

How Unlawful Courts Gain Jurisdiction by Greg Loren Durand

The following is Appendix Seventeen from Greg Loren Durand's excellent 380 page book "America's Caesar -- Abraham Lincoln and the Birth of a Modern Empire." The full book can be requested by writing to: Crown Rights Book Company -- c/o U. S. Post Office Box 769 -- Wiggins, Mississippi C. S. A.

Persona designata is defined by *Black's Law Dictionary* as, "A person pointed out or described as an individual, as opposed to a person ascertained as a member of a class [a political or religious community, or state], or as filling a particular [military or commercial] character."^{1} In his *Dictionary of Latin Synonymes*, Francis Lieber likewise wrote, "*Persona* was the name given to 'the mask of the actor... that covered his whole head.'"^{2} Two maxims of Law applicable in this case are *Persona est homo cum statu quodam consideratus*,^{3} and *Homo vocabulum est naturie; persona juris civilis*.^{4} Further understanding of this important legal concept may be derived from the following:

A person is such, not because he is human, but because rights and duties are ascribed to him. The person is the legal subject or substance of which the [civil] rights and duties are attributed.^{5}

A moment's reflection enables one to see that man and person cannot be synonymous, for there cannot be an artificial man, though there are artificial persons. Thus the conclusion is easily reached that the law [statute] itself often creates an entity or a being which is called a person; the law cannot create an artificial man, but it can and frequently does invest him with artificial attributes; this is his "personality" [military character], that is to say, the "man-person"; and abstract persons, which are fictitious and which have no existence except in law; that is to say, those which are purely legal conceptions or creations.^{6}

A juristic person is domestic in the state [forum] by which it was created (or by which it was expressly authorized). This theory has met with considerable support, especially in the United States, where indeed it may be said to be the accepted doctrine. Nationality [*i.e.* "U.S. citizenship"] in the present sense, as the factor which determines by what rules of law its legal constitution and capacities must be governed, is a juridical and not a political quality, and should therefore be determined by the legal and not by the political characteristics of the juristic person.^{7}

Those who followed the O.J. Simpson murder trial in Los Angeles, California will remember that the perjured ex-police officer, Mark Fuhrman, repeatedly invoked his "Fifth Amendment privilege" when asked self-incriminating questions. It should be noted that the protection against being compelled to be a witness against oneself in the Fifth Amendment is included under what is commonly known as the Bill of Rights, not the "bill of privileges." "Persons," which are "fictitious" and "purely legal conceptions or creations," are granted privileges ("civil rights") by the "law" (statute) which creates them, whereas "all *men* are created equal and endowed by their Creator with certain unalienable *rights*." We clearly see this distinction made in the Act of Congress of 3 March 1863, which rubber-stamped Lincoln's unlawful suspension of *habeas corpus*:

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the present rebellion, the president of the United

States, whenever, in his judgment, the public [bondholders'] safety may require it, is authorized to suspend the privilege of the writ of habeas corpus in any case throughout the United States, or any part thereof. And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of *habeas corpus*, to return the body of any person or persons detained by him by authority of the President....

If a man is necessarily a "person," then it would be highly unusual to speak of returning "the body of any person or persons detained," as if man may be imprisoned while his body is set free. However, once the fact is understood that a *persona*, represented by the *nom de guerre*, must first be assigned to a man, *and accepted by him*, before he may be detained under martial law, then the wording of this Act makes sense.

All "warrants" issued by William H. Seward "by the authority of the president" ordered the arrest of fictitious "persons," not men. Of course, the difference between the two was apparently understood by few, if any, of Lincoln's "political prisoners." Even today, the number of "warrants" successfully served would drop to zero if the intended recipients would decline to answer to the "name" written in all capitals on the document. The courts-martial also cannot lawfully proceed against or collect "war reparations" from any man or woman who does not allow themselves to become surety for the *persona*:

...[A] court cannot acquire jurisdiction to pronounce a personal judgment against one who has no residence with the state, except by actual notice upon him within the state, or by his voluntary appearance. The modern law does not seek to compel appearance, but if the defendant ["person"] is properly served and neglects to appear and plead, the court will render judgment against him for default of appearance.{8}

Perhaps the simplest method to abate the process of such tribunals, then, is to insist that one's lawful Christian [*God Given] name (or appellation) and surname (family name) be spelled in the court's documents in proper English:

A person's name consists in law, of a given or Christian name, and a family surname. It has been said that a description or abbreviation [initial] is not the equivalent of a name....

The Christian or first name is, in law, denominated the "proper name," and has been used from early times to distinguish a particular individual from his fellows.... Originally, it was the only name which was recognized in [the common] law, and consequently, it has always been considered an essential part of a person's name. The giving of a wrong Christian or given name to a person, in legal proceedings or in conveyances, generally constitutes an error which may invalidate a judgment or deprive the record of an instrument of its effect as notice. It has been held that the law knows but one Christian name of a single individual.{9}

Misnomer. Mistake in name; giving incorrect name to person in accusation, indictment, pleading, deed or other instrument. Under rules of practice in some states, such is ground for dismissal by motion. In most states, however, as well as in the federal courts, such misnomer can be corrected by amendment of the pleadings.{10}

Misnomer is a good plea in abatement, for since names are the only marks and indicia which human kind can understand each other by, if the name be omitted or mistaken, there is a complaint against nobody.{11}

If the Christian name be wholly mistaken, this is regularly fatal to all legal instruments, as well declarations and pleadings as grants and obligations; and the reason is, because it is repugnant to the rules of the Christian religion, that there should be a Christian without a name of baptism, or that such a person should have two Christian names, since our church allows of no re-baptizing....{12}

It is in the process (paperwork) of these courts that they depart from the common Law and all the rights that are protected therein. The common Law, from which the writ of *habeas corpus* issues, is concerned with justice between men, and does not deal with fictions. In a literal sense, the common Law, then, is the law of the *land* (substance, public Law), not the purported law (fiction, private contract law) which is generated by paper. On the other hand, "it is precisely those enterprises [persons] that are 'creatures of the law' to which the fourteenth amendment is addressed." {13} The venue of such courts is necessarily in equity, because they serve to enforce contractual obligations between fictions (the corporate United States and its "citizens"), not to decide on constitutional matters. {14} The quotations provided below are relevant to an understanding of what is actually happening in these courts:

Fictio.... In Roman law, a fiction; an assumption or supposition of the law. Such was properly a term of pleading, and signified a false averment on the part of the plaintiff which the defendant was not allowed to traverse [challenge].... The object of the fiction was to give the court jurisdiction. {15}

Fictitious. Founded on a fiction; having the character of a fiction; pretended; counterfeit. Feigned, imaginary, not real, false, not genuine, nonexistent. Arbitrarily invented and set up, to accomplish an ulterior object [*i.e.* to trick the unsuspecting into submitting themselves to an unlawful court]. {16}

Both in Roman and English [statutory, civil] law there are certain obligations which were not in truth contractual, but which the law treats as if they were. They are contractual in law, but not in fact, being the subject-matter of a fictitious extension of the sphere of contract [jurisdiction] to cover obligations which do not in reality fall within it. {17}

Constructive/quasi-contracts are created by statute on the premise that they are needed as a matter of reason and justice [when martial law is in force], and are allowed to be enforced *ex contractu*. {18}

Ex contractu is a form of action under the civil [roman] law, whereas under the common law it would arise from actions of case, trespass, replevin, trover, or detinue. *Ex contractu* actions are from the civil law, not the common law, and are enforced by actions *in personam* [against the "person"]. {19}

Thus, by assigning a *person designata* or a "fictitious name" to a living, breathing man, the military tribunal is able to view him as having been "born" (created) within the corporate United States and therefore, through the subsequent process-known as "novation," {20} he is rendered "subject to the jurisdiction thereof" and becomes obligated to pay his "fair share" of the unlawful debt legalized by the Fourteenth Amendment. Although this is done "to deceive or mislead," under the laws of war, deception is legal, and the United States Government is therefore under no obligation to reveal its most useful *ruse de guerre*. Synonyms of this statutory "person" are "natural person," "U.S. citizen," "individual," "taxpayer," "consumer," "resident," *etc.*

Endnotes

- {1} *Black's Law Dictionary* (Sixth Edition), page 1143.
- {2} Francis Lieber, *Dictionary of Latin Synonymes* (Boston, Massachusetts: Little, Brown and Co., 1854).
- {3} A person is a man considered with reference to a certain *status*.
- {4} Man is a term of nature; person of civil (Roman) law.
- {5} Pollack, *First Treatise on Jurisprudence*, quoted in *Black's Law Dictionary* (fourth Edition, 1968), page 1300.
- {6} *American Law and Procedure*, (1910), Volume XIII, page 137.
- {7} E. Hilton Young, article: "The Nationality of a Juristic Person," 22 *Harvard Law Review* 1, 3, 7.
- {8} Benjamin J. Shipman, *Handbook on Common Law Pleading* (1923), page 23.
- {9} 57 *American Jurisprudence* 2d, Sections 1 and 4.
- {10} *Black's Law Dictionary* (Sixth Edition), page 1000.
- {11} Matthew Bacon, *A New Abridgement of the Law* (Philadelphia, Pennsylvania: Thomas Davis, 1832), Volume IV, page 7.
- {12} Bacon, *ibid.* (1846), Volume VII.
- {13} Pollack, *Racial Discrimination and Judicial Integrity* (1959), 108 *University of Pennsylvania Law Review* 1.
- {14} A court is required to give some kind of notice to those present as to the nature of the proceedings. Most often, this notice is given in the type of flag that is flying in the court room. The gold-fringed military flag of the United States, with either an eagle or spear finial, will always accompany proceedings in equity under the fourteenth amendment.
- {15} *Black's Law Dictionary* (Sixth Edition), page 623.
- {16} *Ibid.*, page 624.
- {17} *Salmond on Jurisprudence* (England: Sweet and Maxwell, Ltd., 1937; Ninth Edition).
- {18} *Kraft Foods Co. of Wise v. Commodity Credit Corp.*, 266 F.2d 254; *Hill v. Waxberg*, 237 F.2d 936.
- {19} *Indep. School District of White Bear Lake v. City of White Bear Lake*, 292 N.W. 777.
- {20} Novation is defined as "a type of substituted contract that has the effect of adding a party, either as obligor or obligee, who was not a party to the original duty" (*Black's Law Dictionary* [Sixth Edition], page 1064).