

## **Right to Travel**

**DESPITE ACTIONS OF POLICE AND LOCAL COURTS, HIGHER COURTS HAVE RULED THAT AMERICAN CITIZENS HAVE A RIGHT TO TRAVEL WITHOUT STATE PERMITS**

**By Jack McLamb  
from *Aid & Abet Newsletter*)**

For years professionals within the criminal justice system have acted on the belief that traveling by motor vehicle was a privilege that was given to a citizen only after approval by their state government in the form of a permit or license to drive. In other words, the individual must be granted the privilege before his use of the state highways was considered legal.

Legislators, police officers, and court officials are becoming aware that there are court decisions that disprove the belief that driving is a privilege and therefore requires government approval in the form of a license. Presented here are some of these cases:

**CASE #1:** "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived." *Chicago Motor Coach v. Chicago*, 169 NE 221.

**CASE #2:** "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness." *Thompson v. Smith*, 154 SE 579.

It could not be stated more directly or conclusively that citizens of the states have a common law right to travel, without approval or restriction (license), and that this right is protected under the U.S Constitution.

**CASE #3:** "The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment." *Kent v. Dulles*, 357 US 116, 125.

**CASE #4:** "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right." *Schactman v. Dulles* 96 App DC 287, 225 F2d 938, at 941.

As hard as it is for those of us in law enforcement to believe, there is no room for speculation in these court decisions. American citizens do indeed have the inalienable right to use the roadways unrestricted in any manner as long as they are not damaging or violating property or rights of others.

Government -- in requiring the people to obtain drivers licenses, and accepting vehicle inspections and DUI/DWI roadblocks without question -- is restricting, and therefore violating, the people's common law right to travel.

Is this a new legal interpretation on this subject? Apparently not. This means that the beliefs and opinions our state legislators, the courts, and those in law enforcement have acted upon for years have been in error. Researchers armed with actual facts state that case law is overwhelming in determining that to restrict the movement of the individual in the free exercise of his right to travel is a serious breach of those freedoms secured by the U.S. Constitution and most state constitutions.

That means it is unlawful.

The revelation that the American citizen has always had the inalienable right to travel raises profound questions for those who are involved in making and enforcing state laws.

The first of such questions may very well be this: If the states have been enforcing laws that are unconstitutional on their face, it would seem that there must be some way that a state can legally put restrictions -- such as licensing requirements, mandatory insurance, vehicle registration, vehicle inspections to name just a few -- on a citizen's constitutionally protected rights. Is that so?

For the answer, let us look, once again, to the U.S. courts for a determination of this very issue.

In *Hertado v. California*, 110 US 516, the U.S Supreme Court states very plainly: "The state cannot diminish rights of the people."

And in *Bennett v. Boggs*, 1 Baldw 60, "Statutes that violate the plain and obvious principles of common right and common reason are null and void."

Would we not say that these judicial decisions are straight to the point-- that there is no lawful method for government to put restrictions or limitations on rights belonging to the people?

Other cases are even more straight forward:

"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 US 22, at 24.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491.

"The claim and exercise of a constitutional right cannot be converted into a crime." *Millier v. US*, 230 F 486, at 489.

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen*, 481 F 946.

We could go on, quoting court decision after court decision; however, the Constitution itself answers our question - Can a government legally put restrictions on the rights of the American people at anytime, for any reason?

The answer is found in Article Six of the U.S. Constitution:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary notwithstanding."

In the same Article, it says just who within our government that is bound by this Supreme Law:

"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..."

Here's an interesting question. Is ignorance of these laws an excuse for such acts by officials?

If we are to follow the letter of the law, (as we are sworn to do), this places officials who involve themselves in such unlawful acts in an unfavorable legal situation. For it is a felony and federal crime to violate or deprive citizens of their constitutionally protected rights. Our system of law dictates that there are only two ways to legally remove a right belonging to the people.

These are (1) by lawfully amending the constitution, or (2) by a person knowingly waiving a particular right.

Some of the confusion on our present system has arisen because many millions of people have waived their right to travel unrestricted and volunteered into the jurisdiction of the state. Those who have knowingly given up these rights are now legally regulated by state law and must acquire the proper permits and registrations.

There are basically two groups of people in this category:

1) Citizens who involve themselves in commerce upon the highways of the state.

Here is what the courts have said about this:

"...For while a citizen has the right to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways...as a place for private gain. For the latter purpose, no person has a vested right to use the highways of this state, but it is a privilege...which the (state) may grant or withhold at its discretion..."  
State v. Johnson, 245 P 1073.

There are many court cases that confirm and point out the difference between the right of the citizen to travel and a government privilege and there are numerous other court decisions that spell out the jurisdiction issue in these two distinctly different activities.

However, because of space restrictions, we will leave it to officers to research it further for themselves.

(2) The second group of citizens that is legally under the jurisdiction of the state are those citizens who have voluntarily and knowingly waived their right to travel unregulated and unrestricted by requesting placement under such jurisdiction through the acquisition of a state driver's license, vehicle registration, mandatory insurance, etc. (In other words, by contract.)

We should remember what makes this legal and not a violation of the common law right to travel is that they knowingly volunteer by contract to waive their rights. If they were forced, coerced or unknowingly placed under the state's powers, the courts have said it is a clear violation of their rights.

This in itself raises a very interesting question. What percentage of the people in each state have applied for and received licenses, registrations and obtained insurance after erroneously being advised by their government that it was mandatory?

Many of our courts, attorneys and police officials are just becoming informed about this important issue and the difference between privileges and rights.

We can assume that the majority of those Americans carrying state licenses and vehicle registrations have no knowledge of the rights they waived in obeying laws such as these that the U.S. Constitution clearly states are unlawful, i.e. laws of no effect -laws that are not laws at all.

An area of serious consideration for every police officer is to understand that the most important law in our land which he has taken an oath to protect, defend, and enforce, is not state laws and city or county ordinances, but the law that supercedes all other laws -- the U.S. Constitution. If laws in a particular state or local community conflict with the supreme law of our nation, there is no question that the officer's duty is to uphold the U.S. Constitution.

Every police officer should keep the following U.S. court ruling --discussed earlier -- in mind before issuing citations concerning licensing, registration, and insurance:

"The claim and exercise of a constitutional right cannot be converted into a crime." Miller v. US, 230 F 486, 489.

And as we have seen, traveling freely, going about one's daily activities, is the exercise of a most basic right.

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## TITLE 28--JUDICIARY AND JUDICIAL PROCEDURE

## PART IV--JURISDICTION AND VENUE

## CHAPTER 89--DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

## Sec. 1446. Procedure for removal

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action.

(c) (1) A notice of removal of a criminal prosecution shall be filed not later than thirty days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds which exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

(5) If the United States district court does not order the summary

remand of such prosecution, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

(d) Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

(e) If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

(f) With respect to any counterclaim removed to a district court pursuant to section 337(c) of the Tariff Act of 1930, the district court shall resolve such counterclaim in the same manner as an original complaint under the Federal Rules of Civil Procedure, except that the payment of a filing fee shall not be required in such cases and the counterclaim shall relate back to the date of the original complaint in the proceeding before the International Trade Commission under section 337 of that Act.

(June 25, 1948, ch. 646, 62 Stat. 939; May 24, 1949, ch. 139, Sec. 83, 63 Stat. 101; Pub. L. 89-215, Sept. 29, 1965, 79 Stat. 887; Pub. L. 95-78, Sec. 3, July 30, 1977, 91 Stat. 321; Pub. L. 100-702, title X, Sec. 1016(b), Nov. 19, 1988, 102 Stat. 4669; Pub. L. 102-198, Sec. 10(a), Dec. 9, 1991, 105 Stat. 1626; Pub. L. 103-465, title III, Sec. 321(b)(2), Dec. 8, 1994, 108 Stat. 4946; Pub. L. 104-317, title VI, Sec. 603, Oct. 19, 1996, 110 Stat. 3857.)

#### Historical and Revision Notes

##### 1948 Act

Based on title 28, U.S.C., 1940 ed., Secs. 72, 74, 75, 76 (May 3, 1911, ch. 231, Secs. 29, 31, 32, 33, 36 Stat. 1095, 1097; Aug. 23, 1916, ch. 399, 39 Stat. 532; July 30, 1977, Pub. L. 95-78, Sec. 3, 91 Stat. 321.)

Section consolidates portions of sections 74, 75, and 76 with section 72 of title 28, U.S.C., 1940 ed., with important changes of substance and phraseology.

Subsection (a), providing for the filing of the removal petition in the district court, is substituted for the requirement of sections 72 and 74 of title 28, U.S.C., 1940 ed., that the petition be filed in the State court. This conforms to the method prescribed by section 76 of title 28, U.S.C., 1940 ed., and to the recommendation of United States District Judges Calvin W. Chesnut and T. Waties Warring approved by the Committee of the Judicial Conference on the Revision of the Judicial Code.

Subsection (b) makes uniform the time for filing petitions to remove all civil actions within twenty days after commencement of action or service of process whichever is later, instead of "at any time before the defendant is required by the laws of the State or the rule of the State court in which such suit is brought to answer or plead" as required by section 72 of title 28, U.S.C., 1940 ed. As thus revised, the section will give adequate time and operate uniformly throughout the

Federal jurisdiction. The provisions of sections 74 and 76 of title 28, U.S.C., 1940 ed., for filing at any time "before trial or final hearing" in civil rights cases and cases involving revenue officers, court officers and officers of either House of Congress were omitted.

Subsection (c) embodies the provisions of sections 74 and 76 of title 28, U.S.C., 1940 ed., for filing the removal petition before trial and makes them applicable to all criminal prosecutions but not to civil actions. This provision was retained to protect Federal officers enforcing revenue or criminal laws from being rushed to trial in State courts before petition for removal could be filed. Words "or final hearing" following the words "before trial," were omitted for purposes of clarity and simplification of procedure.

The provision of said section 76 of title 28, U.S.C., 1940 ed., for certificate of counsel that he has examined the proceedings and carefully inquired into all matters set forth in the petition and believes them to be true, was omitted as unnecessary and inconsistent with Rule 11 of the Federal Rules of Civil Procedure.

Subsection (d) is derived from sections 72 and 74 of title 28, U.S.C., 1940 ed., but the requirement for cost bond is limited to civil actions in conformity with the more enlightened trend of modern procedure to remove all unnecessary impediments to the administration of criminal justice. Provisions of said section 72 as to the conditions of the bond were rewritten because inappropriate when the petition for removal is filed in the Federal court.

Subsection (e) provides for notice to the adverse parties and for the filing in the State court of a copy of the petition for removal in substitution for the requirements of sections 72 and 74 of title 28, U.S.C., 1940 ed., for the filing of the removal petition in the State court. The last sentence of subsection (e) is derived from sections 72, 74 and 76 of title 28, U.S.C., 1940 ed.

Subsection (f) is derived from sections 75 and 76 of title 28, U.S.C., 1940 ed.

Since the procedure in removal cases is now governed by the Federal Rules of Civil Procedure [Rule 81(c)] and Federal Rules of Criminal Procedure [Rule 54(b)], the detailed directions of the various sections with respect to such procedure were omitted as unnecessary.

Thus the provision of section 72 of title 28, U.S.C., 1940 ed., with respect to appearance, special bail and filing the record were omitted as covered by the Federal Rules of Civil Procedure, Rules 64, 81(c).

The provisions of section 74 of title 28, U.S.C., 1940 ed., as to the effect of security and other proceedings and remedies in the State court were omitted as covered by section 1450 of this title.

The requirements of section 74 of title 28, U.S.C., 1940 ed., that the clerk of the State court shall furnish copies of pleadings and proceedings to the petitioner and that the petitioner shall file the same in the district court are covered by section 1447 of this title.

The provisions of section 74 of title 28, U.S.C., 1940 ed., requiring the adverse parties to plead anew in the district court were omitted as unnecessary in view of Federal Rules of Civil Procedure, Rule 81(c). The last sentence of such section was omitted as covered by section 1447(d) of this title.

#### 1949 Act

Subsection (b) of section 1446 of title 28, U.S.C., as revised, has been found to create difficulty in those States, such as New York, where suit is commenced by the service of a summons and the plaintiff's initial pleading is not required to be served or filed until later.

The first paragraph of the amendment to subsection (b) corrects this situation by providing that the petition for removal need not be filed

until 20 days after the defendant has received a copy of the plaintiff's initial pleading.

This provision, however, without more, would create further difficulty in those States, such as Kentucky, where suit is commenced by the filing of the plaintiff's initial pleading and the issuance and service of a summons without any requirement that a copy of the pleading be served upon or otherwise furnished to the defendant. Accordingly the first paragraph of the amendment provides that in such cases the petition for removal shall be filed within 20 days after the service of the summons.

The first paragraph of the amendment conforms to the amendment of rule 81(c) of the Federal Rules of Civil Procedure, relating to removed actions, adopted by the Supreme Court on December 29, 1948, and reported by the Court to the present session of Congress.

The second paragraph of the amendment to subsection (b) is intended to make clear that the right of removal may be exercised at a later stage of the case if the initial pleading does not state a removable case but its removability is subsequently disclosed. This is declaratory of the existing rule laid down by the decisions. (See for example, *Powers v. Chesapeake etc., Ry. Co.*, 169 U.S. 92.)

In addition, this amendment clarifies the intent of section 1446(e) of title 28, U.S.C., to indicate that notice need not be given simultaneously with the filing, but may be given promptly thereafter.

#### References in Text

The Federal Rules of Civil Procedure, referred to in subsecs. (a) and (f), are set out in the Appendix to this title.

Section 337 of the Tariff Act of 1930, referred to in subsec. (f), is classified to section 1337 of Title 19, Customs Duties.

#### Amendments

1996--Subsec. (c)(1). Pub. L. 104-317 substituted ``defendant or defendants'' for ``petitioner''.

1994--Subsec. (f). Pub. L. 103-465 added subsec. (f).

1991--Subsec. (c)(1). Pub. L. 102-198, Sec. 10(a)(1), (4), substituted ``notice of'' for ``petition for'' and ``the notice'' for ``the petition''.

Subsec. (c)(2). Pub. L. 102-198, Sec. 10(a)(1), (4), substituted ``notice of'' for ``petition for'' and substituted ``notice'' for ``petition'' in three places.

Subsec. (c)(3). Pub. L. 102-198, Sec. 10(a)(1), (2), substituted ``notice of'' for ``petition for'' and ``prosecution is first remanded'' for ``petition is first denied''.

Subsec. (c)(4), (5). Pub. L. 102-198, Sec. 10(a)(3), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

``(4) The United States district court to which such petition is directed shall examine the petition promptly. If it clearly appears on the face of the petition and any exhibits annexed thereto that the petition for removal should not be granted, the court shall make an order for its summary dismissal.

``(5) If the United States district court does not order the summary dismissal of such petition, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the petition as justice shall require. If the United States district court determines that such petition shall be granted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.''



Subsec. (d). Pub. L. 102-198, Sec. 10(a)(1), (4), (5), substituted ``notice of removal'' for ``petition for the removal'', struck out ``and bond'' after ``civil action'', and substituted ``notice with'' for ``petition with''.

1988--Subsec. (a). Pub. L. 100-702, Sec. 1016(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ``A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.''

Subsec. (b). Pub. L. 100-702, Sec. 1016(b)(2), substituted ``notice of removal'' for ``petition for removal'' in two places and inserted before period at end of second par. `` , except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action''.

Subsecs. (d) to (f). Pub. L. 100-702, Sec. 1016(b)(3), redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which read as follows: ``Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond with good and sufficient surety conditioned that the defendant or defendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that the case was not removable or was improperly removed.''

1977--Subsec. (c). Pub. L. 95-78, Sec. 3(a), designated existing provisions as par. (1), set a period of 30 days as the maximum allowable time prior to commencement of trial and following arraignment during which time a petition for removal can be filed, provided for the grant of additional time for good cause shown, and added pars. (2) to (5).

Subsec. (e). Pub. L. 95-78, Sec. 3(b), inserted ``for the removal of a civil action'' after ``filing of such petition''.

1965--Subsec. (b). Pub. L. 89-215 substituted ``thirty days'' for ``twenty days'' wherever appearing.

1949--Subsec. (b). Act May 24, 1949, Sec. 83(a), provided that the petition for removal need not be filed until 20 days after the defendant has received a copy of the plaintiff's initial pleading, and provided that the petition for removal shall be filed within 20 days after the service of summons.

Subsec. (e). Act May 24, 1949, Sec. 83(b), indicated that notice need not be given simultaneously with the filing, but may be made promptly thereafter.

#### Effective Date of 1994 Amendment

Amendment by Pub. L. 103-465 applicable with respect to complaints filed under section 1337 of Title 19, Customs Duties, on or after the date on which the World Trade Organization Agreement enters into force with respect to the United States [Jan. 1, 1995], or in cases under section 1337 of Title 19 in which no complaint is filed, with respect to investigations initiated under such section on or after such date, see section 322 of Pub. L. 103-465, set out as a note under section 1337 of Title 19.

#### Effective Date of 1977 Amendment

Amendment by Pub. L. 95-78 effective Oct. 1, 1977, see section 4 of

Pub. L. 95-78, set out as an Effective Date of Pub. L. 95-78 note under section 3771 of Title 18, Crimes and Criminal Procedure.

Section Referred to in Other Sections

This section is referred to in sections 1441, 1447 of this title; title 19 section 3473; title 22 sections 283gg, 290i-7, 290k-9, 290m; title 25 sections 487, 610c, 642, 670; title 42 sections 2210, 14616.

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## TITLE 28--JUDICIARY AND JUDICIAL PROCEDURE

## PART IV--JURISDICTION AND VENUE

## CHAPTER 85--DISTRICT COURTS; JURISDICTION

## Sec. 1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

(June 25, 1948, ch. 646, 62 Stat. 930; Pub. L. 85-554, Sec. 1, July 25, 1958, 72 Stat. 415; Pub. L. 94-574, Sec. 2, Oct. 21, 1976, 90 Stat. 2721; Pub. L. 96-486, Sec. 2(a), Dec. 1, 1980, 94 Stat. 2369.)

## Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., Sec. 41(1) (Mar. 3, 1911, ch. 231, Sec. 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, Sec. 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, Sec. 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Jurisdiction of federal questions arising under other sections of this chapter is not dependent upon the amount in controversy. (See annotations under former section 41 of title 28, U.S.C.A., and 35 C.J.S., p. 833 et seq., Secs. 30-43. See, also, reviser's note under section 1332 of this title.)

Words "wherein the matter in controversy exceeds the sum or value of \$3,000, exclusive of interest and costs," were added to conform to rulings of the Supreme Court. See construction of provision relating to jurisdictional amount requirement in cases involving a Federal question in *United States v. Sayward*, 16 S.Ct. 371, 160 U.S. 493, 40 L.Ed. 508; *Fishback v. Western Union Tel. Co.*, 16 S.Ct. 506, 161 U.S. 96, 40 L.Ed. 630; and *Halt v. Indiana Manufacturing Co.*, 1900, 20 S.Ct. 272, 176 U.S. 68, 44 L.Ed. 374.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" to conform with Rule 2 of the Federal Rules of Civil Procedure.

Words "or treaties" were substituted for "or treaties made, or which shall be made under their authority," for purposes of brevity.

The remaining provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1332, 1341, 1342, 1345, 1354, and 1359 of this title.

Changes were made in arrangement and phraseology.

## Amendments

1980--Pub. L. 96-486 struck out "; amount in controversy; costs" in section catchline, struck out minimum amount in controversy requirement of \$10,000 for original jurisdiction in federal question

cases which necessitated striking the exception to such required minimum amount that authorized original jurisdiction in actions brought against the United States, any agency thereof, or any officer or employee thereof in an official capacity, struck out provision authorizing the district court except where express provision therefore was made in a federal statute to deny costs to a plaintiff and in fact impose such costs upon such plaintiff where plaintiff was adjudged to be entitled to recover less than the required amount in controversy, computed without regard to set-off or counterclaim and exclusive of interests and costs, and struck out existing subsection designations.

1976--Subsec. (a). Pub. L. 94-574 struck out \$10,000 jurisdictional amount where action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

1958--Pub. L. 85-554 included costs in section catchline, designated existing provisions as subsec. (a), substituted ``\$10,000'' for ``\$3,000'', and added subsec. (b).

#### Effective Date of 1980 Amendment; Applicability

Section 4 of Pub. L. 96-486 provided: ``This Act [amending this section and section 2072 of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 1 of this title] shall apply to any civil action pending on the date of enactment of this Act [Dec. 1, 1980].''

#### Effective Date of 1958 Amendment

Section 3 of Pub. L. 85-554 provided that: ``This Act [amending this section and sections 1332 and 1345 of this title] shall apply only in the case of actions commenced after the date of the enactment of this Act [July 25, 1958].''

#### Section Referred to in Other Sections

This section is referred to in section 1441 of this title; title 15 section 2064; title 21 section 1603; title 22 section 6082; title 25 section 416a; title 42 section 405; title 49 section 10709.

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## TITLE 28--JUDICIARY AND JUDICIAL PROCEDURE

## PART IV--JURISDICTION AND VENUE

## CHAPTER 89--DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

## Sec. 1441. Actions removable generally

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending. For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.

(b) Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(c) Whenever a separate and independent claim or cause of action within the jurisdiction conferred by section 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which State law predominates.

(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.

(e) The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.

(June 25, 1948, ch. 646, 62 Stat. 937; Pub. L. 94-583, Sec. 6, Oct. 21, 1976, 90 Stat. 2898; Pub. L. 99-336, Sec. 3(a), June 19, 1986, 100 Stat. 637; Pub. L. 100-702, title X, Sec. 1016(a), Nov. 19, 1988, 102 Stat. 4669; Pub. L. 101-650, title III, Sec. 312, Dec. 1, 1990, 104 Stat. 5114; Pub. L. 102-198, Sec. 4, Dec. 9, 1991, 105 Stat. 1623.)

## Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., Secs. 71, 114 (Mar. 3, 1911, ch. 231, Secs. 28, 53, 36 Stat. 1094, 1101; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, Sec. 1, 45 Stat. 54).

Section consolidates removal provisions of sections 71 and 114 of title 28, U.S.C., 1940 ed., and is intended to resolve ambiguities and conflicts of decisions.

Phrases such as "in suits of a civil nature, at law or in equity," the words "case," "cause," "suit," and the like have been omitted and the words "civil action" substituted in harmony with Rules 2 and 81(c) of the Federal Rules of Civil Procedure.

Ambiguous phrases such as "the District Court of the United States for the proper district" have been clarified by the substitution of the phrase "the district and division embracing the place where such action is pending." (See *General Investment Co. v. Lake Shore & M.S. Ry. Co.*, 1922, 43 S.Ct. 107, 112, 260 U.S. 261, 67 L.Ed. 244 and cases cited therein.)

All the provisions with reference to removal of controversies between citizens of different States because of inability, from prejudice or local influence, to obtain justice, have been discarded. These provisions, born of the bitter sectional feelings engendered by the Civil War and the Reconstruction period, have no place in the jurisprudence of a nation since united by three wars against foreign powers. Indeed, the practice of removal for prejudice or local influence has not been employed much in recent years.

Subsection (c) has been substituted for the provision in section 71 of title 28, U.S.C., 1940 ed., "and when in any suit mentioned in this section, there shall be a controversy which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States."

This quoted language has occasioned much confusion. The courts have attempted to distinguish between separate and separable controversies, a distinction which is sound in theory but illusory in substance. (See 41 *Harv. L. Rev.* 1048; 35 *Ill. L. Rev.* 576.)

Subsection (c) permits the removal of a separate cause of action but not of a separable controversy unless it constitutes a separate and independent claim or cause of action within the original jurisdiction of United States District Courts. In this respect it will somewhat decrease the volume of Federal litigation.

Rules 18, 20, and 23 of the Federal Rules of Civil Procedure permit the most liberal joinder of parties, claims, and remedies in civil actions. Therefore there will be no procedural difficulty occasioned by the removal of the entire action. Conversely, if the court so desires, it may remand to the State court all nonremovable matters.

The provisions of section 71 of title 28, U.S.C., 1940 ed., with respect to removal of actions under the Federal Employer's Liability Act (U.S.C., 1940 ed., title 45, Railroads, Secs. 51-60) and actions against a carrier for loss, damage, or delay to shipments under section 20 of title 49, U.S.C., 1940 ed., Transportation, are incorporated in section 1445 of this title.

#### Amendments

1991--Subsec. (c). Pub. L. 102-198 struck out comma after "title" and substituted "may" for "may may" before "remand".

1990--Subsec. (c). Pub. L. 101-650 substituted "within the jurisdiction conferred by section 1331 of this title" for "which would be removable if sued upon alone" and "may remand all matters in which State law predominates" for "remand all matters not otherwise within its original jurisdiction".

1988--Subsec. (a). Pub. L. 100-702 inserted at end "For purposes of

removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.''

1986--Subsec. (e). Pub. L. 99-336 added subsec. (e).

1976--Subsec. (d). Pub. L. 94-583 added subsec. (d).

#### Effective Date of 1986 Amendment

Section 3(b) of Pub. L. 99-336 provided that: ``The amendment made by this section [amending this section] shall apply with respect to claims in civil actions commenced in State courts on or after the date of the enactment of this section [June 19, 1986].''

#### Effective Date of 1976 Amendment

Amendment by Pub. L. 94-583 effective 90 days after Oct. 21, 1976, see section 8 of Pub. L. 94-583, set out as an Effective Date note under section 1602 of this title.

#### Section Referred to in Other Sections

This section is referred to in section 1332 of this title; title 33 section 1323.

**The Drivers license/National ID Card uncovered – What is the hidden purpose behind a license to drive that the police are not telling us?**

Although most U.S. citizens, and all government officials consider the Drivers license to be a benefit and privilege, the Drivers license is anything but a benefit for the following reasons according to the Constitution:

1. It is forced upon the people by police and the courts as a privilege to drive, when we already have a Constitutionally protected Right to Travel outside of commerce.
2. The Drivers license **changes our law form** without most peoples knowledge or permission. The presentment of a signed and valid Drivers license to law enforcement agents, **forces people into military commercial jurisdiction and relieves them of their civilian status and civil rights** without their knowledge.
3. This procedure **without disclosure** to the American people is **securities fraud** as **it violates the Truth in Lending Laws of Commerce** without disclosure.
4. It is not voluntarily accepted by all private parties involved, as **it violates the 13<sup>th</sup> Amendment of No involuntary servitude!**
5. It also violates Article one section Ten of the organic Constitution, as it imposes a right of contract upon the people, forcing them to waive their Constitutionally protected Rights and forfeiting such Common law rights for a mere privilege to drive under commercial military martial rule, all controlled by a foreign court of Commerce by defacto officers.
6. The Drivers license supports the licensing and confiscation of our private vehicles by the DMV and DOT for purposes of legitimizing large theft of revenue from the people and our assets.
7. Anyone who possesses a Drivers license in their personal name, has received a benefit from the U.S. Government, and is therefore under the jurisdiction of the District of Columbia whether they want to be or not, and have agreed to forfeit their Constitutionally protected Rights, **unless they rebut such presumptions as having no effect in determining their political election as Americans only and not U.S. citizens—such as- “All Constitutionally Protected Rights Reserved”.**
8. PRIVATE VEHICLES VS PUBLIC COMMERCIAL TRANSPORTATION

The registration at DMV, of our private automobiles, **transfers title and ownership to the STATE (without disclosure)** and changes their status from privately owned automobiles to public transportation controlled by fraudulent commercial laws and regulated by police, who support the fraud for profit, and ignore the rights of private Americans.

9. Handing law enforcement a Drivers license at their request/demand is a voluntary surrender of our 5<sup>th</sup> Amendment rights “not to incriminate ourselves” furthermore,



when they request such identification, the request itself is a direct violation of our 5<sup>th</sup> Amendment Rights **which makes them criminally liable at every stop**, and we need to inform them that we cannot give them a Drivers license as they are directly violating our 5<sup>th</sup> Amendment Rights of no self incrimination.

**The Drivers license is the first step in incriminating you, and can and will be used against you in a court of law-** to prove you are a Corporate Driver within their commercial jurisdiction and not a living man and private American with Rights to Travel (who cannot be hindered, damaged, nor taken advantage of).

10. The Drivers license is also a Title of Nobility which is specifically banned in the Constitution, making it unconstitutional in its origin. The definition of license is permission to do something that has already been determined to be unlawful- (Drive instead of Travel).

#### **Law enforcement or Forced Slavery?**

Is the Drivers license a lawful requirement or a purposely planned terrorist attack upon the American people using our own identities and personal names to incriminate us.

The Drivers license is in fact a purposeful trap to draw the people into commerce (tickets and jail), much like a lure draws a fish, and to re-present them to the Courts as Corporate citizens and fiction entities within the District of Columbia, which conveniently relieves them of their Rights as private Americans, in order that the government might profit from false revenue and jail money from bonds of debt upon the people.

All traffic tickets in connection with the Drivers license are mentioned in the Constitution as unconstitutional Bill of Attainers and are therefore null and void.

#### **All Traffic laws do not actually exist in positive law!**

The Drivers license is used in conjunction with the motor Vehicle codes which are without enacting clauses, and are therefore not enacted into positive law by Congress and are not laws at all and consequently there cannot be lawful criminal charges attached to any of the motor vehicle codes or statutes without an enacting clause.

A Drivers license is purposely designed to change peoples political status from free private American civilians, to U.S. military citizen under the 14<sup>th</sup> Amendment as slaves under statutory Jurisdiction. If this does not infuriate you, then your not paying attention!

All this is used and assumed by law enforcement without most peoples knowledge or consent in order for government officials to profit from unsuspecting victims (The American people) who have been targeted under the Enemy war Act of 1917 by the U.S. government, under Woodrow Wilson's Administration.

Incidentally, Woodrow Wilson was also responsible for allowing Congress to pass the fraudulent federal Reserve Act of 1913, and the fraudulent Federal income Tax act under the 16<sup>th</sup>, Amendment.

President Wilson later wrote these words in retrospect-(paraphrase) "What have I done, as I have brought an end to freedom in this country by taking away legitimate control of the government from the people of the republic, and turned over our Nation to a **small group of private Bankers** (the organized mob, who rule as the democratic minority) who now control Congress and the laws in America thru powerful lobbyists groups and the banking laws thru the laws of Commerce of the Federal Reserve Money System".

Woodrow Wilson admitted Committing Treason and wrote down his concerns of regret for selling our Country down the drain, as many of these same fraudulent laws of Commerce of the early 20<sup>th</sup> Century are continuing to affect us greatly (putting the people in harms way) and warp our Country to a greater extent especially in today's modern world that is careening out of control with the scramble for power of the world scene.

### **Why The Drivers license Must be Stopped!**

This is exactly why the laws of Commerce (The Uniform Commercial Code) laid down by the Bankers, **must be stopped, because Commerce is destroying all our freedoms in America!!!**

**Are we Naively participating in the slavery and death of our own Children and sending them off to war without our knowledge or Consent?**

**When we allow our Children to go in and volunteer to sign for a Drivers License, we are actually helping them to enlist in the U.S. military as their identity from that point on is forever changed and used against them as they are immediately registered for the selective service to be used in the soon coming Draft for the New World order agenda, and not necessarily to protect and uphold the forgotten freedoms of America.**

**So I ask you, Does President Bush's National ID Act really convince you that he cares for the future freedom of Americas children like yours and mine?**

**Is this what you want for your children – To receive them back in a box from the battlefield in a War that we should not be involved with in the first place.**

**This War makes far less sense than the Viet Nam War which made no sense at all but only dead soldiers and civilians.**

**Here is a crazy idea- Impeach The Bush Administration and put them all in jail.**

**Why don't we hold this murdering President accountable for War crimes committed against his own people by sacrificing them unnecessarily in the middle east so Halliburton and other Corporations can keep the dollar strong in Iraq.**

**Have they not put their own private money making interests ahead of the lives of the American troops and the freedom of this Nation, at the costly expense and blood of our Countrymen?**

**The big Cover-up of the Constitution and our Common law rights.**

**The big tragedy about the Drivers license, is that this single little document has overthrown and overtaken our Nation by putting everyone under duress.**

Specifically the laws of commerce have been cunningly substituted (by interstate compact laws) for the genuine law of the land and the de jure governments interests and protections for the people have been laid aside, for a commercial takeover of America.

The Constitution has been effectively downplayed and given a backseat that is forgotten by most Americans, so that ultimately this police state under commerce will cause all Americans to forget our common law heritage and accept the brainwashing and lies of commerce in place of the Constitution and the Common law, and they will question whether any other law ever existed at all as the defacto government continues to close off the final loopholes that lead back to the Constitution.

Today especially, both the Constitution and Common law forms are meaningless words to most Americans, who have not trained themselves to comprehend the importance of our roots as Americans and the overwhelming importance of knowing who we are today (in this forgotten world) as common law Americans protected by the Constitution, that takes precedence over commerce if we position ourselves accordingly.

#### **What law form and jurisdiction is law enforcement upholding – Commerce or the Constitution?**

In consideration of the aforementioned facts, law enforcement is upholding and enforcing commercial laws of commerce instituted by foreign courts, for their own commercial purposes (collecting revenue) that have nothing to do with upholding the Common law or with jurisdiction over private common law Americans who have established their Constitutionally protected Rights.

**Private Americans traveling in their private vehicles are exempt from all Commercial laws governing driving, as driving is defined as a commercial activity for commercial purposes, consequently drivers are in commerce while travelers are not!**

Federal law defines “used for commercial purposes” as it applies only to those individuals who are carrying or hauling freight or paying passengers for profit, which would exclude most Americans from all Commercial laws of Commerce, (who are not engaged in Commercial activities while traveling) **and exempting them from all motor vehicle laws without an enacting clause within the motor vehicle code book of all the states - (If they only knew about the law and how to object).**

**Loophole in the law – Learn how to keep yourself out of Commerce -**

**Do not register your private vehicle in your personal name, as this makes you a driver, and no longer a traveler that is protected under the common law and the Constitution. One should consider not registering your cars at all, instead put private property plates on your vehicles, or register under a LLC or Pure Trust Name.**

**Automobiles used for private transportation only cannot be classified as commercial vehicles that are used for commercial purposes!!!**

The conflict of law comes into play when Americans register (transfer title to the State) and license their private property vehicles with the State at the DMV. Their vehicles then become **motor vehicles**, which federal law defines as the same as a **Commercial motor vehicle**. The conflict in law that comes into play is that **it cannot be a commercial motor vehicle if it is not used for commercial purposes, and is therefore not under commercial jurisdiction**, as the law cannot contradict itself and have two opposing principles that are both true, or this voids the laws themselves, without a maxim of law being upheld.

**You are presumed to be in Commerce unless you rebut such assumptions with your common law status by affidavit, and raise Constitutional Questions.**

**The Strategic Military Takeover of America from the people through Commerce!!!**

**(How America has been deprived and is daily being denied our Constitutional freedoms, by contracting around our Constitutionally Protected Rights).**

**The Drivers license has truly conquered this Nation by enslaving everyone of us into commerce, and suspending our Constitutionally Protected Rights, to the servitude of a foreign Crown.**

**Reality is that America has been captured, conquered, and is right now under control (under siege) by a private elite group of attorneys, judges, police, and bankers who control all of society as we know it (right down to our churches and our military, our laws and our money), through the federal reserve act and the agencies that back it.**

**The DMV and the DOT have captured, conquered and now control the vast majority of all private property vehicles of the American people, by taxation and regulation through the the commercial code.**

Even our mail system has been taken over by a military commercial system, and controlled by a private corporation called the U.S. Post Office – A post is a military term used to describe a military control center of a conquered Nation-such as the one used by the District of Columbia (foreign nation) through use of the Zip Code system in the United States.

Their purpose is to keep the naive U.S. citizens bankrupt and broke through commercial notices by pretend/impostor creditors through a fraudulent credit system and fraudulent IRS liens and other lawsuit Notices through the Commercial Post system that appears to be official.

Solution- Zip exempt defines you as non-commercial

The establishment of an address on a Drivers license is used solely by law enforcement for the purpose of drawing you into the commercial jurisdiction of the District of Columbia, however the words Zip exempt are evidence that by self determination, you do not have an address within the commercial jurisdiction of Columbia.

Send Cancellation Notice to Post office then, reinstate your mail for Constitutional use of the mail system only and not commercial. Be careful of any contracts you sign with the commercial government- read them before you sign if at all!!!

Next use a business name (pure trust or LLC and not your personal name.

Then use c/o and Zip Exempt -example (c/o (your domicile) Spokane 05 Washington, Zip Exempt, in America) - instead of Spokane, WA. 99205.

Do not use abbreviations or Zip Codes, or you will be presumed to have an address and also presumed to be a resident of the United STATES within the District of Columbia, and a 14<sup>th</sup> Amendment slave.

Interestingly enough, the American legion is also called a Post and assigned a Post number- for what reason I wonder?

Who are these officials beneath their official capacity and veneer?

Almost all government officials in commerce are masons, attorneys or members of other secret societies like skull and bones, Counsel on Foreign affairs, Trilateral Commission, Illuminati, knights Templar, Knights of Columbus, the legion, the lodge, and other hodge podge bull shit, and have no loyalty to the American people whatsoever accept to uphold appearances.

**These secret groups appear harmless and many are involved in works of charity throughout the community, but behind the scenes they are controlled by hidden agendas and ancient religious practices (some occultic) and initiation rituals, and will eventually be used as groups in the takeover of America - (president Bush Sr. referred to them as a Thousand points of light).**

**How many other secret societies are being organized and will be used for the commercial takeover of America?**

**These commercial officials have pledged their private allegiance to the Crown of England, to support commerce and each other, and care not for the average American child or servicemen they send off to war, or American they put in jail for more money.**

**These Commercial officials refuse to uphold the Constitution and the Rights of the people (against their Oaths to do so) making them traitors and criminals (many of them within and making up the majority of the power structure of our Country).**

**Who for the purposes of their own self enrichment and the ever nearing agenda of the overthrow of our freedoms and laws as we know them, by their backers (the world bankers in England and Britain).**

**Therefore, We are forced to pledge our allegiance to the enrichment of a foreign Nation and not for ourselves.**

**Is this in fact really reality?**

Wait a minute are we forced, or are we volunteering away our freedoms?

Are the bankers and attorneys really in charge, or are the people in charge?

**Who sets precedence?**

What if all of a sudden many of us decide not to go along with tradition and give up our drivers license in exchange for our Constitutionally Protected Right to travel once again?

What if everyone sent back their Drivers license to DMV Certified mail along with a NOTICE OF CANCELLATION and demanded the DMV comply?

Did you know that anyone can cancel their license at any time?

Did you know that the DMV has purposely buried their CANCELLATION NOTICES in their website so people will not even know that they can cancel this diabolical little document called a drivers license?

Incidentally I have nicknamed the Drivers license -STITCH after the very dangerous cartoon character who appears harmless.

If you ask for a Cancellation form at DMV they will hand you a Temporary surrender form, and pretend that there is no such form when questioned.

The DMV doesn't care if you surrender it or anything else, just don't permanently cancel it or they can't make money off you or bond you anymore.

If many people canceled wouldn't the government take Notice of all that lost revenue?

Commerce might even shut down and the Common Law and the Constitution might even be restored!!!

As Americans what are we going to do about our Captivity?

Are we going to let a little piece of plastic stand between us and our Constitutionally protected Rights and freedoms?



I don't know about you but I'm tired of lies by attorneys and judges and police who are getting rich off our participation in a fraud through foreign controlled courts of commerce!!!

**Refuse to Participate in Commercial fraud.**

If you want to reverse this then I am calling for you to unite and renew your allegiance in America, by taking an **Oath not to participate in Commerce any longer** with a foreign Nation, through foreign Courts of commerce.

I am asking you to renounce and break all ties and allegiance to foreign Courts Controlled by England **by canceling your Drivers license for reasons of commercial fraud, and secondly by removing all legal issues to Federal court or common law courts of the people**, and to demand that the common law and Constitution be upheld!

Let's flood the federal Courts and starve the lower courts, and remove any procedure or ruling to Common law court of the people that is even remotely unconstitutional.

Finally the good news is that you by your own self determination will never set foot in their wicked and corrupt courts of Commerce again!!!

Are you with me people, or do you love your slavery so much that you cannot do some simple paperwork in order to preserve the precious freedoms our forefathers bled and died for?

America is not lost yet people **so make up your minds and stand fast!!!**

**Let's stop participating in slitting our own throats any longer!!!**

Remember, Our Constitutionally Protected Rights are unalienable because they are given to us by God (God given) and do not come from a judge or a cop!!!

These God given unalienable Rights did not even originate from the Constitution, but they originated from God himself and any cop or official who violates or denies these God given Rights, has falsely set himself up above God and is pretending to be God, and has far exceeded his delegation of authority.

**Therefore, in light of the above facts, We demand our unalienable Constitutionally protected God given Rights be recognized and any notices of commerce be dismissed, or else we call for the resignation of any officials who stand in treasonous opposition to the organic Constitution of the united states for America being upheld!!!**

### **Claiming your Constitutionally Protected Rights**

Type out the following and laminate over the Bottom of Drivers license

All God given unalienable, Constitutionally Protected Rights Reserved

Non- Driver Exempt from Commerce

For purposes of remaining peaceable with law enforcement only!!!

Exercising my Constitutional Right to Travel- Upheld by Supreme Court and the organic state Constitution.

living Soul, lawful man, non-fiction  
non-bondable, non-taxable, non-corporate  
non-statutory, common law American  
not a federal employee  
not a 14th Amendment citizen

One of the people to the preamble of 1776

By: Mark Chapman, agent

Restricted signature to title 28 sec 1746 (1)

Creditor, and not a debtor!

I do not claim a social security number.

Non-participant in Commerce  
as it violates the Bill of Rights.

Not a U.S. citizen or resident!