ARGUMENT

Case No.

Preliminary Statement

The Complainant, the Citizens of Clark County, make very bold allegations regarding the unconstitutionality of the Las Vegas Justice Court (eviction court included), the District Court, the Nevada Revised Statutes and the unconstitutionality of the formation of the illegal office of the Ex Officio Office of the Las Vegas Constable. The Citizens summarizes each of these issues as follows:

1. **The Courts of Clark County and all Courts south of the 37th Parallel (which is situate several miles north of Beatty, Nevada) have no authority under the Nevada Constitution.**

   In 1865 the State of Nevada was formed by the Enabling Act (a Congressional Act) and the State of Nevada when formed was primarily a square. When the Constitution was formed under the Enabling Act, the Constitution set forth the extent of its jurisdiction. That jurisdiction only encompassed the square portion of the State of Nevada as originally formed.

   1n 1866-67 Congress saw fit to grant more lands to the State of Nevada. See THE UNITED STATES CONGRESSIONAL ACT OF 1866 (1867) THIRTY-NINTH CONGRESS Sess. 1 Ch. 71,72,73 Chap. LXXIII [THE ACT]. These lands included all of the lands below the 37th parallel and two slats of land along the eastern boundary taken from the territory of Utah. The counties affected by these new Congressionally granted lands were portions of Elko County, portions of White Pine County, portions of Lincoln County, the southern portion of Nye County (the 37th parallel is marked a few miles north of Beatty, Nevada) and finally, all of the Clark County.

   However, the State of Nevada failed to amend the Nevada Constitution to extend the authority of the Constitution to these newly granted lands. A thorough reading of THE ACT which ceded the lands to the eastern border of Nevada, shows that no public

lands were withheld by the federal government. So this argument is absolutely baseless. There exists no legal nexus between the 1864 lands and the 1866 lands.

To date the lands along Nevada's eastern border (north of the 37th parallel) have never been brought within the Constitutional jurisdiction of the State of Nevada. Therefore, these lands **ARE NOT** within the Constitutional boundaries of the State. As evidence of this absolute political tragedy reference is made to the Biennial Message of the first Governor of the State of Nevada (H.G. Blasdel) who stated in his message that,

> ". . . the establishment of **boundary lines by the Constitution would seem to leave the Legislature without present authority to bind the State** in the premises." (Biennial Message Jan. 10, 1867).

And

> In order that no misapprehension may arise from a failure to comply with the Act, I suggest the propriety of immediate legislative acceptance as therein contemplated. **In order to legally and fully extend the jurisdiction of the State over the ceded territory, I suggest the propriety of proposing and submitting to the people, for their ratification, an amendment to the Constitution conforming our southern boundary to the lines designated in the grant**. (Emphasis added)

This misapprehension, though publicly pointed out by H.G. Blasdel was patently ignored by Nevada's Legislators at that time and continued to be ignored by future Legislators for over 100 years (if this is not "malfeasance" I don't know what is). However, because some lay people discovered this *flagrante delicto* and started alleging that Clark County was not legally part of the State of Nevada, the Legislative Counsel Bureau [LCB] (on information and belief an organization that aids, abets, advises and gives legal advice in the commission of criminal conduct by Nevada's Legislators). The LCB is a private corporation that controls must of the Nevada Legislature's basic functions. The LCB is a private corporation that is not registered with the Nevada Secretary of State as a domestic corporation, nor is it registered as a foreign corporation doing business in Nevada. It is a ship sailing through the State of Nevada flying under its own flag – it cannot be subpoenaed, it cannot be sued and information obtained through discovery, it cannot be audited. It has stolen all of the Legislative Records of the State, which under the Nevada Constitution are supposed to held and maintained by the Nevada Secretary of State. This

illegal transfer of the State's records made them private, when they were public records when maintained by the Secretary of State. The LCB has achieved Teflon "SOVEREIGNTY." Nobody knows who the stock holders are and the LCB refuses to release this information. Therefore, the stock holders could be the communist Chinese Party (CCP) or other suspected members of their party such as George Soros. It is believed, therefore, that the LCB is the perfect criminal organization (as they have a presence in other states and also have an international foot print). It should also be noted that the LCB controls all of the marijuana tax money which is supposed to be used for the education of all of our children. Yet, not one penny has made it to one school. This is clearly an enigma of grave concern.

After recognizing the cataclysmic potentiality of these allegations: to wit: all marriages and divorces in Clark County being void from 1867 to 1979, all criminal convictions from 1867 to 1979 being null and void, all judgments made by any court in Clark County or other affected areas are/were null and void, etc.) So, the LCB was tasked with curing this disaster. The LCB determined that in order to cure this, it required an Amendment to the Nevada Constitution (as was suggested by Nevada's first governor H.G. Blasdel). The LCB advised the Legislature to place a Constitutional Amendment on the ballot.

So in 1979 the LCB, in their infinite wisdom and legal acumen, placed a Constitutional Amendment on the ballot in the form of Question No. 5. This was placed all ballots throughout the entirety of the State of Nevada. This was improper, because only the citizen residing in the original territory of the State (when it was formed) had the right to vote on this question. Remember, the Nevada Constitution only applied to the original "square" as the State was formed. In addition, the explanation of the Constitutional Amendment provided by the LCB on the ballot issue failed to mention THE ACT and the real reason why the Constitutional amendment was being proposed. The failure to sufficiently explain and make reference to THE ACT in discussing Question 5, constitutes "silence" and is therefore an act of fraud. See ***U.S. v. Tweel***, 550 F.2d 297, 299 (1977); quoting ***U.S. v. Prudden***, 424 F.2d 10221, 1021 (1879), which states,

> **Silence can only be equated with fraud** where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading.

As the facts are set forth, the Legislators at the time (1867) were much too busy to take the advice of Nevada's first Governor (who was actually much more honest than the ones we have today). This biennial message from Governor Blasdel constitutes a party admission by the State of Nevada that the State of Nevada has no legal authority in the eastern boundary of Nevada (to wit: the eastern half of Elko, White Pine and Lincoln (north of the 37th parallel in THE ACT lands, all of Clark County and the southern portion of Nye County from Beatty on down).

Question No. 5's language was essentially, "To extend the Constitutional boundaries of the State to the physical boundaries." Question No. 5 was passed and the Nevada Constitution was putatively amended. However, as stated above, the citizens in THE ACT lands also voted on Question No. 5 and had no right to because there was no Constitutional authority in these areas by virtue of the Legislature's failure (as pointed by Nevada's first governor H.G. Blasdel) to correct this Titanic error in the 1860's. By way of example this would be like the residents of the Utah Territory voting on this amendment when they were outside of Nevada's Constitutional authority.

Hence, the vote was not just unlawful, it was without constitutional authority. As the Constitutional Amendment was improperly passed, it remains to this day null and void. Therefore, neither the Las Vegas Justice Court, nor the District Court or any of their various quasi-judicial tribunals (such as administrative hearing offices) have the authority to do anything under Nevada law. This means that the affected areas (which includes all of Clark County) have been illegally engaging in governmental business. This means that the Clark County Commission is illegal and all of their acts are illegal. All actions taken by any city and county officials in these affected areas are null and void. The rippling effect and collateral consequences of this would be a death blow to every official act made in the last 100 years.

2. **This brings us to the illegal formation of the Ex Officio Office of the Las Vegas Constable by the Clark County Commissioners.** This completely illegal office was formed by the Clark County Commissioners by passing what is known as a "special law." Nevada's Constitution prevents this kind of *ultra vires* conduct by the Legislature and therefore, the political subdivisions (meaning Clark County) are also prevented from making special laws

relating to constables. This merging of the Constable's office was done in a back door deal by Steve Sisolak and other nefarious actors on the Commission by violating the open meeting law. Commissioner Tom Collins refused to participate in this illegal act and cautioned the other Commissioners against it. They did not listen. Illegally ousting a duly elected Constable (John Bonaventure) violated the Nevada Constitution as set forth in NEVADA CONSTITUTION **Article 4, Section 20,** which reads as follows:

> Certain **local and special laws prohibited.** The legislature **shall not pass local or special laws in any of the following enumerated cases**—that is to say:
> **Regulating the jurisdiction and duties of** justices of the peace and of **constables**, and fixing their compensation;

As the Nevada Legislature cannot pass any special laws regarding the Constable's office; and the State has no authority to pass any such law, then there exists NO political subdivision of the State which can circumvent this authority. Neither Clark County nor the City of Las Vegas have more authority than the State does. This illegal conduct by the Clark County Commissioners was committed without any delegated authority or statewide uniformity (which the Clark County Commissioners, even if they were a legal governmental entity, could not do anyway). The Nevada Constitution clearly prohibits any "Special laws" regarding constables.

In the case of the Las Vegas Constable, this is the only constable's office (an elected office, not an appointed one) in the entirety of Clark County that was unconstitutionally and illegally disbanded and replaced or morphed into the Sheriff's office. This is a blatant fact, as the Clark County Commissioner's did not disband and/or morph the Constable's offices in Boulder City, Laughlin, Mesquite, North Las Vegas, Henderson and others. On information and belief this was done so that the Clark County Commissioners who were attempting to build a legacy for themselves wanted to steal millions of dollars from the surplus at the Constable's office to build the gun park in the northern valley. So, John Bonaventure was accused of criminal acts and his office was done away with. Up illegally dissolving the office of the Las Vegas Constable, the Clark County Commissioners transferred all of the Constable's surplus to the County. This is usually called embezzlement or theft.

Even if the Clark County Commissioners disbanded and morphed all of the constable's offices in Clark County there act would still have been illegal and unconstitutional, as in order

for this conduct to be legal it would have had to have been done on a state wide level and it was not.

Thus, any action taken by the Ex Officio Office of the Las Vegas Constable is *ultra vires* and illegal, as the office does not lawfully exist, nor does it have any authority. Any being evicted who was served by a member of the Ex Officio Office of the Las Vegas Constable, their service was and remains void and a nullity. Upon hearing in the Las Vegas Justice Court's eviction court (an inferior tribunal which is actually an administrative hearing with a hearing master who call themselves "judges") they faux court transmits an order to evict the Appellant. This order is generally, once again, served by the Ex Officio Office of the Las Vegas Constable (an illegal office). These orders are unenforceable and any attempt to do so would constitute "malfeasance of office."

3. The Nevada Revised Statutes are null and void, are entirely unenforceable and without affect.

Thus, the jurisdiction of this Honorable Court is that of subject matter jurisdiction as well as venue jurisdiction. ". . . jurisdiction is a threshold matter in every case." See ***Steel Co. v. Citizens for a Better Environment***, 523 U.S. 83. 94-95, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998). "**Subject matter jurisdiction may be challenged at any time** by the parties and by the court *sue sponte*." ***Folden v. U.S.*** ,379 F.3d 1344. 1354 (Fed. Cir. 2004); See also ***Arbough v. Y & H Corp***., 546 U.S. 500, 126 S.Ct. 1235, 163 L.Ed.2d 1097 (2006). ***Ford v. U.S***., 101 Fed. Cl. 234 (2011). A question of jurisdiction cannot be waived. Jurisdiction should affirmatively appear, and the question may rise at any time. ***Grace v. American Central Ins. Co***., 109 U.S. 278, 33 S. Ct. 207, 27 L.Ed. 932 (1833); ***Mansfield C & L.M. Railway Co. v. Swann,*** 111 U.S. 379, 382, 4 S.Ct. 510, 28 L.Ed. 462 (1884); ***Mattingly v. Northwestern Virginia railroad Co***., 158 U.S. 53, 57, 15 S.Ct. 725, 39 L.Ed. 894 (1895). When jurisdiction is challenged, the party moved against must controvert the challenge. Failure to do so is fatal to the opposition of the party moved against. ***Kelly v. Kelly***, 85 Nev. 317, 454 P.2d 85 (1969).

FOLLOWING IS A DETAILED EXPLANATION OF THE FAILURE OF THE NEVADA REVISED STATUTES AS "LAW" IN EITHER THE LAS VEGAS JUSTICE (EVICTION) COURT OR THIS DISTRICT COURT.

THE NEVADA REVISED STATUTES ARE VOID AB INITIO AND THEIR USE IN THIS CASE NEGATES ANY OUT COME WHAT-SO-EVER.

Before, this Court or any lawyer can fully understand the Constitutional deficiencies of the Nevada Revised Statutes, the malversion that has taken place, a historical perspective is necessary. Only then, can it be fully understood what has become of the Law in Nevada and the pirating of Nevada's government. As such, the Appellant begins with where the statutes themselves come from.

DAVID DUDLEY FIELD, II
THE PUTATIVE FATHER OF AMERICA'S
CODIFIED STATUTES AND CODE PLEADING

David Dudley Field, II, born in 1805 was an American lawyer and law reformer who has been unofficially credited as the father of statutory codification and code pleading. His *magnum opus* was engineering the move away from common law pleading towards code pleading, which culminated in the enactment of the **Field Code** in 1850 by the state of New York.

Field graduated from Williams College in 1825, studied law with Harmanus Bleecker in Albany[1], and settled in New York City. Field was admitted to the New York bar in 1828.

After having practiced law for several years, Field became convinced that the common law in America needed radical changes to unify and simplify its procedure. In 1836, after his wife's death, Fields traveled to Europe for over a year and investigated their legal systems. Upon returning he worked on codification of the common law procedure. An example of this was the change from the common law pleading of "confession and avoidance" to what is now called in the code as an "affirmative defense" or yes, I did it, but I am excused from having committed the crime (allowing argument as to the *mens rea*).

Much of Field's ideas on codification and the civil procedure rules were based on the 1825 Louisiana Code of Procedure. Louisiana is the only State in the Union that does not have any Common Law. This is because Louisiana used to be French and was using Napoleonic Law. It is because of Louisiana that the misnomer that there is no federal common law was created.

[1] At that time, before one could obtain their standing as a member of the bar, applicants had to perform an internship under an admitted member (as is currently practiced in California), as was the same practice during the founding era for preachers as well. Recently, the Washington Supreme Court held that they were going back to this method..

The truth of the matter is that there is federal common law, but simply, no ***general*** federal common law.

Only 49 states in the Union have common law. What this means is that the Federal System is required to adopt the common law of each state in which they are situated. Hence, no *general* federal common law. Louisiana's system is based entirely upon Napoleonic Law, which is a derivative of Canonical Law – Roman Law or Cannon Law borrowed from the Roman Catholic Church, which law exacerbated and lead to the fall of the Roman Empire. The Louisiana code was also inspired by French law, Spanish, and Roman law all from countries that widely practice Catholicism. The common law tradition essentially was an attempt to be completely eliminated (when history teaches that these forms of law were done away with to distance the law from the law of the church – not the other way around as Field so moved).

Common Law pleading was very unforgiving and lawyers often made mistakes that cost their clients dearly. European civil law thus influenced American civil procedure, partially through the intermediary of Louisiana, which was a complete departure from the common law. According to some sources Field was also influenced by criticism of the common law by his law partners, but there exists no source to verify this.

Field's views on codification were laid out in 20 Amer. Law Rev. 1 (1866). This article alleges that codes would make it easier to find the law and would keep judges from making bench law. But the writers of this annotation viewed this intended purpose as unfulfilled and therefor feckless in modern times stating as follows:

> The history of lawmaking in California demonstrates, that the hopes of David Dudley Field have not been fully attained even in our comprehensive program of codification; judges still engage in the making of laws; the ordinary citizen is often lost and often bewildered among the myriad of laws; and finding the law is often a laborious process for even the experienced practitioner.

It was not like everyone was on Field's band wagon. There were very heady debates regarding the legality or constitutionality of the use of codes, with many jurisdictions finding that code pleading was unconstitutional.

Nevada still retains a very powerful connection to the English Common Law as one of Nevada's preliminary Statutes, **NRS 1.030** sets forth that the common law of England shall be

the rule of all of the courts in Nevada.[2] Most lawyers and judges are completely unaware of this and constantly ignore it or violate it. For example, Nevada's Supreme Court has adopted the New Mexico Rule for Juror misconduct when they are required by NRS 1.030 to adopt only the Common Law Rule of Juror Misconduct. This decision was made in the Case of ***Ronald Brady (jr.) v. State***, which the Nevada Supreme Court determined not to publish (because when you decide a case in violation of the law you don't want anybody to find out about it). This is called sweeping it under the rug.

Field worked for more than 40 years of his life on his codification project. He proposed reforms in informal writings, journal articles, and legislative testimony. His ideas met with little interest. In 1846 however, Field's ideas gained more notoriety and influenced a New York State Constitutional Convention who proposed the adoption of a codification of the laws. In 1847, much like Russell West McDonald in Nevada, Field was appointed head of a state commission to revise court procedure and practice. The first part of the commission's work, a portion of the code of civil procedure, was reported and enacted by the legislature in 1848. By 1850, the New York state legislature had enacted the complete Code of Civil Procedure, called the Field Code since it was almost entirely Field's work.

Field's system abolished the forms of procedure between an action at law (a civil case demanding monetary damages) and a suit in equity (a civil case demanding non-monetary damages). This is why many American lawyers, who don't know the history of law struggle to understand these processes as only a few American law schools even offer courses on Common Law pleading and the only known book on Common Law Pleading, authored by Koffler and Reppy, is owned by West Publishing and is being withheld from print. So even if you wanted to educate yourself on this topic it has been made much more difficult.

Under Field's new procedure, rather than having to file separate actions, a plaintiff needed to file only one civil lawsuit. Eventually Field's civil procedure code was adopted in 24 states.

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[2] "**NRS 1.030.** The common law of England, so far as it is not repugnant to or in conflict with the Constitution and laws of the United States, or the Constitution and laws of this State, shall be the rule of decision in all the courts of this State."

In 1857, Field became chair of the state commission for the codification of all of New York laws except for those portions already affected. Field personally prepared almost the entire political and civil codes for New York.

This codification was adopted only in small part by the state of New York in 1865, but it served as a model upon which many statutory codes throughout the United States were constructed. Oddly, Field's civil code was rejected by his home state of New York, but it was adopted by California, Idaho, Montana, North Dakota, and South Dakota, as well as the territory of Guam. (Idaho mostly enacted the contract sections of Field's civil code but declined to enact the tort sections.).

Thanks to Field's brother, Stephen (who served in the California State Assembly and as California's fifth Chief Justice before being appointed to the U.S. Supreme Court), California bought into Field's codification project more than any other state. California first enacted a Practice Act in 1851 based largely upon the Field Code. In 1872 California enacted Field's civil procedure, criminal procedure, civil, penal, and political codes as the first four California Codes (California merged Field's penal and criminal procedure codes into a single code).

Field was originally an anti-slavery Democrat and supported Martin Van Buren, but later he switched parties and gave his support to the Republican Party in 1856. Field supported the Lincoln Administration throughout the American Civil War.

Inexplicably in 1876, Field jumped political ships and returned to the Democratic Party. In 1877 Field served three short months in the United States House of Representatives filling the unexpired term of Smith Ely, who left to become the Mayor of New York City (apparently a more desirable position than being a Congressman). Field died in New York City in 1894 at the age of 89.

Essentially what occurred here is that David Dudley Fields, II, was heavily influenced by foreign laws because they made the practice of law much easier and this protected lawyers from committing malpractice. Even though this is now widely practiced in almost every state, this change was not necessarily in the best interest of all concerned as there are shortcomings in this entire process as will be pointed out when discussing the Legislative Counsel Bureau’s codification gerrymandering.

So now you have a brief history of statutory codification and where it came from. Let us now move on to the complexities of codification.

THERE ARE STATUTES AND THEN THERE ARE STATUTES: WHAT IS POSITIVE AND NON-POSITIVE LAW?

The Clark County District Attorney that suggested that the Nevada Revised Statutes was only *prima facie* evidence of the law (meaning the Statutes at Large) is sadly mistaken. It is a misnomer to make the statement that he did because EVERYONE in Nevada is being told that the Nevada Revised Statutes IS THE LAW in Nevada.

The State's allegation that there is a two tier system in Nevada Law attempts to state that Nevada has the same legal system that currently exists in the Federal System. It does not.

In the Federal system, certain titles of the United States Code have been enacted into "Positive Law," and pursuant to section 204 of Title 1 of the Code, the text of these positive law titles is legal evidence of the law contained in those titles. The other titles of the Code, which are not positive are only *prima facie* evidence of the laws contained in those titles. How many attorneys in Nevada know this? What this means is if a person is charged with non-positive law, they may challenge the statute/code and require the federal government to charge them with the Statute at Large. Why is this important? Because in non-positive law the headings of sections, which are placed there by the codifiers are not law. The heading of a section can literally change a section's entire meaning. How many attorneys know this? Very, very few – if any. To provide an example of this we look at the case of ***North Dakota v. U.S.***, 460 US 300 (1983), where the Court held that,

> Although the codifiers of the United States Code chose to place the gubernatorial-consent provision in the midst of the Conservation Act's provisions, **that choice, "made by a codifier without the approval of Congress . . . should be given no weight**." ***United States v. Welden****,* 377 U. S. 95, 99, n. 4 (1964).

The following titles of the United States Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 41, 44, 46, 49 and 51." **US HOUSE OF REPRESENTATIVES, OFFICE OF LAW REVISION COUNSEL** website [emphasis added]. Each Code section that is positive law must contain the following language,

POSITIVE LAW; CITATION

> This title has been made positive law by section 1 of act July 30, 1947, ch. 388, 61 Stat. 633, which provided in part that: "Title __ of the United States Code entitled '_____', is codified and enacted into positive law and may be cited as '__ U. S. C., §——.' "

However, Titles such as Title 26, which is the IRS code, has NOT been enacted into 'positive law.' So the Internal Revenue Code or Title 26 is not actually law and there is a good reason for this. But it is *prima facie* evidence of the law, which is supposed to exist in the Statutes at large. The Statutes at Large however are nothing more than a copy of the IRS Code. It is the only Statute at Large that is a completely different size than all of the other books. This is just another flimflam juxtaposition by these codification cowboys.

The premise of or difference in *positive* versus *non-positive law* is set forth in ***Rodriguez v. U.S. Secretary of Labor Donovan***, 769 F.2d 1344 (1984),

> "[I]t is well settled that "**the Code cannot prevail over the Statutes at Large, when the two are inconsistent**." ***Stephan v. United States***, 319 U.S. 423, 63 S.Ct. 1135, 1137, 80 L.Ed. 1490 (1943); ***Royer's Inc. v. United States***, 265 F.2d 615 (3rd Cir. 1959), the provisions of the Code are merely *prima facie* evidence of the law. 1 U.S.C. section 204(a)." ***American Export Lines Inc. v. United States***, 290 F.2d 925, at 929 (July 19, 1961).

When is the Code inconsistent? Well let's see? In United States Code: **Historical Outline and Explanatory Notes Prepared by Richard J. McKinney, Assistant Law Librarian, Federal Reserve Board**, for Law Librarians' Society Program, *November 9, 2004 Last Revised in July 2013, where it was reported that . . .*

> The Code enacted no new law (not really), repealed no prior law and in cases of inconsistency the statutes were to prevail. However, like the Revised Statutes, which was enacted into positive law, the Code is to encompass the general and permanent laws authored by Congress (not private and local matters, nor annual appropriations). **Some 537 errors were later found; 88 of them errors of substance**. See H. Rept. 70-1706 to accompany H.R. 13622, a bill to provide Supplement I volume to Code (act of May 29, 1928, ch. 911, 45 Stat. 1008).

Five hundred thirty-Seven mistakes made in the United States Code? And, *eighty-eight* of them were substantive errors that substantially changed the meaning of the law? This certainly is not good.

However the Courts appear to have remained consistent with regard to the authority of "positive law."

> That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts . . . ." This Court, in construing that statute has said that "the very

> meaning of `prima facie' is that the Code cannot prevail over the Statutes at Large when the two are inconsistent." ***Stephan* v. *United States,*** 319 U. S. 423, 426. **Even where Congress has enacted a codification into positive law**, this Court has said that the "change of arrangement, which placed portions of what was originally a single section in two separated sections cannot be regarded as altering the scope and purpose of the enactment. For **it will not be inferred that Congress, in revising and consolidating the laws, intended to change their effect unless such intention is *clearly* expressed**." ***Fourco Glass Co. v. Transmirra Corp.,*** 353 U. S. 222, 227, *quoting* ***Anderson v. Pacific Coast S. S. Co.,*** 225 U. S. 187, 198-199. (Emphasis added).

Why is it important to know this? It is important because Nevada does not have positive law and non-positive law. This is a distinction that only the federal system has. Yet, the Clark County District Attorney's office wants us to believe that this distinction does exist in the State, when it does not. Unfortunately, codification is an extremely complex process, so much so that even today unless someone submerses themselves into the actual codification process, the law itself cannot even be truly known.

STATUTORY NOTES: WHAT ARE THEY? ARE THEY LAW OR JUST NOTES?

As long as we are talking about statutes/codes, let's dig a little deeper and find out what's really going on. One of the core distinctions between positive and nonpositive law titles in the United States Code is how they are assembled and amended. Positive law titles can only be changed by direct amendment by Congress, and the amendments must reference a change to the title and section of the Code.

However, non-positive law titles can be arranged or rearranged by the Office of the Law Revision Counsel [OLRC].[3] These code sections are subsequently amended by reference to the act or public law provisions under revision. The OLRC does not make any substantive changes to the law, but because non-positive law titles are only compilations of the public laws in force, **the OLRC has the power to "classify newly enacted provisions of law" in non-positive law titles without direction from Congress**.[4] The differences in the OLRC's power with respect to positive and nonpositive law titles explains why some statutory notes exist.

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[3] See Daniel B. Listwa, **UNCOVERING THE CODIFIER'S CANON: HOW CODIFICATION INFORMS INTERPRETATION**, 127 Yale L.J. 464, 475 (2017) (citing an email from Robert Sukol, Deputy Law Revision Counsel, explaining that the OLRC decides where to place provisions in nonpositive law titles based upon their own reading of the statute.

[4] 2 U.S.C. § 285b(4) (one of the functions of the OLRC is "[t]o classify newly enacted provisions of law to their proper positions in the Code where the titles involved have not yet been enacted into positive law.").

This issue appeared most recently in April of 2017, in the D.C. Circuit court which decided what commentators have nicknamed as the "Snakes on a Plane" case.[5] The issue presented in that case was whether the Lacey Act's shipment clause prohibited the transportation of reticulated pythons and green anacondas from one state to another.[6] In dismissing one of the government's arguments, the court cited Congress's definition of "continental United States."[7] At first blush, this does not appear to need further inquiry. However, courts cite definitions from the United States Code all the time. But here, curiously, the D.C. Circuit did not cite a United States Code section to define "continental United States." Instead, it cited a statutory note. This appears to raise some questions.

Statutory notes are provisions of law placed after the text of a United States Code section. They exist throughout the United States Code and **are valid law despite their location in the Code**. The first eight sections of the United States Code set forth definitions of words such as "county," "vessel," and "vehicle" that apply to all acts of Congress. Yet the definition of "continental United States" is relegated to a statutory note.

Despite its location in the notes, the definition of "continental United States" is law: it was passed by Congress and signed by the President, and should be treated and relied upon like any other provision of law. The problem is that it doesn't show up where most laws do, causing bewilderment and confusion even for experienced researchers.[8] And "continental United States" is not alone. Many, many statutes end up in notes to the United States Code rather than in Code sections. The inclusion of laws as statutory notes has several complications.

First, because these notes are separate from the main text this is simply confusing, because it makes the United States Code disjunctive. Second, this separation of the notes and main text

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[5] Aaron L. Nielson, D.C. Circuit Review—Reviewed: "Snakes on a Plane," Yale J. on Reg. Notice & Comment (Apr. 7, 2017), http://yalejreg.com/nc/d-c-circuit-review-reviewed-snakes-on -a-plane/ [https://perma.cc/9PW9-Z6E6]; Zoe Tillman (@ZoeTillman), Twitter (Apr. 7, 2017, 7:28 AM), https://twitter.com/ZoeTillman/status/850354648590503938.

[6] U.S. Ass'n of Reptile Keepers, Inc. v. Zinke, 852 F.3d 1131, 1134 (D.C. Cir. 2017)

[7] 1 U.S.C. § 1 note. One author has called statutes that affect the meaning of later-passed statutes, including 1 U.S.C. § 1, submarine statutes. Christian Turner, Submarine Statutes, 55 Harv. J. Legis. 185, 190 (2018). A note to a submarine statute is an even more troubling problem, raising the possibility of stealth submarine statutes

[8] See ***Schwier v. Cox***, 340 F.3d 1284, 1288 (11th Cir. 2003) (explaining that the district court mistakenly noted that "although section 7 was part of the Privacy Act that 'was passed into law as Public Law 93-579,' the fact that section 7 'was never codified, and appears only in the 'Historical and Statutory Notes' section of the United States Code,' made section 7 a mere 'historical footnote to the Privacy Act of 1974 [which] Congress has never reflected any intention of [codifying]'"); Michael J. Lynch, THE U.S. CODE, THE STATUTES AT LARGE, AND SOME PECULIARITIES OF CODIFICATION, 16 Legal Reference Servs. Q. 69, 80 (1997) ("It is astonishing that laws of general significance . . . should be found in the United States Code only in the notes.")

makes researching federal law more difficult. Because of this, even a professional researcher can end up missing what the law really is. Third, if professional researchers don't even know this, what about those who are enforcing the law? Perhaps this little tidbit is unknown to literally all law enforcement agencies. If this is the case, then we are all in trouble as well. Huebner relates that he knows no attorney that knows this and that they believe that all current federal statutory law is found in the United States Code itself. If attorneys don't even know this then how are the citizens supposed to know this when they are charged with something? Isn't the law supposed to be written so that the average man can understand it? This little statutory note issue quite literally throws a considerable monkey wrench into this belief. Novice researchers would be clueless that law also exists in statutory notes.

As if this were not enough, there are different types of notes in the United States Code. The official version of the United States Code, prepared by the OLRC, contains a section of notes following the statutory text of each section of the Code.

There are two main types of notes that are included: editorial notes and statutory notes.[9] Editorial notes are written by the OLRC and assist researchers in understanding a code section. Editorial notes "provide information about the section's source, derivation, history, references, translations, effectiveness and applicability, codification, defined terms, prospective amendments, and related matters."[10] Revision notes, for example, are a type of editorial note that briefly explain what changes were made to a section of the Code by certain amendments. This aids researchers with a way to focus quickly on which amendments to look at in their research. Another category of editorial notes, "***codification notes***," provide information about a section's relationship with other sections. While useful research tools, **editorial notes are not law**.

Statutory notes, on the other hand, **are law**. The OLRC defines them as "provisions of law that are set out as notes under a Code section rather than as a Code section." **Unlike editorial notes, statutory notes have been passed into law and have the force of law despite not showing up as independent code sections**. The decision to place provisions of law in

[9] Detailed Guide, supra note 1, at https://uscode.house.gov/detailed_guide.xhtml#statutory [https://perma.cc/5VJ8-KM46].
[10] ***Id.*** at https://uscode.house.gov/detailed_guide.xhtml#editorial [https://perma.cc/24MS-3CJD]

statutory notes is an editorial decision made by the OLRC, not Congress. The decision to do this is sometimes forced upon the OLRC, but their existence and location as statutory notes rather than code sections does not affect their meaning or validity. **Statutory notes, as a general rule, follow editorial notes, but the break is not clearly distinguished in the Code and their difference is often difficult to differentiate**. "Statutory notes" do not have a "consistent" heading in the Code and are usually identified by a heading that names the public law of origin first.

The distinction between editorial and statutory notes is confusing enough, but to even more complicate the individual's understanding there also exist commercial versions of the United States Code, which most researchers use. The commercial versions of the Code includes an additional category of notes in the form of annotations of case law, legislative history documents, administrative regulations, and secondary sources. These notes appear near the editorial and statutory notes from the OLRC, and there is nothing that indicates where one ends and another begins unless a researcher is extremely familiar with the OLRC rules. To exacerbate the difficulty even further, in some instances commercial publishers modify the OLRC's notes, making it even more difficult for researchers to understand who is providing the information – the Commercial editor or the OLRC editors.

Obviously editorial notes and commercial publishers' notes benefit researchers, but can be confusing. These commercial editorial notes are not law, they point to law and other sources for clarification. However, **Statutory notes are law. If statutory notes are law, then why aren't they contained in sections of the United States Code?** The answer is more complicated than it should be. The simplest answer is the existence of positive law and non-positive law titles in the United States Code.

"Positive law," in the context of the United States Code, means that a title of the Code has itself been enacted as a statute and **is legal evidence of the law**.[11] **"Non-positive law"** titles,

[11] See The Term "Positive Law," Off. L. Revision Counsel: United States Code, http://uscode.house.gov/codification/term_positive_law.htm [https://perma.cc/H6PV-NSB3]; see also Rob Sukol, POSITIVE LAW CODIFICATION OF SPACE PROGRAMS: THE ENACTMENT OF TITLE 51, UNITED STATES CODE, 37 J. Space L. 1, 10–11 (2011) (explaining the use and history of the term "positive law" with respect to the United States Code and the distinction between this narrow use and the general use of the term in legal philosophy)

on the other hand, are merely compilations of statutes and **are only *prima facie* evidence of the law**.[12] The current United States Code contains both positive and non-positive law titles.

This is extremely confusing to many and demonstrates that the law is convoluted, because sometimes a note is the law and sometimes a note is not the law. What we are left with is a tedious labyrinth of mumbo jumbo that even attorneys can't understand themselves half the time. Whatever happened to the concept that the law is supposed to be written so that even the common man/woman can understand it? In ***United States v. Critzer,*** 498 F.2d 1160 (4th Cir. 1974), an income tax case, the Court held that,

> "While the record amply supports the conclusion that the underreporting was intentional, the record also reflects that, concededly, whether Complainant's unreported income was taxable is problematical and the government is in dispute with itself as to whether the omitted income was taxable," *Id.*, at 1160.
>
> "We hold that Complainant must be exonerated from the charges lodged against her. As a matter of law, **Complainant cannot be guilty of willfully evading and defeating income taxes on income, the taxability of which is so uncertain States Government plausibly reach directly opposing conclusions**. As a matter of law, the requisite intent to evade and defeat income taxes is missing. **The obligation to pay is so problematical that Complainant's actual intent is irrelevant.** Even if she had consulted the law and sought to guide herself accordingly, she could have had no certainty as to what the law required.
>
> "It is settled that **when the law is vague or highly debatable**, **a Complainant**-- actually or imputedly -- **lacks the requisite intent to violate it**," ***Id.***, at 1162.

Although the law may not be vague for research professionals or the ORLC, the average person cannot understand the law as it is written and this complicated presentation of the law is patently unfair to the common man. The actual law must subsequently be declared vague because it is in effect hidden (even though it may be said that it is in plain sight). It is too difficult to understand for the average person.

This section has digressed from the main topic of this book, but this side bar was perhaps necessary so that the reader has an understanding of the complexity of statutes and codes, as well as their revision.

Nevada's laws regarding codification will be talked about in the chapter addressing the Legislative Counsel Bureau. So now let's get back to the main topic of this book which is that before a law in Nevada can even become a law, there are certain procedures that are absolutely

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[12] See Positive Law Codification, Off. L. Revision Counsel: United States Code, http://uscode.house.gov/codification/legislation.shtml [https://perma.cc/QVB2-Y7Z2]; Sukol, supra note 23, at 11–12 ("**Nonpositive law titles, as such, have not been enacted by Congress**, but laws assembled in nonpositive law titles have been enacted by Congress."). Does this even make sense? It's laughable.

required in order for a law to become so. What are these Legislative Rules? So now we have finally arrived at the point where we can discuss the elephant in the room.

THE LEGISLATIVE RULES FOR THE PASSAGE OF LAWS IN NEVADA

To understand the nature and validity of codification and revision of statutes at large, there needs to be an understanding that there are rules that direct the execution and making of them. In the federal law, "A provision of a Federal statute is the law whether the provision appears in the Code as section text or as a statutory note."[13]

These are generally found in every States' Constitution. These Constitutional directives are mandated, in other words, they must be followed or the codification or revision of statutes is a nullity. There are two levels that control this process. They are procedural and substantive in nature. These two are defined as:

> **Procedural:** The technical aspects of a legal system that states the steps that need to be followed . . .. Black's Law Dictionary.
>
> **Substantive: That part of the law which the courts are established to administer**, as opposed to the rules according to which the substantive law itself is administered. Black's Law Dictionary

The procedural process for the passage of a State Law in Nevada *generally* consists of the following flow chart:

1. The Law is passed by both houses;
2. The bill is sent to the Governor, who then signs or doesn't sign it;
3. If the Governor signs the bill, then it goes to the Secretary of State;
4. In Nevada, the Secretary of State is the Constitutional keeper of ALL legislative records;
5. The Secretary of State also possesses the official state seal and affixes it to laws that have been passed to certify that it is a true and valid document.

The laws that are passed by the State Legislature are *prima facie* evidence that it has been passed, but the laws that are issued and published by the Secretary of State are irrefutable proof that the law exists. Statutes are presumed to be valid, and the challenger bears the burden of showing that a statute is unconstitutional. ***Halverson v. Secretary of State***, 124 Nev. 484, 487, 186 P.3d at 896 (2008). Therefore, this writer proceeds with this challenge to the

[13] Detailed Guide to the United States Code Content and Features, Off. L. Revision Counsel: United States Code, http://uscode.house.gov/detailed_guide.xhtml#editorial [https://perma.cc /NY8K-78Y2] [hereinafter Detailed Guide].

Constitutionality of the passage of the Nevada Revised Statutes [NRS] which are alleged to have been Legislatively passed *en mass* by Senate Bill No. 2.

THE MODE OF A STATUTE DEPENDS ON CONSTITUTIONAL AND STATUTORY REQUIREMENTS.

The mode of a statute depends on constitutional law, ***Mead v. Arnell***, 791 P.2d 410, 117 Idaho 660 (1990), and statutory requirements. ***Harris v. Shanahan***, 387 P.2d 771, 192 Kan. 183 (1963). The Nevada Revised Statutes are alleged to have been passed into law on May 1, 1951 in the form of a copy of an "engrossed Bill" - commonly known as Senate Bill No. 2 [hereinafter SB-2]. This writer discovered that this Bill was, in fact, not a Bill at all. Further, there were so many Constitutional and other mandatory protocols that were violated, as to the manner and method of the passage of SB No. 2, they rendered the entire act void. The passage of any law in Nevada must meet certain criteria for its "lawful" passage.

THE REQUIREMENT OF AN ENACTING CLAUSE

The purpose of prescribing an enacting clause – "the style of the acts" – is to establish it; to give it permanence, uniformity, and certainty; to identify the act of legislation as of the general assembly; to afford evidence of its legislative statutory nature; and to secure uniformity of identification, and thus **prevent inadvertence**, **possibly mistake**, **and fraud**. ***State v. Patterson***, 4 S.E. 350, 352, 98 N.C. 660 (1887); 82 C.J.S. "Statute," §65, p. 104; ***Joiner v. State***, 15 S.E.2d 8, 233 Ga. 367 (1967). The object of the style of a bill or enacting clause is to show the authority by which the bill is enacted into law, to show that the act comes from a place pointed out by the Constitution as the source of legislation. ***Ferrill v .Keel***, 151 S.W. 269, 272, 105 Ark. 380 (1912). In sum and substance, the enacting clause is that portion of a statute that gives it jurisdictional identity and constitutional authenticity. ***Joiner v. Sate***, 155 S.E.2d 8, 10 (Ga. 1967).

THE REQUIRED CONTENTS OF AN ENACTING CLAUSE

The Nevada Constitution in **Article 1, §23** mandates that each Bill that is passed contain the following language:

> "The people of the State of Nevada, represented in Senate and Assembly do enact as follows:"

SB No. 2 does not contain this language. Nor does the Joint Resolution used as a band aid in an attempt to pass it into law. This has been reiterated by the State itself in AGO 85 (07/25/1951), stating "A Joint Resolution adopted by both houses cannot become a valid law, if it does not contain the enacting clause required by this Section . . . ."

EACH ACT MUST EMBRACE ONLY ONE SUBJECT

NEVADA CONSTITUTION ARTICLE - 4, §17, requires that each Act embrace only one subject; to wit:

> "Each law enacted by the Legislature shall embrace but one subject, and matter, properly connected therewith, **which subject shall be briefly expressed in the title**; and no law shall be revised or amended by reference to its title only; but, in such case, the act as revised or section as amended, shall be re-enacted and published at length."

SB No. 2, which embraced the passage of the NRS, literally embraced every single subject in Nevada Law. Placing all the subjects of all of the laws of Nevada under the penumbra of the NRS does not meet the requirements that the Bill embrace only one subject. As SB-2 embraced more than one subject, SB-2 violated the Nevada Constitution. This Constitutional provision **is mandatory**. ***State, ex rel. Chase v. Rogers***, 10 Nev. 250 (1875); ***State v. Ah Sam***, 15 Nev. 27 (1880). Compliance with this section **is essential to the validity of every law** enacted by the Legislature. ***State, ex rel., Wilson v. Stone***, 24 Nev. 308, 53 P. 497 (1898); ***Bell v. First Judicial Dist. Ct.***, 28 Nev. 280, 81 P. 875 (1905). Any act passed in disregard of the letter and spirit of this provision is *pro tanto* void. ***State v. Ah Sam***, 15 Nev. 27 (1880). Therefore, the NRS, as they currently stand, are *pro tanto* void.

AUTHENTICATION PROCEDURES.

SENATE BILL NO. 109, sponsored by Whitacare, Brown and Seevers, in Chapters 385 and again as referenced in the JOINT RESOLUTION, which states in §2, "**All Bills or Resolutions shall be introduced in triplicate**, and one copy of each Bill or Resolution shall be marked "***Original***," one shall be marked "***Duplicate***," and one shall be marked "***Triplicate***." The copy marked "duplicate" shall be sent to the State printer for the purpose of printing and the copy marked "triplicate" shall be referred to the Amendment Clerk. In §3 it states that,

> *0*"The printer ***shall immediately*** *after receipt of the copy of any Bill* or Resolution ***print***, in addition to the regular number herein before authorized, ***one copy*** thereof ***upon heavy buff paper***, ***which*** copy ***shall be delivered*** to the Secretary of the Senate or Chief Clerk of the Assembly. The Amendment Clerk shall then certify to the correctness of the bound copy.

In **§4** it states that,

The official and engrossed copy may by Resolution be used as the enrolled Bill.

SB-2 was passed using a Joint Resolution. The severity of the problem with the Joint Resolution used in connection with the *copy* of the Engrossed Bill [SB-2] is that it does not contain mandatory enactment language. The State Senate's Committee on Judiciary, File No.1, passed Senate Concurrent Resolution No. 1, which provides that the official engrossed copy of SB-2, may be used as an enrolled Bill.

A JOINT RESOLUTION CANNOT CURE THE ABSENCE OF AN ENACTING CLAUSE.

"**A joint resolution** adopted by both houses **cannot become a valid law if it does not contain the enacting clause** required by this section." See **Attorney General Opinion 51-85** (07-25-1951). This constitutional provision is mandatory and an act not in the proper form is void and unenforceable. ***State, ex rel. Chase v. Rogers***, 10 Nev. 250 (1875). The words "represented in Senate and Assembly" expressive of the authority which passed the law, are as necessary as the words "the people" or any of the other words of the enacting clause. ***State, ex rel. Chase v. Rogers***, 10 Nev. 250 (1875). *See also*, ***Nevada Highway Patrol Assoc. v. Nevada DMVPS***, 107 Nev. 547, 815 P.2d 508 (1991).

In ***State, ex rel. Chase v. Rogers***, 10 Nev. 250 (1975), the court held that,

> The court held that where the enacting words were prescribed, it was mandatory they be included in the act. Without the words required by the constitution, and without the concurrence of the senate, the people had no power to enact any law. The county recorder contended that when the bill was presented to the legislature the words were in the enacting clause. The court ruled that **it could *only* look** at the enrolled bill ***in the office of the secretary of state*** **in order to ascertain the terms of the law**.

THE JOINT RULES OF THE NEVADA SENATE AND ASSEMBLY, RULE 7, ONLY PERMITS THE USE OF A JOINT RESOLUTION FOR THE PURPOSES SET FORTH THEREIN.

Rule 7 of the Nevada Senate and Assembly holds as follows:

> 1. A **Joint Resolution** may be used to:
> (a) Propose an amendment to Nevada Constitution;
> (b) Ratify a proposed amendment to the United States Constitution;
> (c) Address the President of the United States, Congress, either House or any Committee or member of Congress, any department or agency of the Federal Government, or any other State of the Union.
> 2. A **Concurrent Resolution** must be used for:
> (a) Amendment of these Joint Standing Rules, which required a Majority Vote of each House for Adoption;

(b) Request the return from the Governor of an enrolled Bill for further consideration;
(c) Request the return from the Secretary of State an enrolled Joint or Concurrent Resolution for further consideration;
(d) Resolve the return of a Bill from one House to the other House if necessary and appropriate;
(e) Express facts, principles, opinion and purposes of the Senate and Assembly;
(f) Establish a Joint Committee of the two Houses;
(g) Direct the Legislative Commission to conduct an interim study;
3. A **Concurrent Resolution** or a **Resolution of one House** may be used to memorialize a former member of the Legislature or other notable or distinguished person upon his or her death.
4. **A Resolution of one House** may be used to request the return from the Secretary of State of an Enrolled Resolution of the same House for further consideration.

See ***Nevada Highway Patrol Association v. The State of Nevada, DMV&PS***, 107 Nev. 547, 815 P.2d 608 (1991), which states as follows:

> "First, by its nature, an assembly concurrent resolution is not intended to have the force and effect of law. Pursuant to Rule 7 of the Joint Rules of the Nevada Senate and Assembly, the purpose of a concurrent resolution is to direct the Legislature to conduct interim studies, to request the return of a bill from the other House, and to request an enrolled bill from the Governor. On occasion, a concurrent resolution is also used to memorialize a former member of the Legislature or other distinguished person upon death, or to congratulate or commend any person or organization for a significant and meritorious accomplishment.
>
> Second, "[e]very bill which may have passed the legislature shall, before it becomes a law, be presented to the governor . . . Nev. Const. Art. IV, §35. A review of the legislative history of the aforementioned Assembly Concurrent Resolution, No. 29, indicates that this resolution, like other concurrent resolutions passed by the legislature during the same time period, were never presented to the Governor for approval or disapproval. See generally FINAL VOLUME ASSEMBLY HISTORY, 1969 at 218-288. Accordingly, this assembly concurrent resolution cannot be construed as the law of this State.
>
> Finally, "[t]he enacting clause of every law shall be as follows: 'The People of the State of Nevada, represented in Senate and Assembly, do enact as follows; *and* ***no law*** *shall be enacted except by bill*. Nev. Const. Art. IV, §23. (Emphasis added.) "We have previously ruled that this enacting clause is mandatory and must be included in every law created by the Legislature." See ***State v. Rogers***, 10 Nev. 250 (1875).

Since Concurrent Resolution, No. 29 and other similar resolutions do not contain the requisite enactment language, they cannot represent the law of this State.

We have reviewed all of the requirements of forming and passing a statute. Let us now discuss what the problem is with the alleged passage of the NRS. Pay special attention to the heading of the Act itself, to wit:

> So, that we are perfectly clear, it was always the intent of the Statute Revision Commission (later the LCB) to repeal all of the general laws of the State of Nevada and make the Nevada Revised Statutes the law. The Legislature was

> also on board with this completely cataclysmic attempt to modernize Nevada's laws. So the Deputy District Attorney of Clark County that said that the NRS are merely prima facie evidence of the law and that the Statutes are the real law is completely speaking out of turn. Lest we forget that the Legislature's intent was to do away with the Statutes completely and make the NRS the law in Nevada. So, if the NRS were lawfully passed, then they are void anyway because the Bill also requires the repeal of the very law that the codification of the Statutes is supposedly based upon. This puts the State, the Legislative, Executive and Judicial branches all in a Catch-22 position. If the NRS was lawfully passed, it is void. If it wasn't lawfully passed it is void. There is no winning this argument.

THE LEGISLATIVE COUNSEL BUREAU[14]: NEVADA'S DARK SHADOW GOVERNMENT

According to the Legislative Counsel Bureau [LCB] the Nevada Revised Statutes were created in 1951 by an enigmatic member of the Statute Revision Commission – RUSSELL WEST McDONALD. Currently, the LCB ***illegally*** maintains the originals and history of the Nevada Legislature and the Executive branch. Even today, it is unknown as to whether or not the LCB is a State agency, department or merely a private entity. If you ask the LCB they will tell you that they are not a State Agency or even an independent board, commission or "counsel." Hmmm? Are they not named the Legislative "Counsel" Bureau?

The LCB appears as a common thread that is ever present as we wind down this rabbit hole to legislative fraud and stealth fraud resulting in complete and total lawlessness throughout State government and its actors.

It appears that the LCB has been slowly and illegally absorbing State government functions, some of which are Constitutionally mandated to specific offices/departments or elected State Officials. This has been surprisingly accomplished, in part, by violating the State Constitution through the use of newly created State statutes, which have been used to illegally transfer the Constitutional power from an elected office with Constitutional duties, to the LCB. Amending the State Constitution through the passage of Statutes is grossly illegal. This shows both the *mens rea* and the *actus rea* of the LCB's actors.

[14] The Legislative Counsel Bureau [LCB] is an illegally created private corporate entity, which maintains all of the public records of the Nevada Legislature and the Executive branch in violation of the Nevada Constitution. This Corporation has obtained untold powers over the years and controls many aspects of the State Government including the writing and drafting of all Bills in the Legislature, the State Mail room, the State printing office and the ownership of the copyrights on the Nevada Revised Statutes, which have brought millions of dollars of profit to the private corporation. The LCB even has control over the janitorial service of the Legislature building, which means that the LCB basically has unsupervised access to every legislator's office.

According to the LCB, their predecessor, the Statute Revision Commission, was originally created by the Nevada Supreme Court in 1951. However, Senate Bill No. 182,[15] approved March 2, 1951, created the Statute Review Commission. This Commission consisted of three Nevada Supreme Court justices: (1) Milton Badt;[16] (2) Edgar Eather;[17] and (3) Charles Merril.[18] Later a rather mysterious and enigmatic man named Russell West McDonald (a 32nd degree master mason, according to the Legislature's tribute to him) would be appointed by these Justices as "the Director." What is grossly disconcerting is that the LCB, which is alleged to be maintaining the legislative history of the State of Nevada and advising legislators of the legality of their proposed bills, does not even know how they came into existence. This would be monumentally disturbing, but it is overshadowed by the way that the LCB does business. Essentially, they have become the garbage men for illegal activity in the State and, if anybody knows anything about the garbage business – it is controlled by the mob.

From its infancy, the LCB's predecessor [the Commission] became increasingly involved in bill drafting as an adjunct to its statute revision work. As the Director, Russell West McDonald was allegedly hired in 1951 to begin work on the Nevada Revised Statutes, but it appears that he had been working on it long before he was hired to do so. So, who hired this guy? Nearly all of the members of this rogue commission were Masons, Elks or Shriners. For the reader's information, these organizations are "secret" and are extremely politically active.

So let's examine the historical references that have caused the Appellant to have reservations about these organizations. It should be noted that America, from its inception, has had the First Amendment guaranteeing to every citizen the right to freedom of Religion. However, few know that the two declarations before the Declaration of Independence (the *Declaration of Causes* and the *Declaration of Taking Up Arms*), declared two religions the enemy of the Thirteen Colonies. The reason given by the Founding Fathers was that both of

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[15] This Senate Bill [No. 182] also sets forth that, "as soon as practicable after the effective date hereof the commission shall commence the preparation of a complete revision and compilation of the Courts their jurisdiction to act. The legislative branch, the judicial branch, and the members of the executive branch (police & prosecutors), have all made war against the Nevada Constitution and in so doing have declared war on its citizens.

[16] Master Mason & Brotherhood of Elks member.

[17] Brotherhood of Elks member and never graduated from law school. Eather was self-taught having taken an "international correspondence course." Based upon this he made it all the way to the Nevada Supreme Court. Yet, nowadays everyone is looked down upon if they haven't graduated from a law school.

[18] Very little information available on Merrill other than he graduated from U.C. Berkley with his undergraduate degree and obtained his law degree from Harvard. He was appointed by President Eisenhower to the 9th Circuit Court of Appeals based out of San Francisco, California.

these religions required its members to swear fealty to a foreign power. Those foreign powers were the Catholic Religion (the Pope and the Vatican a Sovereign City State[19]) and the Jewish Religion (Zion/Israel a Nation in formation at that time). This is why this is not taught in any school textbooks. Because people get triggered by America's real history. This is why the real history is no longer taught in our schools.

So, although we digress here, it is important to note that there is almost always more going on behind the scenes than meets the eye by the casual observer. Why do we bring this up? We bring this up because one or more of these secret organizations make their appearance throughout the history of the Nevada Revised Statutes.

McDonald had a very conflicting personal history and background. McDonald was alleged by the Statute Review Commission to:

> (1) be a native Nevadan (in other words, born in Nevada),
> (2) have gone through and graduated from Nevada's public education system (but no information is provided on this as to what schools in Nevada he attended, such as UNR),
> (3) was alleged to be a Rhodes Scholar, and
> (4) was alleged to have graduated from Stanford School of Law.

Although we know that McDonald has since passed (10/08/1917 to 03/16/1994) and is buried at **Masonic Memorial Gardens**, in Reno, Nevada, McDonald's biography varies widely depending on the source. His personal history[20] cannot be verified. Russell West McDonald is therefore a ghost. Even a Google search of McDonald reveals surprisingly little. A check of these credentials reveals that many of the statements made about Russell McDonald's qualifications appear to be false. A due diligence search was done on Russell West McDonald and the following items were not verifiable:

- Oxford University denies that Russell McDonald was ever a Rhodes Scholar (a claim that many people seem to make, perhaps because it may be unverifiable);
- Stanford University's school of law denies that he was ever a graduate;

[19] The Catholics played a major role in the drafting of the Emancipation Proclamation, as the Pope wrote a letter to Jefferson Davis, during the Civil War declaring the cause of the Southern States was supported by the Pope. This caused nearly 1/3 of the soldiers in the North, who were Catholic, to desert and join the Confederacy. Lincoln freed the slaves in the South to destroy the South's agricultural economy.

[20] The Nevada Historical Society relates the following information: Biographical/Historical Note Russell West McDonald was born October 8, 1917, in Reno, Nevada. He graduated from the University of Nevada, Reno in 1937 and attended Oxford University from 1939 to 1940 as a Rhodes scholar. McDonald started at Stanford University Law School from 1940 to 1941, then joined the Navy for five years before returning to Stanford and graduating in 1947. He held a variety of positions with Washoe County and the state of Nevada throughout his career and was the author of many historical and legal articles. McDonald died in Reno on March 16, 1994, at the age of 76.

- Even the statement that he was a native-born Nevadan is contradicted by a newspaper article about Russel West McDonald stating that he was born in **Prosser Creek**, **California**.[21]
- Whether McDonald attended any of Nevada's public schools could not be confirmed.

Although Mr. McDonald was revered and exalted by the members of the Legislature and newspapers as a pillar of the community, portions of his background appears to be manufactured. Just who was Russell West McDonald? That question to this day has still not been answered, although we do know that he was a Master Mason, a Shriner (masonic organization), a B.P.O. Elk and a member of the International Foresters (all offshoots of the Masons or Knights Templar). It was further found that some of the members of the Nevada Supreme Court who were also on the Statutory Commission were also members of one or more of these organizations. What if all of the members of the Statutory Revision Commission were members of these groups? We'll get back to this later.

The origin of the Statute Revision Commission is somewhat of a mystery as well, providing conflicting and multiple representations from various sources making it unclear as to its actual origin.

The Legislative Counsel Bureau states in their literature that the Supreme Court formed this Commission. While other sources state that the Legislature formed this Commission. Regardless of its origin, the entire Commission was Constitutionally compromised from the start. The Commission was unlawful for several reasons, the most obvious being its very purpose and operation.

First: The Justices who served on it did so in violation of the Nevada Constitution and the separation of powers doctrine. Both of which violated their oaths of office. These Constitutional violations are discussed as follows:

> The placement of three Nevada Supreme Court justices on the Statute Revision Commission violated Nevada Constitution Article 6, §11, which states in pertinent part, The justices of the Supreme Court and the district **judges shall be *ineligible* to any office, other than a judicial office, during the term for which they shall have been elected or appointed** and all elections or appointments of any such judges by the people, Legislature, or otherwise, during said period, to **any office other than judicial shall be void**.

[21] A newspaper article titled "*Russ McDonald Celebrates 30 years of Public Service*," states that Russell W. McDonald was born in **Prosser Creek, California**. What happened to his native-born Nevadan status that was pontificated about by the State Legislature in SB-1?

The Statute Review Commission inherently involved legislative functions and generated other income for these Justices. For instance, Justice Bandt was paid an additional $6,500 more a year to sit on the Commission. They need to pay all this money back! Therefore, the placement of three members of the Nevada Supreme Court on the Statute Review Commission clearly violated Article 6, §11 of the Nevada Constitution. This also violated Nevada Constitution's Separation of Powers prohibition in Article 3, §1, which states in pertinent part,

> Three separate departments; separation of powers; legislative review of administrative regulations.
>
> 1. The power of the Government of the State of Nevada shall be divided into three separate departments, – the Legislative, – the Executive and the Judicial; and **no persons charged with the exercise of powers properly belonging to one of these departments shall exercise *any functions*, appertaining to either of the others**, except in the cases expressly directed or permitted in this constitution.

Thus, the separation of powers doctrine was violated as the three Justices were involved in the drafting of legislation and the passage of Bills in the Legislature, a purely legislative function. What is particularly disturbing is that even the Nevada Supreme Court has condemned this practice in ***Galloway v. Truesdell,*** 83 Nev. 13, 18, 422 P.2d 237, 241 (1967), stating,

> This court has consistently affirmed that "[t]he division of powers is probably ***the most important single principle of government*** declaring and guaranteeing the liberties of the people." (Emphasis added).

The Statute Revision Commission was completely responsible for the generation of the Nevada Revised Statutes [NRS]. Strangely enough, even though the State of Nevada paid the Statute Revision Commission, the State does not own the copyright on the Nevada Revised Statutes. The Legislative Counsel Bureau by all appearances, appears to be the owner of the copyright on the Nevada Revised Statutes and receives all of the money from its printing. It is no surprise that the LCB has also taken over the State printing office. These Revised Statutes specifically state that there were actual changes in the statement of the law as they were compiled into the NRS. Changes were made to existing statutes, entire words were deleted as being redundant, grammar was changed, sentence structures were altered (to allegedly make them "clearer" and/or "understandable.").

All this was done in the name of progress. However, even changing one jot or tittle[5] constitutes a legislative act and the Statute Revision Commission's members were Constitutionally prohibited from participating in such conduct.

It is important to note here that the Statute Revision Commission was not legally created until 1955. On April 26, 1963, the Legislature committed an illegal act by backdating the appointment of the Statute Revision Commission and the revision of statutes to 1951 to cover up their pre-existing criminal fraud. *See* April 26, **1963 Act Bill No. 24, Chapter 403**.

Reading the "Forward" provided by the Statute Revision Commission reveals some interesting facts (if true), to wit:

> **FOREWORD**
> ---
>
> By the provisions of chapter 304, Statutes of Nevada 1951, amended by chapter 280, statutes of Nevada 1953, and chapter 248, Statutes of Nevada 1955, **the legislature of the State of Nevada created the statute revision commission** comprised of the three justices of the supreme court, authorized such commission to appoint a revisor of the statutes to be known as the ***director*** of the statute revision commission, **and charged the commission** to commence the preparation of a complete revision and compilation of the laws of the state of Nevada to be known as Nevada Revised Statutes for **further duties and authority** of the **statute revision commission** relating to the preparation of Nevada Revised Statutes, the numbering of sections, binding, printing, classification, revision **and sale thereof**.
>
> The commission employed as director **Russell W. McDonald, a member of the State bar of Nevada**, who, with his staff, undertook and performed this monumental task, with such methods, care, precision, completeness, accuracy and safeguarded against error as to evoke the highest praise of the commission and the commendation of the bench and bar of the state.
>
> As the work progressed, Mr. McDonald submitted drafts of chapter after chapter as recompiled and revised, and the members of the commission individually and in conference meticulously checked all revisions. In the vast majority of cases these revisions were promptly approved. Many required further conferences with the director. Some were modified and redrafted. As the several chapters were returned **with approval to the director**, they were in turn **delivered to the *superintendent of state printing* for printing**, to the end that upon the convening of the 1957 legislature Nevada Revised statutes were ready to present for approval. By the provisions of chapter 2, statutes of Nevada 1957, Nevada Revised Statutes, consisting of NRS 1.010 to 710.590, inclusive, was "adopted and enacted as law of the State of Nevada."
>
> STATUTE REVISION COMMISSION
> Milton B. Badt, Edgar Ether, Charles M. Merrill

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This foreword sets forth that the Statute Revision Commission is a Legislatively created State entity. The Statute Revision Commission has now been absorbed by the Legislative Counsel, *i.e.*, Russell W. McDonald, then made the Legislative Counsel a division of the LCB. After which Russell W. McDonald then took the LCB director's position. Why and how did

the LCB obtain the copyright and the rights to sell the NRS (and keep the money)? The LCB makes it appear through innuendo and subliminal word play by speaking or writing about them simultaneously, making people think that they are one and the same, when in fact the copyrights are under LCB control.

Why doesn't the State of Nevada own the copyright? Who gets the money from the sale of the NRS? Where does the money go? We can never find out because the LCB has created an impenetrable wall in the NRS that makes them unaccountable to anyone. Records are "secret" and are not required by NRS to be made available either in the form of discovery or by subpoena. Perhaps the intended purpose of the LCB was to create a leviathan with a choke hold on the Nevada Legislature that had access to a slush fund which could then be raided by secret insiders for their illegal and nefarious purposes.

The Nevada Supreme Court says that the Statute Revision Commission was created by the Legislature, but the LCB states in their literature that the Statute Revision Commission was created by the Nevada Supreme Court,

> The **Statute Revision Commission was** originally **created by the Nevada Supreme Court** in 1951 and became involved in bill drafting as an adjunct to its statute revision work.

And, further

> The 1945 law establishing the bureau [LCB] charged it with assisting the Legislature to find facts concerning government, proposed legislation, and various other public matters.

The LCB goes on further to state that,

> During the next several years, the duties of the bureau and its staff were modified and expanded. In 1963, the Nevada Legislature reorganized the Legislative Counsel Bureau, giving it structure and responsibilities similar to those it has today. One part of this change was the incorporation of the Statute Revision Commission [*via* legislative counsel, Russell W. McDonald] into the Legislative Counsel Bureau as the Legal Division. . . . The 1963 legislation also added a Fiscal and Auditing Division and a Research Division.

Who actually created the Statute Revision Commission? How did the LCB end up with the copyrights to the NRS? Is the LCB even a State entity? Why doesn't the State own the copyright? How much money does the LCB make off of the NRS copyright? Where does this money go and how is it spent? More importantly, how is it that the LCB is advising our Legislators when they can't even figure out who created the Statute Revision Commission where their own history started? We will revisit these issues later.

In 1956-57 the Committee on Judiciary in the Senate passed **Concurrent Resolution No. 1**. This legislation was an attempt to ***bootstrap*** the illegal passage of the NRS by **SB-2**. The Senate attempted to do so by using a Joint Resolution to provide that the "official engrossed copy of **SB-2** may be used as the enrolled bill." As set forth above **Resolutions cannot be used to pass any Bill into law**, attempting to render any law using this legislative vehicle as null and void.

In that same year, not to be out done by the Senate, the Committee on Judiciary of the Assembly passed **Concurrent Resolutions No. 1 and 2**, which extolled the virtues of Russell West McDonald and his involvement with the creation of the NRS stating as following:

- Expressing congratulations and gratitude to Russell West McDonald upon completion and enactment of the Nevada Revised Statutes;
- Stating that the preparation of Nevada Revised Statutes was a monumental undertaking requiring a degree of intelligence, knowledge, technical ability and dedication possessed by few men;
- That the Justices of the Supreme Court, in their capacity as the Statute Commission Revision, *secured the employ* of Russell West McDonald as its director;
- The Assembly extolled Russell West McDonald's false *curriculum vitae*; Explicated that the Nevada Revised Statutes marked the culmination of ***6 years of exceptionally devoted public service*** by Russell West McDonald as a statute reviser and legislative bill drafter;

Even the LCB's Preface to the NRS describes the work done by the Statute Revision Commission as ***a delegation of the Legislature's own duties***. Russell McDonald was engaged in "revising" which the LCB states in their preface as follows:

> "Revising" the statutes, on the other hand, involves these additional and distinguishing operations: (1) the collection into chapters of all the sections and part of sections that relate to the same subject and the orderly arrangement into sections of the material assembled in each chapter. (2) the elimination of inoperative or obsolete, duplicated, impliedly repealed and unconstitutional (as declared by the Supreme Court of the state of Nevada) sections and parts of sections. (3) **The elimination of unnecessary words and the improvement of the grammatical structure and physical form of sections**.
>
> **The revision**, instead of the recompilation, **of the statues was undertaken, therefore, first, to eliminate sections or parts of sections which, though not specifically repealed, were nevertheless ineffective** and, second to clarify, simplify, classify and generally make more accessible, understandable and usable the remaining effective sections or part of sections.

Doesn't this sound remarkably like *legislating?* Changing any word, whether it is redundant, unnecessary, ineffective, simplifying, clarifying or just simply an improvement of

the grammatical structure is a legislative function, not a judicial function or a quasi-legislative function to be performed by a committee upon which no elected state legislators are members.

Lest we forget these corrections were being approved ***first*** by three State Supreme Court Justices. This is a blatant violation of the separation of powers doctrine. Literally, the Nevada State Legislature abdicated or rather "delegated" their Legislative powers to the judiciary, an act which is illegal. They were then told by the Statute Review Commission that everything was already checked out and was fine.

The Legislature then supposedly passed it, even though we don't know this for sure because the record of their voting on it is either missing or is being hidden from public view by the LCB. We don't even know if the Legislature even read it, because there is no record that shows it was ***read three times*** as required before its passage. It is alleged to have been voted on, but we don't really know this for a fact because the records are not in their Constitutional repository with the Secretary of State and, therefore, do not legally exist.

Literally, the Statute Review Commission was passing (or attempting to pass) laws in complete derogation of the three Justices' oaths of office and in blatant violation of Constitutionally prohibited practices. Effectively the predecessor to the LCB and then later the LCB took over the official duties of Nevada's elected officials and ran the entire State legislative system through one person - Russell West McDonald - a character who the Legislature was told was an attorney who graduated from Stanford's Law School, was a Rhodes Scholar, was educated in Nevada's public schools, and was a native-born Nevadan.[6] None of which is verifiable and some of which is actually contradicted. Russell West McDonald was a mystery man, who was able to obtain unlimited and unchecked power through his association with a secret society – the Masonic Lodge[22] – and its other secret members (believed to be Eather, Bandt and Merril).

The harsh reality of both of the amorphously hollow Resolutions that are alleged to have caused the passage of **SB-2**, while at the same time ***rescinding Nevada's existing Statutes at Large*** and replacing them with the Nevada Revised Statutes [NRS], is that the entire process is legally and legislatively bankrupt. What does that mean?

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[22] Milton B. Badt, Supreme Court Justice on the Statutory Revision Commission, was also a Master Mason and Worshipful Master (president) of his lodge.

It means that the entire process was voided by the multiple Constitutional violations, that included acts of a criminal nature (malversion), not to mention the passages of SB-2 violated the Legislature's own Rules (again, malversion). In other words, the Statute Revision Commission and the Nevada State Legislators screwed up by attempting to take short cuts that completely negated their attempts to move forward into the new millennia by producing a codified version of Nevada's law, which has NO AUTHORITY.

Not only did they both fail at this task, but they screwed it up so badly that it is now literally unrepairable without causing the greatest fix it job in the history of Nevada. Somebody needs to go to jail for this. Unfortunately, all of the people who were initially responsible are dead. Who do we hold accountable then? As it happens the very definition of a co-conspirator is somebody that does something in furtherance of the conspiracy.

People are prosecuted for this all of the time even when they didn't even know there was a conspiracy that was taking place. According to prosecutors, THEY DON'T CARE whether you knew about the conspiracy or not, they are still going to charge you because even though you are not the hub of the wheel, you are certainly one of the spokes.

The passing of legislation is not like horseshoes and hand grenades. Close does not count in the creation of Legislation. If it did then why would they even make rules for the passage of a Bill? By way of analogy, the passing of legislation is more like flying a plane. All aircraft have checklists that must be completed before takeoff and landing as well.

Suppose a pilot did everything he was supposed to do to prepare to land, but he forgot one simple thing - he forgot to put the landing gear down. Is the horseshoes and hand grenades theory going to win the day for that pilot when he kills everyone on board including himself?

The Nevada Constitution prohibits the passage of Bills in the manner that was done for the entire NRS. The NRS are therefore *void ab initio* (meaning from its inception).

How many Constitutional provisions or legislative rules need to be violated in order to negate its passage? The answer should be **only one**. Here there are so many errors of constitutional dimensions that it literally boggles the mind. For instance, the Joint House Rules of the Nevada Legislature were clearly violated on the method of the passage of Bills into law which also prevented the NRS' alleged *en mass* passage through these violations as well.

The Bible states that it is easier for a camel to pass through the eye of a needle than it is for a rich man to gain the kingdom of heaven. By way of analogy, SB-2, is a camel and the method by which the Legislature attempted to pass it into law is just as remarkable as passing a camel through the eye of a needle. In other words, it simply DID NOT HAPPEN, it was a literal impossibility. There are other revealing Constitutional violations as well as the violations of the Legislature's own rules which are just as egregious, which are yet to be discussed. So let's discuss them now.

For instance, the NRS's very passage violates Senate Bill No. 109, which states as follows:

> Sec. 4. Section 8 of the above-entitled act, being chapter 3, Statute of Nevada 1949, at page 4, is hereby amended to read as follow:
>
> Section 8. The ***amendment clerk*** shall transmit copies of passed bills or resolutions without delay, in the order of their receipt, to the state printer, taking his receipt therefore. Such receipt shall bear the date of delivery, and given the bill or resolution number. The state printer shall without delay enroll (print) the bills or resolution in the order of the receipt by him, and they shall be printed in enrolled form, retaining symbols indicating amendments to existing law only. In printing enrolled bills amending existing law, the state printer in cooperation with the ***amendment clerk*** shall cause to be printed between brackets, the words, phrases, or provisions of the existing law, if any, which have been stricken out or eliminated by the adoption of the amendment, and they shall cause to be printed in italics all new words, phrases or provisions, if any, which have been inserted into or added to the law by the passage of such amendment. In ascertaining the correct reading, status, and interpretation of an enrolled bill amending existing law, the matter inserted within brackets shall be omitted, and the matter in italics shall be read and interpreted as part of the enrolled bill. At least one enrolled copy, with proper blanks for the signatures of the officers whose duty it is to sign enrolled bills and resolutions, **shall <u>be printed</u>** on bond paper, and the state printer shall deliver the enrolled copy of the bill or resolution to the ***amendment clerk***. The ***amendment clerk*** **shall** then carefully compare the enrolled copy with the official engrossed copy, and if the enrolled copy is found to be correct the ***amendment clerk*** shall present it to the proper officers for their signatures. When the officers sign their names thereon, ***as required by law***, **it is enrolled**. The official engrossed copy may by resolution be used as the enrolled bill. **<u>Literally, the term "enrolled" Bill means a</u>** "***printed*** **and signed**" Bill.

An examination of the ***engrossed bill***[23] referred to or, more succinctly, **SB-2**, which was used to pass the NRS *en mass* <u>shows that **it was typewritten - not printed**</u>. The LCB even admits this. Other errors were committed.

For instance, the requirement for the passage of a Bill is that it be read three times over three separate days as required by Nevada Constitution; **Article 4, §17**. There is no evidence

[23] A newspaper article titled "Russ McDonald Celebrates 30 years of Public Service," states that Russell W. McDonald was born in **Prosser Creek, California**. What happened to his native-born Nevadan status that was pontificated about by the State Legislature in SB-1?

that this was ever accomplished and this information cannot be obtained from the Constitutional Record Keeper - that being the Secretary of State. See Nevada Constitution; **Art. 5, §20**, which requires the legislative records to be maintained by the Secretary of State, to wit:

> §20. Secretary of State: Duties. **The Secretary of State *shall* keep a true record of the Official Acts of the Legislative** and Executive Departments of the Government, and ***shall* when required, lay the same and all matters relative thereto**, before either branch of the Legislature

The Constitution's language is very clear. Further, NRS 225.100, provides that the Secretary of State has a . . .

> "**Duty to furnish certified copies of laws, records and instruments**. The Secretary of State shall furnish, on request, to any person who has paid the proper fee for it, a certified copy of all or any part of any law, act, record or other instrument of writing on file or deposited with the Office of the Secretary of State of which a copy may properly be given."

However, the LCB has taken action to cover the Legislature's fraud by becoming a co-conspirator and therefore complicit with this Constitutional violation in this criminal enterprise. This was accomplished by the Nevada Legislature amending the Constitution through the passage of a Statute. This was done through NRS 225.070, which transfers all authority of record keeping from the Secretary of State to the LCB. Multiple decisions show that this attempt by the Nevada Legislature was both illegal and improper, to wit:

> "But a mere act of Congress cannot amend the Constitution, even if it should ingraft thereon such a provision." 142 U.S. 565, 12 S.Ct. 195.
> ***Brown v. Walk***, 161 U.S. 591, 16 S.Ct. 644, ___ L.Ed. 819 (1896).

If Congress, which is the Federal Legislature, can't amend the United States Constitution with a statute, then how can the Nevada Legislature amend the Nevada Constitution through a statute?

> "A statute cannot amend the Constitution." ***Pennsylvania v. Unition Gas Co.***, 491 U.S. 1, 109 S.Ct. 2273 (1989)(overturned on other grounds); See also, ***Dellmuth v. Muth***, 491 U.S. 223, 109 S.Ct. 2397 (1989).

And,

> As I have previously insisted: " A statute cannot amend the constitution." at 1141
> ***Seminole Tribe of Florida v. Florida***, 517 U.S. 44, 116 S.Ct. 1114 (1996)

and,

> The explicit prescription for legislative action contained in Article 1 [of the United States Constitution] cannot be amended by legislation. ***INS v. Chadha***, 462 U.S. 919, 103 S.Ct. 2764 (1983)

And,

Cf.[24]; "Sentencing Guidelines cannot amend a statute." *See* ***United States v. Barbosa***, 271 F.3d 438, 465-67 (3rd Cir. 2001).

It should be perfectly clear from the above case law that the mere passage of a Statute by the Nevada Legislature cannot amend the Nevada Constitution and relieve the Secretary of State of its duties. THEY KNEW OR SHOULD HAVE KNOWN, YET THEY DID IT ANYWAY.

Yet, a search of the NRS shows that NRS 225.070 does not exist. Curiously, the Secretary of State directs all inquiries regarding the records of the Senate and Assembly to the State Archives. Who controls the State Archives? Inquiring minds want to know. Interestingly, you will discover that the State Archives is a very unassuming small block building located in Carson City with no frontage name. Inquiring parties who visit this building with questions of the history of the Legislature are then directed to the LCB for the information. How is it possible that the Nevada Constitution can be amended without a Constitutional Amendment or by a Statute? The Nevada Constitution requires that the procedures set forth in Article 16, §1 and/or §2 be followed to amend the Constitution. These do not include amendment by statute or amendment by subterfuge and guise. Holding that a Statute can amend the State Constitution violates every citizens' constitutional right to procedural and substantive due process under the Nevada Constitution [Art. 1, §8(5)] and under the United States Constitution's, 1st, 5th and 14th Amendments. Holding that a Statute can diminish or negate the constitutional authority mandated in the Constitution violates the separation of powers doctrine (Amending the Constitution must be effectuated by the Body Politic – that's you. Not by legislating from the bench, nor amended by the passage of a statute by the Legislature.) "A statute cannot amend the constitution." ***Seminole Tribe of Florida v. Florida***, 517 U.S. 44, 116 S.Ct. 1114 (U.S. Fla. 1996) ***Pennsylvania v. Union Gas Co.***, 491 U.S. 1, 24, 109 S.Ct. 2273, 2286, 105 L.Ed.2d 1 (1989); ***Counselman v. Hitchcock***, 142 U.S. 547, 12 S.Ct. 195 (1892); ". . . [A]n unconstitutional statute is to be regarded as nonexistent and **no defense to state officers acting under it**. . . ." ***Rockaway Pacific Corporation v. Statesbury***, 255 F. 345 (D.C.N.Y. 1917). *See also*, ***Cooper v. Aaron***, 358 U.S. 1, 18, 78 S.Ct. 1401, 1409-1410, 3 L.Ed.2d 5 (1958)(holding that an oath to support the [U.S.] Constitution is an oath to support its interpretation by the

[24] "*Cf*" means "compare."

United States Supreme Court). *See also*, ***Baker v. Carr***, 369 U.S. 186, 215, 82 S.Ct. 691, 709, 7 L.Ed.2d 663 (1962), which the United States Bankruptcy Court relied upon in ***In Re Tessier***, 190 B.R. 396 (1995) to make the following conclusion:

> Finally, in attempting to deny the Supreme Court's determination of its own capacity to adjudicate, the Congress **invades a province properly left to a coordinate Branch, and in so doing, impermissibly exceeds its legislative authority**.

Nevada's sister State, California, has had some things to say about similar circumstances in their State: "**The constitutional provision was a law made directly by the people instead of the Legislature**, and such laws are to be construed and enforced in all respects as though they were statutes." ***Winchester v. Mabury***, 122 Cal. 522, 55 P.393. "In effect, these constitutional provisions are but statutes, **which the legislature cannot repeal or amend**." ***Winchester v. Howard***, 136 Cal. 432, 439, 64 P. 692, 69 P. 77, 79, 89 Am. St. Rep. 153.

The LCB possesses and allegedly maintains all of the legislative records in clear violation of the Nevada Constitution. Bill Resolution Journals and all other records were allegedly taken away from the secretary of state and transferred to the LCB through the passage of **NRS 225.070**. A statute that does exist, yet is alleged to have transferred record keeping authority from the Secretary of State to the LCB.

Even if the Legislature did everything lawfully by following the correct rules and guidelines, we still will never know if the NRS were passed into law because there are no public records at the Secretary of State's Office. But, there are records at the LCB, which are considered "private." A Letter from the Secretary of State made the party admission that the SOS does not have these records (as the Nevada Constitution; Art. 5, §20, commands the Secretary of State to maintain and protect). Even the proofs of the unconstitutional NRS, passed off as law, has been unconstitutionally hidden by an entity that may deny access to the information to anyone.

There exists even more disturbing issues regarding the legality of the NRS in that there are no records even showing that the Governor signed SB-2 into law. On February 4, 2014, the Secretary of State was asked to produce several documents, this being one of them and their office related the following:

> We received your request, via mail, for the following information:

> * The bill from the 48th[th] session of the Nevada Assembly, passed January 25, 1957;
> * The governor as of January 25, 1957;
> * Proof that the bill was signed into law by the governor during the 48th Session.
>
> Our office reviewed your request and determined that ***we do not have legal custody and control*** of the information. You may contact Nevada State Archives to determine if they have documents related to your request. The contact information for the Nevada Archives is: 100 N. Stewart Street, Carson City, Nevada, 89701.

Interestingly, although the Secretary of State is Constitutionally mandated to maintain the legal custody and control of this information and provide it to any party seeking the information, the Secretary of State avers that it **DOES NOT** have ***legal custody and control*** of it.

The Secretary of State alleges that it doesn't even know where it is. This is absurd! The Attorney General's office has addressed a similar issue before and stated that, a Joint Resolution appropriating money from the highway fund, adopted by both houses but never presented to the Governor for his signature, does not become law; thus, an appropriation is invalid under this section. **Attorney General Opinion 51-85** [AGO 85 (7-25-1951)].

Currently the Secretary of State states that their office does not have the files that will prove the Appellant's argument. This poses a serious problem for two reasons:

(1) the loss or hiding of these records prevents this writer's legal position from being proven conclusively; and

(2) losing, destroying or hiding these records constitutes filing or for recording. The statute reads in pertinent part as a crime. See **NRS 239.320**, which discusses the crime of any public officer causing INJURY TO, **CONCEALMENT** OR FALSIFICA-TION **OF RECORDS OR PAPERS**, to wit:

> An officer who mutilates, ***destroys***, ***conceals***, erases, obliterates or ***falsifies*** any record or paper appertaining to his office, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Further, the documents which were submitted for the passage of SB-2 do not conform to the Constitutional requirements of the Joint Rules of the Senate and Assembly. Since this document was submitted by the LCB, the Senate and the Assembly, this unqualified document was not a *true* Bill. Since it was not a true bill it was a false bill, ***a false bill - is a*** **fraudulent bill**. **NRS 239.330**, discusses the penalties for submitting or offering a false instrument for follows;

> A person who *knowingly* procures or offers ***any false or forged instrument*** to be **filed, registered or recorded in any public office**, which instrument, if genuine, might be filed, registered or recorded in a public office under any law of this state or of the United States, ***is guilty of a category C felony*** and shall be punished as provided in NRS 193.130.

There is no question that SB-2 was passed off as a legitimate document, which it was not. Therefore, this constituted the *offering* of *a false instrument* and caused it be *filed, registered or recorded* in a public office. Currently the Secretary of State, who is the Constitutionally mandated repository of these documents, does not have the documents or at least is not willing to admit that they do. But, since the Secretary of State is required to maintain these Legislative and Executive Records, you would think that at least the Secretary of State would know where they are. **The Secretary of State says they don't know where they are.** Currently, the Secretary of State is feigning any knowledge of their location and, it is assumed, that the Secretary of State's office will continue to maintain this position because it has been ordered to do so. This "silence" is not conducive to the Secretary of State's assumed position of neutrality, which our federal court system has held to be equated with fraud, to wit:

> "Silence ***can only be*** equated with fraud **where there is a legal or moral duty to speak or *where an inquiry left unanswered would be intentionally misleading***." ***U. S. v. Tweel***, 550 F.2d 297, 299 (l977); *quoting* ***U.S. v. Prudden***, 424 F.2d 1021, 1032 (1970).

Here there is a legal as well as a moral duty to speak, as the Secretary of State has taken a "sworn oath" to Support and Defend the Nevada Constitution. Since the Nevada Constitution states that the Secretary of State is the repository of **ALL** Legislative and Executive records and the office has a duty to produce these records on demand, the office is required by law to know where these records are.

The Statutes require the Secretary of State to produce the records upon demand to "anybody," who asks for them.

The government's fallback position is that if we don't maintain the current acceptance of the NRS as the law in Nevada, it could cause complete and total chaos, even anarchy. This is not an excuse because the Constitution guarantees to each citizen that this will not occur.

This is also stated in the United States Constitution in Article 4, §4, states that the United States government shall guarantee to every State in this Union a "Republican" form of

government. Everyone in America is being told that our soldiers are fighting for Democracy,[25] but this is not true.

They are fighting to maintain the Rule of Law, the foundation upon which a Republic is based. It would appear that our politicians and educators can't even get this right. It is not a mistake that the Constitution does not guarantee every state a "Democratic form of government,[26]" but a "Republican" one. It is frightening that even our Federal representatives are constantly talking about the "threats" to our Democracy.

If somebody told you that a traffic light was green when you could see clearly that it is red, you would think them an idiot or color blind. But here is the problem: If you repeat something long enough it becomes the truth – just kidding, it doesn't become the truth but what it does do is make people think it is. Why? Because, a Greek scholar even before Christ was born, whose name was Thucydides, wrote a book titled The HISTORY OF THE PELOPONNESIAN WAR. In his book he said,

> "**Most people, in fact**, will not take the trouble in finding out the truth, but are much more inclined to **accept the first story they hear**."

And, he is 100% right. We keep hearing similar irreparably idiotic statements in movies and allegedly intelligent conversations from the mutual admiration society where these people say, "The needs of the many outweigh the needs of the few." This is nothing more than the Marxist mantra.

Our Founding Fathers never talked about the needs of the many, they only talked about individual rights. The many or the masses do not need protection, they are protected by the fact that they are the majority. It is the individual that needs protection from the masses.

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[25] A "Democracy" is mob rule, directed and controlled by an oligarchy. Currently in this Country we have a Nation-State type of government that operates as a democratic-welfare state, where laws are not obeyed or enforced because they might offend someone. Whereas a Republican form of Government is a government of laws, where laws are enforced regardless of whether we will offend somebody or not - simply because it is the law.

[26] ***Democratic socialism*** says that "The needs of the many outweigh the needs of the few," which is the Communist Mantra. Our Founding Fathers did not talk about the needs of the many because this would mean they were talking about the "majority." Whereas the Founding Fathers talked about the rights of the individual. Individuals are the ones that need protection from the majority, not the other way around. It is a *fortiorari* that the majority does not need protection, they have their protection in their sheer numbers.

Warring against the Constitution is warring against the PEOPLE. A war without guns is a war none-the-less. The Communists warned us a long time ago that they would take over America without firing a shot and they are dangerously close today.

THE LCB RABBIT HOLE -- HOW DEEP DOES IT GO?

When you read the following, you can do nothing but agree with the Appellant who describes the LCB as a ship sailing through the State of Nevada under its own flag. In other words, the rules do not apply to them. So let's peel back the onion layers of the private company that calls itself the LCB. What do they do and how are they compensated?

Since the LCB has absolutely zero transparency the depth of this rabbit hole cannot even be imagined. For starters, the LCB is a private corporation. Why is this interesting? It is interesting because this also provides zero transparency.

We may not even be able to find out who owns the company. Why is this troublesome? It is troublesome because it was discovered in a phone call to the National Judicial College in Reno, Nevada, that it is owned and operated by R. J. Reynolds, the tobacco Company. Isn't that rather curious? Why would a tobacco company own a law school for judges? This is one of those things that makes you go "Hmmm?"

So who owns the LCB? We think that this is exponentially important, don't you? After all, if the LCB was owned by China don't you think this would be problematic? I mean what if George Soros owned it? He was a clandestine (hidden) Jew who was a former Jew hunter for the Nazis. On information and belief he has zero empathy for people, and is power hungry, which all adds up to the definition of sociopath. He would surely use the LCB for nefarious purposes. You can't imagine that would be a problem?

But, what if it was owned and controlled by a secret organization that Russell West McDonald and several of the Nevada Supreme Court Justices belonged to? Wouldn't this also pose a significant threat to Nevada's pledge of transparency and honesty to the Voters and Citizens of Nevada?

To be honest with you, at the time of this publication, the ownership of the LCB is still literally unknown. However, what the Appellant wants to know is why hasn't anyone asked

this question before? Or, have there been earlier inquiries that just ended in a flat tire? Really? The LCB has been around for a long, long time. The Appellant cannot seriously believe that she is the first person that has asked this question?

The LCB alleges or avers that they are a nonpartisan organization, but what does that really mean? I mean if you are not choosing the side of a given party, does that still not leave them open to what our politicians have proven time and time again as the only real party – MONEY? Party partisanship isn't even real, it all comes down to prostituting one's self and forsaking their party for MONEY!

By way of example, don't you think that if judges owned an interest in the prison system, don't you think this would be a problem? After all, we can't have judges sending you to prison because they want to use you to make the (private) prison a greater profit?!

And, why is the LCB the only corporation in Nevada that does not have to reveal its records either by subpoena or through discovery? This must be a very, very special corporation?

Yet, **this organization has never been audited**. This gives the LCB ample opportunity for corruption and misuse of funds. **It is a black hole whose gravity is so powerful that everything having to do with transparency is sucked into it. It literally leaves you wondering,** "what's really going on."

If we didn't know better, it would make the perfect organization to launder money and to be used to conduct criminal activity. Please tell us why the criminal elements would not be attracted to a company that has been flying under the radar with no visible footprint in the State of Nevada for over 50 years? If you think about it, the LCB looks and acts remarkably similar to the Federal Reserve. The Federal Reserve answers to no one and much like the LCB they appear to be part of the government and ARE NOT. The Federal Reserve is part of a private banking cartel that has been given a monopoly on US currency.[27] The Federal Reserve's purpose was to eliminate booms and busts in the US economy and although this has proven to be a massive fraud, yet they are still here! Why? It is the Appellant's position that this is

[27]Can You can read about this in the book: THE CREATURE FROM JECKYL ISLAND; These bankers are comprised of the same people that financed the Bolshevik Revolution and have been financing and propping up Communism since its inception, to keep the industrial military complex thriving.

because of the *Status Quo* and clearly the money manipulation of the U.S. currency that has taken place has been criminal.

Equally disconcerting is the fact that the LCB website states that they have branches in other states and, believe it or not, states that they have an "international" footprint. Now that is supremely intriguing. This organization is starting to sound more and more like a spy ring than a company.

The perfect storm for anyone who wanted to own their own Legislature in a State like Nevada would be to own the LCB. This influence would probably be worth billions. The LCB controls the entire Legislature, they control the Lobbyists, they are bullet proof and provide the perfect cover for money laundering. As some criminals might say, "So little time, so much dirty money."

Why do we say this? Because **NRS 197.230**, states,

> A **public officer convicted of** any felony or **malfeasance in office** shall forfeit of his or her office, and **shall be permanently disqualified from holding any public office in this State**.

So lying or violating a public officer's oath of office IS A REALLY BIG DEAL, because it is a form of malfeasance of office and the consequences are dire. The problem lies in the fact that in order for liars – who commit malfeasance of office – to suffer the slings and arrows of their malfeasance, they have to be charged with it. But in today's world they are never charged because lying is expected of politicians. But who is it really that expects this? Why none other than the Secretary of State, who is the same person who is aiding and abetting the kidnapping of the Legislative Records to hide the fact that the NRS are null and void. **NRS 282.305 Secretary of State to ensure compliance by state officers. The Secretary of State shall ensure that state officers comply with the provisions of this chapter**. And what chapter are we talking about? Why none other than Chapter 282. Chapter 282 is none other than the Chapter on OFFICIAL BONDS AND OATHS. So when an officer of the State violates their oath of office it is the Secretary of State's responsibility to pursue charges against them. The Secretary of State may have not even known this is his job, but it is.

So the Secretary of State's failure to perform his duties smacks of an entire daisy chain of intentional malfeasance. No intention is required to commit malfeasance, just doing a bad job or screwing up is enough. However, intentional malfeasance changes the entire complexion

and becomes much worse than malfeasance – in fact there is a very specific word for this, it is called MALVERSION.

What is malversion? Well it is literally malfeasance on steroids. It is defined as: "**Corrupt behavior** in a position of trust, **especially in public office**." The fact that this even goes on is demonstrative that there clearly exists a "conspiracy." Conspiracies usually involve money and who better to pay the participants than the LCB? No audit? No discovery. No Subpoena. Perfect crime?

When it comes to money, very few people can actually be trusted. But providing the shroud of secrecy to actors coupled with no accountability is just dangerously stupid.

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Why is the Appellant so adamant that the LCB is Nevada's dark shadow government? Firstly, the LCB has purposely and intentionally shrouded itself in secrecy. It refuses to provide transparency on any level. Why? Well the default answer is because they are a secret privately owned corporation/organization and nobody knows who owns them or who their shareholders are (Appellant dares this Court to direct the LCB to provide it with a list of their shareholders. Appellant guarantees that they won't give it to this Court and will tell this Court to pound sand). Second, they are a not part of the Nevada government. They are unelected. They cannot be fired by State government. They can't be removed by the voters. They have ZERO accountability. Then why are they being given all of the powers that normally would be the responsibility of the State? The LCB are supposed to be the experts on the drafting of laws – ARE THEY NOT? Yet, the LCB assisted the Legislature in drafting a Bill for a statute that they alleged would modify/amend the Nevada Constitution (which is patently illegal). The experts are literally leading the Legislatures down the prime rose path. And, literally, why not? The LCB has no responsibility. They don't answer to ANYONE.

The LCB literally convinced the Legislature, the Governor, the Attorney General and the Secretary of State (who have all sworn to protect and defend the Nevada Constitution) and got them to amend the Nevada Constitution with a Statute. The LCB intentionally and purposely hijacked all of Nevada's Legislative Records from the Secretary of State of its Constitutional duties. Why? This Court should find this very interesting. This was purposely

done (meaning "malversion") so that the public and possible other concerned parties (such as people who swore an oath to defend the State Constitution) could not discover the errors which were in the public record. The records remained public while they were being maintained and held by the Nevada Secretary of State. Once the transfer was made, all those Legislative Records became "PRIVATE."

So, the LCB has been slowly taking over the duties of the State and have privatized many of the functions that used to belong to the State, *i.e.*, they operate all State gift shops, the State's printing office, they operate state employees retirement fund (which the LCB states lost millions due to "bad computers"), they are in charge of managing all of the lobbyists, they manage all the janitorial services in the Legislative buildings, they maintain and disburse all of the travel funds which are paid for official (questionable?) travel of State Legislators and most importantly, they control ALL OF THE MARIJUANA MONEY (WHICH NOT EVEN ONE DOLLAR HAS REACHED EVEN ONE SCHOOL). Of course this is not to mention that they are the official drafters of the Bills for each Legislative session.

This all becomes even more important because the Legislative errors (which were committed by the LCB in the Bill) regarding the passage of the Nevada Revised Statutes must be proven through the Legislative Records. However, the LCB now avers that they don't have to provide these records because they are "PRIVATE." The LCB has become a criminal enterprise and is now acting as the shield and sword of crooked and malevolent political figures, who are permitted to dance between their positions and the LCB's blameless and unprovable culpability (which the LCB maintain 100% control over).

How did the LCB get into such a sweet spot where they are now Teflon coated? This was accomplished by the LCB specifically passing legislation that prevents anyone and I mean, any one (including this Honorable Court), from getting access to these records. The Statute that the LCB got passed, which is **NRS 218F.150(1)(b),** states that the records from the LCB CANNOT BE SUBPOENAED and CANNOT BE OBTAINED THROUGH DISCOVERY. This sounds remarkably similar to the illegal members of the Legislative Revision Commission (all members of one Masonic disorder or another) that originally generated these codified statutes. Subpoena and discovery are the two primary methods that are used in civil litigation and criminal cases. But what the LCB has done

is apparently is exempted itself from the discovery methods that everyone else is subject to. Why? Because they are a criminal organization and they are hiding information, which they absolutely refuse to disclose. However, the LCB really has nothing to fear because they are not a part of the State government, they are a private corporation who's controlling interest is completely SECRET and UNKNOWN. So literally, the LCB cannot be fired. They have been obtaining more and more power in the State government without being able to be held accountable for anything they do. How could anyone accuse the LCB of "malfeasance of office?" They don't hold a public office. They cannot be fired, nor can they be removed for issues of moral turpitude. They would simply transfer the offending member of their organization to another state where they have a footprint or to their "international" interests. If you think about it, the LCB sounds more like a spy network set up by a foreign government. No liability. No accountability. The records that they maintain for the State are *sanctum sanctorum* and, rest assured, ALL of the LCB's corporate records are ABOVE TOP SECRET.

In the end, the LCB stands like a school yard bully (like a student in their fourth year of the fifth grade) and declares that it is EXEMPT from all normal pitfalls of any governmental agency of the State, who is completely independent and untouchable. Yet, even so, the LCB cuts the paychecks to the State Legislators and cuts the checks to State Legislators for their travel expenses. Sounds remarkably like they are part of the State to the untrained eye for political rhetoric. Yet, the LCB. who has taken on a Kevlar like protection says – "NO, NO, NO YOU DON'T." Well, perhaps the high priests at the LCB need to learn that this issue is not up to them to decide? Eventually, some honest judge will take it upon themselves to look into this very politically dangerous reality.

Why is this hyper-protective coating of armor taken on by the LCB so troublesome? It is troublesome because the LCB pays its employees extremely well. The higher members of the organization all live in million dollar homes and even an inquiry into how much money they make is easily turned into some kind of *non sequitur* defense, such as "You snooze, you lose." More importantly, what this means is that the LCB's spending can NEVER be audited by the State or even inquired into by the peons (that's

anyone that doesn't have some private stock in the LCB). So who does have any control over the LCB? The answer is "NOBODY." This nobody does not include its stockholders – who are secret. Since China has already been caught instituting its own police departments in the United States, as well as biological labs with dangerous pathogens discovered in them, for China to own the LCB would not be far-fetched. Since the shareholders list is secret, what if some of its stock were owned by politicians such as the Governor, the Secretary of State, a senator or assemblyman or even some judges? This is an extremely good question. Would this not be the most disgusting display of fascism ever?

As the issues in this appeal are of important public interest, the Appellant is requesting a hearing, findings of fact and conclusions of law.

Respectfully submitted,

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