The two documents are not compatible. Judges who uphold the Constitution as the supreme law of the land are at the same time telling the people if and when they are entitled to Bill of Rights protections. **All powers dealing with basic rights are retained or reserved to the people on Grand and Trial Juries and are not appealable to any court.** (55)

The lawyers in the Constitutional Convention who gave the Senate "the sole power to try all impeachments," had unanimously refused to adopt the Bill of Rights. However, as a condition for ratification a provision was forced into the Bill of Rights by the people which denied that "sole power" claimed by the Senate. Article 9 of the Bill of Rights reads: "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means the sovereign people on Grand or Trial Juries can act in defense of the Constitution or in defense of the people's basic rights. (86-87)

If the Articles of the Bill of Rights are considered to be amendments to the Constitution then they cannot fulfill their required functions. That is why the Bill of Rights, the freedom document, must stand apart from the Constitution. (92)

Under the overall authority of the Ninth Article of the Bill of Rights, a Grand Jury can indict any judge who would use the power of contempt to deprive a person of his liberty or property. The Ninth Article of the Bill of Rights commands that: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." That means the people on a Grand Jury have the power to indict for acts manifestly subversive to powers specified in the Bill of Rights. Conduct clearly destructive or dangerous to the well-being and liberty of the people need not be specifically defined by statute. (110)

Vote Lawyers Out of Office

The poor souls who vote have never been told that their first duty as voters is to maintain a separation of governmental powers. A separation of powers can be achieved if people vote all lawyers out of Congress and never elect any others. If the people get most of the lawyers out of Congress, we will be able to see good results immediately. Lawyers in Congress seldom impeach corrupt judges; therefore impeachment has become a scarecrow. A Congress dominated by nonlawyers will quickly impeach and convict the corrupt in all departments of the government. (27)

We must methodically educate each other to vote to rid the Congress and every state legislature of all lawyers and then start to undo the many obstacles they have placed in our path since we took that wrong turn in 1787. (42)

The first order of business must be to vote out the nests of lawyers in the various departments of government who misused both constitutional and Bill of Rights powers to gain their own ends. Juries then will be able to work for the guarantee of all protections including the assumption of powers reserved in the ninth and tenth Articles of the Bill of Rights, which authorize the people to intervene whenever constitutional remedies are not properly invoked. (71)

At election time why do people have so many questions about for whom to vote? Aren't they obligated to organize as a constitutional force instead of a political one and vote all lawyers out of office so that a necessary separation of powers can be established? (156)

We can achieve this by voting every lawyer out of Congress. A lawyer-free Congress could then repeal the First and all subsequent Judiciary Acts and instead adopt those proposed amendments that were submitted to the First Congress by the people in the state ratifying conventions who wanted to greatly limit the jurisdiction of the federal courts. (193)

Oaths of Office

In entering Cambodia, President Nixon and the generals under his command were stretching American forces and resources. This was all done in secret from the American people and perhaps most of Congress. **The only way that taking an oath can be made meaningful is to punish those who violate it.** President Nixon should have been impeached, convicted, and disqualified from again holding office. The generals involved should have been dismissed from the service and made to forfeit their pensions and other benefits. The American people must insist that Constitutional restraints and punishments be implemented. (39-40)

All persons who are about to become a member of the U.S. armed forces, the National Guard, the reserves, etc., should not take an oath to support and defend the Constitution. In that oath, every military officer and enlisted man swears to "obey the orders of the President of the United States . . . and the orders of the officers appointed over them according to law and regulations." Officers and enlisted persons of the United States armed forces must not be under oath to back

officials who violate the Constitution. If they are in the service of their country they have the one common purpose, "to provide for the common defense and general welfare of the United States." This can better be done by an oath to honor and support the Bill of Rights. (40-41)

We must call for the taking of the rightful oath of office for all persons in the military and police upon whom we depend to protect us. (43)

Who will stand with me and reject the oath as given when you are called upon to be a juror? Men and women who have faced dangerous odds on battlefields meekly cower as jurors when herded before judges and officers of the court. Stand tall. Tell the judge "I will not honor the oath just given to me in that I must accept the law as given by the judge." Then add, as I did, "most often the judges, even those on the U.S. Supreme Court can't agree on the meaning of the law. How then can they satisfactorily explain the law to a jury?" No law can be honest or just if it takes so much to arrive at its meaning. (44)

Nobody should be required to take an oath to support the Constitution or bear allegiance to it unless he or she is elected or appointed to a legislative, executive or judicial office of either the federal or of the various state governments. But all of the above should not be allowed to take their seats until they have taken their ultimate and supreme oath to uphold the Bill of Rights. (95)

The second major reform is the protection of the people by the military forces. Non-commissioned officers and enlisted men must always remain loyal to the people, who are the sovereign authority. They too, like jurors, must sever the shackles of the Constitution and take the oath to support and defend only the Bill of Rights. (97)

Police officers, like enlisted men, do not perform any constitutional function; therefore, they too should never have been required to take an oath to support and defend the Constitution of the United States or the Constitution of their own state. They too should only "bear true faith and allegiance" to the people's Bill of Rights. (98)

Non-commissioned officers and all enlisted persons must honor, support and defend only the Bill of Rights. They must reject the Constitution outright because it cannot be claimed as "the supreme law of the land." (101)

Citizens' Militias

Congress is without the power to limit the three direct basic checking powers of the people contained in the Bill of Rights. They are the peoples' militia and their Grand and Trial Juries. If Congress would be allowed the powers contained in Article I section 8 clause 16 of "disciplining the militia," the entire concept of the Bill of Rights and freedom for the people would be destroyed by a body (Congress) to which the people only granted limited powers. (35)

With the adoption of the Bill of Rights as a direct check in the hands of the people and the states, it was necessary that clause 15 of section 8 of the Constitution be repealed. Congress could no longer call forth the militia, which according to Article 2 of the Bill of Rights was "necessary to the security of a free State." The militia was not to be deployed by the central government, which is itself often a threat to the liberties of the people. (36)

Furthermore, the militia, as a check in the hands of the people of the individual states as provided by Article 2 of the Bill of Rights could not be "called into the actual service of the United States" where "The President shall be [their] commander in chief" for that would also entail the "organizing, arming, and disciplining the militia" as directed by Congress. This action would render the states defenseless, and they would be at the mercy of the federal government. The states created the federal government so that it could serve them, not the other way around. With the adoption of the Bill of Rights, it was essential that both clause 16 of section 8 of Article I and a part of clause 1 of section 2 of Article II be repealed. If Congress and the President were empowered to discipline and govern the militia that "may be employed in the service of the United States," then the militia could purposely be made unavailable for the protection of the rights of the people and the security of a free state, guaranteed by Article 2 of the Bill of Rights. The army and navy commanded by the federal government were intended to protect us from an outside force. The states and their militia were intended to protect us from tyranny and dangers from within. As a last resort from foreign dangers, the militias within each state would protect its own people.

If things were working properly the Texas state militia should have helped defend the Branch Davidians against the federal forces of the BATF and FBI—trained and guided by military advisers using military weapons and tanks, a clear case of the army being used against citizens. One student stopped a column of tanks in Tienanmen Square in China. In Waco the tanks went through the wall and

ejected a gas reserved for wartime use and incinerated 86 men, women and children. And our country has been critical of the Chinese governments' civil rights violations! (36)

In time the men who were a part of the militia refused to help when it became apparent that the central government was attempting to enlarge upon its own powers to the detriment of the people in the states. When Congress declared war in June of 1812, the General Assembly of Connecticut condemned the war. In New Hampshire there was official protest against "rash, and ruinous measures." The Massachusetts House of Representatives responded by issuing an "Address to the people" in which they declared the war against the public interest and asserted that "there be no volunteers except for defensive war."

The Governors of Connecticut and Massachusetts refused to furnish their respective militias to the federal government. The New York State militia even refused to reinforce American troops who had crossed the Niagara River to engage Canadians in combat "on the ground that their military service did not require them to leave the state."

In all of these actions, the leaders of the people and their militias were properly following the Bill of Rights. By remaining in their respective states where their immediate strength is at all times necessary, a free people will always enjoy "the security of a free State." History has repeatedly shown that central governments pose a greater threat to its own people than do outside forces. That was the reason why the people in the ratifying conventions had insisted that their right "to keep and bear arms shall not be infringed." With arms always in their possession, the people in the various areas and communities could form into militias. (37-38)

Those who think themselves expert constitutionalists are in great error when they tell you that the central government must ensure that "a well regulated militia" is always on standby. Not true. The militia was intended by the people to resist any outside force, including the federal government, if it violated either the Bill of Rights or the Constitution.

In America the militia was and still is today any armed force regulated or otherwise that could be called upon to repel any outside force that encroached upon the rights and liberties of the people or who would invade "the security of a free State." To accomplish this, the people must never let any government deprive them of their absolute right "to keep and bear arms." It's an absolute right because the

rights, liberties and freedoms enumerated in all of the other provisions in the Bill of Rights are meaningless if any government, foreign or domestic, would intrude upon a free people. (38)

The states are without the authority to submit its militia, the people, to the direct command of the federal government, which could then place such civilians under the U.S. Military Code. This deprives civilians of Grand and Trial Jury protections for voluntarily coming to the aid of their country. The people of the various states do not have to fear the true militia. What they have to fear most is a central government that refuses to be limited in its powers even when commanded by the Constitution. (41)

On Militias: Reform by repealing Article I section 8 clause 15 of the Constitution. Congress should not have the power to call forth the militia to execute the laws of the land—the primary purpose of a militia is to provide for "the security of a free State." This means that a free people must never be deprived of their arms. Reform also by repealing clause 16 of section 8 of Article I. The people in the militia should never place themselves in the position where they would come under the discipline of the Congress, nor to depend on the Congress for their arms. The militia's primary duty is to always be armed, organized and ready to guard the security of their "free State" by imposing a check and discipline on any outside force including the central government if Congress attempts to impose upon the basic right of a free people.

Copyrights

It isn't "necessary and proper" for Congress to make the duration of a copyright good for the author's life and fifty years after his death. This is an abridgement of freedom of the press and an obstacle to the free use and expression of the printed word. Clause 8 of Section 8 of Article I states, "the Congress shall have the power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Patents, which do not infringe on free press or speech, can be held for only 17 years. Copyrights should similarly be limited. The people on juries should refuse to honor copyrights of longer duration. Lawyers and judges must be prevented from engaging in unwarranted litigation over issues that concern the people and their rights. (19)

Educate the People: Start Your Own Citizen Organization

As a police officer in Rochester, New York with many contacts in other cities in the state, I was already aware of a statewide scandal. In 1960, I had already interested others in forming the Association for Grand Jury Action (AFGJA). Our purpose was to educate people about Grand Juries—their great powers of indictment and presentment and how to use them to fight corruption. (202-03)

Educate the People: Become Another Tom Paine!

Become a pamphleteer by assembling and printing all the basic facts of the issue at hand in a short pamphlet. It was the pamphleteers who were mainly responsible for exciting interest in a Declaration of Independence from the tyrannous English government. We must now reestablish our independence by putting all the leaders of the legislative, executive and judicial departments of the federal government on notice. (133)

Impeach Judges Who Use the Unconstititutional Power of Contempt

In Pennsylvania, the feeling against the Common Law took shape, in 1802-05, in the impeachment trial of the Chief Jutice and judges of the Supreme Court, Edward Shippen, Jasper Yeates and Thomas Smith, charged with a single "arbitrary and unconstitutional act," of sentencing Thomas Passmore to jail for thirty days and imposing a $50 fine for a "supposed contempt." The ground for the impeachment was punishment for contempt of court was a piece of English Common Law barbarism, unsuited to this country and illegal. (115)

All of the above corruption is a result of the ignorance of the people. We often hear them exclaim that "it doesn't matter what party you vote for, they are all crooks." I always advise them to vote against all lawyers and judges (no exceptions) at the polls so that we can establish a separation of powers. In electing non-lawyers we will be more capable of invoking necessary checks and balances. We can then for the first time, have a government of the people.

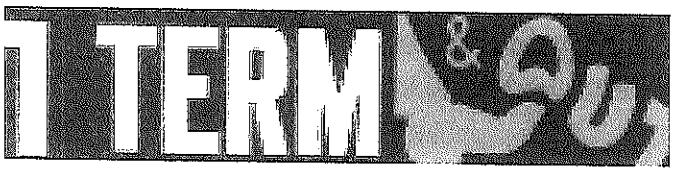
Our Bill of Rights provides that the people on Grand Juries be the judge of whether a person should be indicted for a crime he is charged with by the executive department of the government. A citizen is provided the protection of two separate people before he can be judged guilty and deprived of his life, liberty, or property.

At least twelve people on a grand Jury must indict him and twelve people on a Trial Jury must convict him.

The Grand Jury affords an initial protection in that Grand Jurors must be careful not to put an indictment into motion; if a person is falsely accused and indicted, he or she can be rendered a pauper under our costly and dishonest adversarial court system.

The United States Constitution and most, if not all, of the state constitutions contain the following provision "No person shall be deprived of life, liberty, or property without due process of law." Our lives and liberties are generally protected by Grand Juries, but not our property. This we can blame on the lawyers and judges who wrongfully by-pass the Bill of Rights protection afforded by Article 5 requiring Grand Juries instead of the courts to give their consent before any lawsuit can be settled or moved before a jury. The lawyers permit a corporation or individual (generally through an attorney) to get permission from the court instead of a Grand Jury to commence a proceeding (suit) in which a defendant can be deprived of his or her property. But the court is not a Grand Jury, and only the people on a Grand Jury are specifically entrusted to assure "due process" guaranteed by the Bill of Rights to see that "No person shall be deprived of . . . property." (233-34)

I must here include the much needed reform of term limitation even though I have not previously mentioned it elsewhere in this book. Perhaps because I do intend soon to write my third book on the imperative need of this vital reform. Over the years I had managed to accumulate hundreds of cases of actual abuse caused by a lack of term limitations. In learning from that information, I became an outspoken proponent for the cause. In 1971, as Democratic candidate for the New York State Assembly, I announced that if elected, I would only serve the two-year term and that I would introduce many new methods for reforms to a system that just wasn't working. With enthusiasm I purchased for my campaign $850 worth of bumper stickers containing the following message:



Even in being twenty years ahead of public sentiment, I couldn't give the bumper stickers away. The public said we needed officials with more experience. I countered by telling them the experience they gained would be used against the public's better interest. I believe that honesty is a much better criterion for selecting public officials than experience. A short time in office will give a person an opportunity to gain experience in how public office works. Those elected can then give their complete attention to the public interest. Instead most officials work towards the prime goal of getting re-elected to a system that will reward them for life (including a lucrative pension) if they do the bidding of their leaders who are mostly lawyers. If all members of Congress or a state legislature were limited to a single two year term, we wouldn't have the same corrupt entrenched leaders pick the faithful to the best committee assignments. The deals made by the experienced men in those committees have just about completely destroyed this nation.

People are their own worst enemy. They continue to elect lawyers to our Congress and state legislatures in controlling numbers where as Democrats or Republicans they pretend to be on two opposing teams. But they really are not because in order to continue to rule us under their judicial oligarchy, lawyers unite as a three department team to deny us "a republican form of government," as guaranteed by the Constitution.

High school and college students who complete courses in political science have obviously wasted their time. They evidently can't even recognize the difference between an oligarchy and a republic.

It is this basic ignorance that makes the voting public feel so helpless in that they can't get their "experienced" officials to bring about desperately needed reforms.

Term limitation is a reform only second to our need to get the lawyers out of government so that we can have a vitally needed separation of powers.

Unsung American Heroes

There are many unsung American patriots who, for years, have been laboring for the cause of liberty and justice. I must briefly honor some of them here:

GODFREY LEHMAN: Author of a fine series for *The Justice Times* on trial by jury—the last bulwark against tyranny. He has also been a great help in getting FIJA (Fully Informed Jury Amendment) before many people across the country.

IRWIN SCHIFF: Hero and author who still persists though he has suffered imprisonment for exposing "the fraud and deception by which the IRS extracts income taxes from uninformed Americans."

RON PAUL: Former Congressman who now publishes the *Ron Paul Survival Report*. This man is dedicated to the establishment of a limited government that could be more successful in serving us honestly.

ARTHUR AND ANITA LOWERY: Publishers of *The Justice Times*, dedicated to exposing the myth of big government, made possible by our corrupt two party system. A refreshingly wonderful newspaper that every real American should subscribe to.

JAMES AND LUCILLE TOWNSEND: Publishers of *The National Educator*, who are dedicated to informing the citizenry who have been working for the abolishment of the counterfeit Federal Reserve System.

JIM DAVIDSON, Chairman, and DAVID KEATING, Executive Vice President, National Taxpayer's Union, were the first to work for the Balanced Budget Amendment as early as 20 years ago.

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APPENDIX A

Jury Power Information Kit

If You're Called for Jury Service

You should look at jury service as an opportunity to "do good" for yourself and others. It's your chance to help the justice system deliver justice, which is absolutely essential to a free society.

Also, you can do more "political good" as a juror than in practically any other way as a citizen: your vote on the verdict is also a measure of public opinion on the law itself—an opinion which our lawmakers are likely to take seriously. Short of being elected to office yourself, you may never otherwise have a more powerful impact on the rules we live by than you will as a trial juror.

However, unless you are fully informed of your powers as a juror, you may be manipulated by the less powerful players in the courtroom into delivering the verdict they want, instead of what justice would require. That is why this "kit" was written—to give you information that you're not likely to receive from the attorneys or the judge.

Justice may depend on your being chosen to serve, so here are "words to the wise" about how to make it through *voir dire*, the jury selection process: You may feel that answering some of the questions asked of you would compromise your right to privacy. If you refuse to answer them, it will probably cost you your chance to serve. Likewise if you "talk too much"—especially if you admit to knowing your rights and powers as a juror, as explained below, or that you have qualms about the law itself in the case at hand, or reveal that you're bright, educated, or are interested in serving! So, from *voir dire* to verdict, let your conscience be your guide.

Nothing in the U.S. Constitution or in any Supreme Court decision requires jurors to take an oath to follow the law as the judge explains it or, for that matter, authorizes the judge to "instruct" the jury at all. Judges provide their interpretation of the law, but you may also do your own thinking. Keep in mind that no juror's oath is enforceable, and that you may regard all "instructions" as advice.

Understanding the full context in which an illegal act was committed is essential to deciding whether the defendant acted rightly or wrongly. Strict application of the law may produce a guilty verdict, but what about justice? If you agree that, beyond a reasonable doubt, the accused did act as charged, then "context becomes everything" in reaching a verdict you can live with. Because credit or blame for the verdict will go to you, be sure to ask the judge how you can pose questions to witnesses, so that you can learn the complete context, should the lawyers fail to bring it out.

You can say "no" to bad law, or bad use of good law. Jurors have the power to consider whether the law itself is wrong (including whether it is "unconstitutional"), or is being applied for political reasons. Does it appear that the accused is being singled out as "an example" in order to demonstrate government muscle? Were the defendant's constitutional rights violated during the arrest? Much of today's "crime wave" consists of victimless crimes—crimes against the state, or "political crimes," so if you feel that a verdict of guilty would give the government too much power, or help keep a bad law alive, just remember that you can refuse to apply any law that violates your conscience.

Prosecutors often "multiply charges" in hopes that the jury will assume that, with so many counts against him, the defendant "must be guilty of *something*." But one of the great mistakes a jury can make is to betray both truth and conscience by compromising. If you believe the defendant is not guilty of anything, then vote "not guilty" on all counts.

You can't be punished for voting your conscience. Judges (and other jurors) often pressure hold-out jurors into abandoning their true feelings and voting with the majority " . . . to avoid the expense of a hung jury and mis-

trial." But you don't have to give in. Why? Because . . .

Hung juries are "OKAY." If voting your conscience should lead to a hung jury, not to worry, you're doing the responsible thing. There is no requirement that you must reach a verdict. And the jury you hang may be significant as one of a series of hung juries sending messages to the legislature that the law you're working with has problems, and it's time for a change. If you want to reach consensus, however, one possible way is to remind your fellow jurors that . . .

Jurors have the power to reduce charges against the defendant, provided that "lesser included offenses" exist in law (ask the judge to list and explain them, and the range of potential punishments that go with each). Finding guilt at a lower lever than charged can be appropriate in cases where the defendant has indeed victimized someone, but not so seriously as the original charges would indicate. And, though in most courts the judge sets the sentence, it's within the power of the jury to find the defendant guilty of a reduced charge which will, at most, entail the amount of punishment it thinks is appropriate.

The Fully Informed Jury Association hopes the above information helps you to find a verdict that you believe is conscientious and just, a verdict which you can therefore be proud to discuss with friends, family, legal professionals, the community or the media, should any of them want to know what happened, how and why.

For further information, write to
FIJA
PO Box 59
Helmville MT 59843

Quotations supporting Jury Nullification

John Adams, the second U.S. President, said of the juror: "it is not only his right, but his duty . . . to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court." Quoted in Yale Law Journal, 74 (1964): 173.

Alexander Hamilton (1804): Jurors should acquit even against the judge's instruction " . . . if exercising their judgment with discretion and honesty they have a clear conviction that the charge of the court is wrong." Quoted in Joseph Sax, Yale Review 57 (1968): 481-94.

John Jay, first Chief Justice, U.S. Supreme Court, in Georgia v. Brailsford, 1794: 4, said" The jury has a right to judge both the law as well as the fact in controversy."

Samuel Chase, Supreme Court Justice and signer of the Declaration of Independence, 1804: "The jury has the right to determine both the law and the facts."

Thomas Jefferson, in a letter to Thomas Paine, 1789: "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."

Theophilus Parsons, "a leading supporter of the Constitution of the United States in the convention of 1788 by which Massachusetts ratified the Constitution, appointed by President Adams in 1801 Attorney General of the United States, but declining that office, and becoming Chief Justice of Massachusetts in 1806," said:

"The people themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory: it is not law; and any man may be justified in his resistance. Let him be considered as a criminal by the general government, yet only his fellow citizens can convict him; they are his jury, and if they pronounce him inno-

cent, not all the powers of Congress can hurt him; and innocent they certainly will pronounce him, if the supposed law he resisted was an act of usurpation." 2 Elliot's Debates, 94, 2 Bancroft's History of the Constitution, 267. Quoted in Sparf and Hansen v. U.S., 156 U.S. 51 (1895). Dissenting Opinion." Gray, Shiras, JJ., 144.

"If a juror accepts as the law that which the judge states then that juror has accepted the exercise of absolute authority of a government employee and has surrendered a power and right that once was the citizen's safeguard of liberty. — For the saddest epitaph which can be carved in memory of a vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while yet there was time." 2 Elliot's Debates, 94, Bancroft, History of the Constitution, 267, 1788.

" . . . Unless the jury can exercise its community conscience role, our judicial system will have become so inflexible that the effect may well be a progressive radicalization of protest into channels that will threaten the very continuance of the system itself. To put it another way the jury is . . . the safety valve that must exist if this society is to be able to accommodate itself in its own internal stresses and strains . . . if the community is to sit in the jury box, its decision cannot be legally limited to a conscience-less application of fact to law." William Kunstler, quoted in Franklin M. Nugent, Jury Power: Secret Weapon Against Bad Law, revised from Youth Connection, 1988.

"Every jury in the land is tampered with and falsely instructed by the judge when it is told it must take (or accept) as the law that which has been given to them, or that they must bring in a certain verdict, or that they can decide only the facts of the case." Lord Denman, C.J. O'Connel v. R. (1884).

"For more than six hundred years—that is, since Magna Carta, in 1215, there has been no clearer principle of English or American constitutional law, than that, in criminal cases, it is not only the right and duty of juries to judge what are the facts, what is the law, and what was the moral intent of the accused; but that it is also their right, and their primary and paramount duty, to judge of the justice of the law, and to hold all laws invalid, that are, in their opinion, unjust or oppressive, and all persons guiltless in violating, or resist-

ing the execution of such laws." Lysander Spooner, An Essay on Trial by Jury, 1852, p. 11.

"If the jury feels the law is unjust, we recognize the undisputed power of the jury to acquit, when if its verdict is contrary to the law as given by a judge, and contrary to the evidence . . . If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the jury has the power to acquit, and the courts must abide by that decision." United States v. Moylan, 4th Circut Court of Appeals, 1969, 417 F.2d at 1006.

The jury has an "unreviewable and irreversible power. . . to acquit in disregard of the instructions on the law given by the trial judge. . . . " "The pages of history shine on instances of the jury's exercise of its prerogative to disregard uncontradicted evidence and instructions of the judge," specifically citing the Zenger case and the refusal of jurors to convict defendants under the fugitive slave law. U.S. v. Dougherty, D.C. Circuit Court of Appeals, 1972, 473 F. 2d at 1130 and 1132. (Nevertheless, the majority opinion held that jurors need not be told this. The dissenting judge, Chief Judge Bazelon, thought that they ought to be so told.)

"In a representative government . . . there is no absurdity or contradiction, nor any arraying of the people against themselves, in requiring that the statues or enactments of the government shall pass the ordeal of any number of separate tribunals, before it shall be determined that they are to have the force of laws. Our American Constitution have provided five of these separate tribunals, to wit, representatives, senate, executive, . . . jury, and judges: and have made it necessary that each enactment shall pass the ordeal of all these separate tribunals, before its authority can be established by the punishment of those who choose to transgress it . . .there is no more absurdity in giving a jury a veto upon the laws than there is in giving a veto to each of these other tribunals." Lysander Spooner, An Essay on the Trial by Jury, 1852.

Underlying the conception of the jury as a bulwark against the unjust use of governmental power were the distrust of 'legal experts' and a faith in the ability of the common people. Upon this faith rested the prevailing political

philosophy of the constitution-framing era: that popular control over, and participation in, government should be maximized. Thus John Adams stated that 'the common people . . . should have as complete a control, as decisive a negative, in every judgment of a court of judicature' as they have, through the legislature, in other decisions of government." Note (anon.) The Changing Role of the Jury in the Nineteenth Century, Yale Law Journal, 74 172 (1964).

" . . . The right of the jury to decide questions of law was widely recognized in the colonies. In 1771, John Adams stated unequivocally that a juror should ignore a judge's instruction on the law if it violates fundamental principles:

'It is not only . . . [the juror's] right, but his duty, in that case, to find the verdict according to his own best understanding, judgement, and conscience, though in direct opposition to the direction of the court.'

There is much evidence of the general acceptance of this principle in the period immediately after the Constitution was adopted." Note (anon.) The Changing Role of the Jury in the Nineteenth Century, Yale Law Journal, 74 173 (1964).

"During the first third of the nineteenth century . . . . judges frequently charged juries that they were the judges of law as well as the fact and were not bound by the judge's instructions. A charge that the jury had the right to consider the law had a corollary at the level of trial procedure: counsel had the right to argue the law—its interpretation and its validity—to the jury." Note (anon.) The Changing Role of the Jury in the Nineteenth Century, Yale Law Journal, 74 174 (1964).

"Within six years after the Constitution was established, the right of the jury, upon the general issue, to determine the law as well as the fact in controversy, was unhesitatingly and unqualifiedly affirmed by this court, in the first of the very few trials by jury ever had at its bar, under the original jurisdiction conferred upon it by the Constitution." . . .

"The report shows that, in a case in which there was no controversy about the facts, the court, while stating to the jury its unanimous opinion upon the law of the case, and reminding them of the 'good old rule, that on questions of fact it is the province of the jury, on questions of law it is the provision of the

court to decide,' expressly informed them that 'by the same law, which recognizes this reasonable distribution of jurisdiction,' the jury 'have nevertheless a right to take upon themselves to judge of both, and to determine the law as well as the fact in controversy."

"It is universally conceded that a verdict of acquittal, although rendered against the instructions of the judge, is final, and cannot be set aside; and consequently that the jury have the legal power to decide for themselves the law involved in the general issue of guilty or not guilty."

"The jury having the undoubted and uncontrollable power to determine for themselves the law as well as the fact by a general verdict of acquittal, a denial by the court of their right to exercise this power will be apt to excite in them a spirit of jealousy and contradiction . . . "

" . . . it is a matter of common observation, that judges and lawyers, even the most upright, able and learned, are sometimes too much influenced by technical rules; and that those judges who are . . . occupied in the administration of criminal justice are apt, not only to grow severe in their sentences, but to decide questions of law too unfavorably to the accused.

" . . . as the experience of history shows, it cannot be assumed that judges will always be just and impartial, and free from the inclination, to which even the most upright and learned magistrates have been known to yield—from the most patriotic motives, and with the most honest intent to promote symmetry and accuracy in the law—of amplifying their own jurisdiction and powers at the expense of those entrusted by the Constitution to other bodies. And here is surely no reason why the chief security of the liberty of the citizen, the judgment of his peers, should be held less sacred in a republic than in a monarchy."

" . . . But a person accused of crime has a twofold protection, in the court and the jury, against being unlawfully convicted. If the evidence appears to the court to warrant a conviction, the court may direct an acquittal . . . . But the court can never order the jury to convict; for no one can be found guilty, but by the judgment of his peers." Supreme Court, Sparf and Hansen v. U.S., 156 U.S. 51, 154-76 (1894), from the dissent by Gray and Shiras.

"Jury acquittals in the colonial, abolitionist, and post-bellum eras of the United States helped advance insurgent aims and hamper government efforts at

social control. Widespread jury acquittals or hung juries during the Vietnam War might have had the same effect. But the refusal of judges in trials of antiwar protesters to inform juries of their power to disregard the law helped ensure convictions, which in turn frustrated antiwar goals and protected the government from the many repercussions that acquittals or hung juries would have brought. Steven E. Barkan, Jury Nullification in Political Trials, Social Problems, 31 (October 1983): 38.

"It's easy for the public to ignore an unjust law, if the law operates behind closed doors and out of sight. But when jurors have to use a law to send a man to prison, they are forced to think long and hard about the justice of the law. An when the public reads newspaper accounts of criminal trials and convictions, they too may think about whether the convictions are just. As a result, jurors and spectators alike may bring to public debate more informed interest in improving the criminal law. Any law which makes many people uncomfortable is likely to attract the attention of the legislature. The laws on narcotics and abortion come to mind—and there must be others. The public adversary trial thus provides an important mechanism for keeping the substantive criminal law in tune with contemporary community values." D.C. Circuit Court Judge D. Bazelon, "The Adversary Process—Who Needs It?" 12th Annual James Madison Lecture, New York University School of Law (April, 1971), reprinted in 117 Cong. Rec. 5852, 5855 (daily ed. April 29, 1971).

List of Organizations and Newsletters to Contact

Aid and Abet Newsletter
P. O. Box 8787
Phoenix, Ariz. 85066

American Economic Foundation
1215 Terminal Tower
Cleveland OH 44113

Fully Informed Jury Association
Box 58,
Helmville MT 59843

Gun Owners of America, Inc
8001 Forbes Place, Suite 102
Springfield VA 22151

The Imprimis
Hillsdale College
Hillsdale MI 49242

The Justice Times
PO Box 486
American Fork UT 84023

Libertarian Party
1528 Pennsylvania Avenue S.E.
Washington DC 20003

The Liberty Amendment
PO Box 2386
El Cajon CA 92021

The Manhattan Institute
52 Vanderbilt Ave
New York NY 10017

The National Educator
PO Box 333
1051 E. South Lemon
Fullerton CA 92632

The National Patriot Party
16 South Broadway
Wind Gap PA 12091

The National Rifle Association
470 Spring Park Place
Suite 1000
Herndon VA 22040

The Populist Party
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Ron Paul
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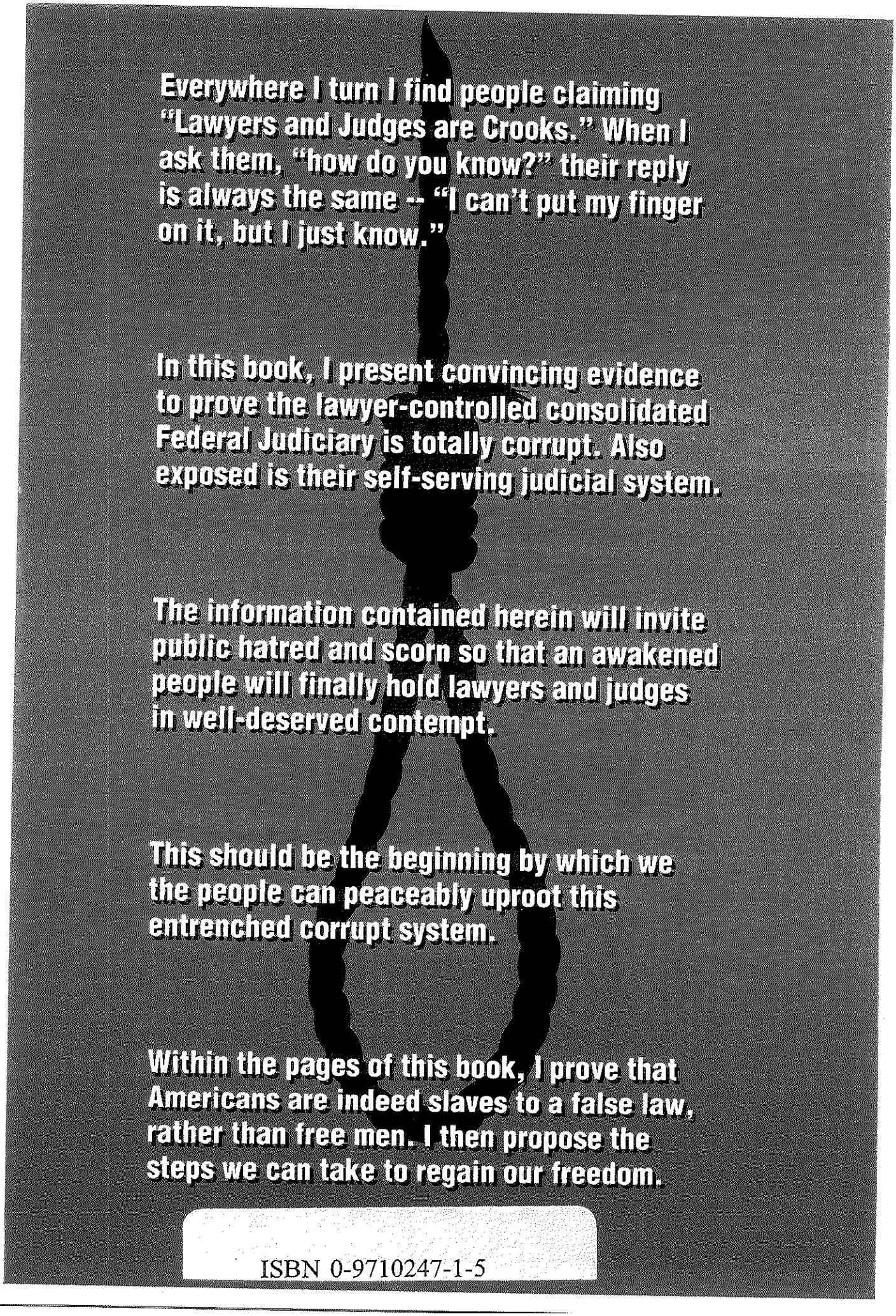

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