PETITION FOR ALTERNATE WRIT OF PROHIBITION\MANDAMUS

CALIFORNIA SUPREME COURT

No._____

Robert Rowen,

PETITIONER,

V.

ATTORNEY GENERAL: KAMALA D. HARRIS **OF THE STATE OF CALIFORNIA;**

Dist. Atty. of Sonoma County: Jill Ravitch

Office of the Recorder, Janice Atkinson **of Sonoma County, California;**

Office of the Sheriff, *Sheriff* Steve Freditas **of *Sonoma County*, California,**

RESPONDENT.

The People of the State of California

Real Party in Interest

EMERGENCY PETITION, **UNDER A PUBLIC INTEREST**, FOR AN ALTERNATE WRIT OF PROHIBITION\MANDAMUS ***IN THE FIRST INSTANCE***, FOR THE RESPONDENTS TO FOLLOW THE SUPREME LAW OF THE LAND; FOR PROHIBITION OF RECORDING FEDERAL INSTRUMENTS WITHIN THE RECORDS OF THE COUNTY, WHICH VIOLATE SUPREME LAW; AND ENFORCEMENT OF A PUBLIC DUTY TO UPHOLD THE SUPREME LAW BY THE OFFICE OF THE RECORDER OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA; AND THE ENFORCEMENT OF A DUTY BY THE OFFICE OF THE SHERIFF OF THE COUNTY OF SONOMA OF THE STATE OF CALIFORNIA, TO UPHOLD THE SUPREME LAW, PER C.C.P. § 1103(a); C.C.P § 1104; C.C.P §1085(a); C.C.P § 1086; C.C.P §1087;
OR FOR OTHER APPROPRIATE RELIEF;
MEMORANDUM OF POINTS AND AUTHORITIES;
EXHIBITS IN SUPPORT THEREOF.

ROBERT ROWEN – In Pro Per
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NOTICE OF PRIOR APPELLATE REVIEW AND OPINION IN THIS CASE

This action has **not** been the subject of appellate review or published opinion by any division of this Court.

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SUPREME COURT

OF THE STATE OF CALIFORNIA

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INTRODUCTION

NATURE OF THE CASE:

This petition arises out of the constitutional misapplication of the currency of the United States, as it is applied under the 16th Amendment to the Federal Constitution. The current currency application, commencing in 1968, violates the Supreme Law as interpreted by the Supreme Court of the United States.

No question, perhaps, since the American Revolution, and the adoption of the Federal Constitution, has arisen in the United States, involving more seriously and extensively the principles of civil liberty, substantive rights, and free government than the ***currency***.

Even during the darkest moment of our history, when the *Republic* was at war with itself (1861-1865) and its survival hanging by a thread, the government, even then, did not steal private property of the People, collectively, at gunpoint or declare that the *People* were ***criminals*** for not parting (hoarding) with their property, money. ***The act of declaring the American Citizens as criminals (1933) violated their substantial rights.***

The accusation of "***hoarding" (criminalizing*** the American People) arose upon the most ***grievous*** violation of the Law since the dawn of this country. Congressional and presidential mischief of loaning gold coin or its equivalent to foreign debtor nations out of the *purse* of the American People not only resulted in *abandoning* the *Gold Standard*, but also gave rise to ***inflation***, and its disastrous effects seen today, and warned against by the Founding Fathers of its destructive effect.

Did Roosevelt have the right/power to accuse the American People of "hoarding" (criminalizing holding property) under an executive order? It was not remotely traceable to the constitution. Only three crimes were delegated within the federal jurisdiction: ***counterfeiting***, ***piracy***, and **treason**. Criminalizing "Hoarding" is/was not a power traceable to the Constitution, and although rulers of other countries may have had such a prerogative, the federal government was not delegated this power.

> 'Although an emergency may not call into life a power [To criminalize the American people as hoarders] which has never lived, nevertheless emergency may afford a reason for the exertion of a living power

already enjoyed.' **Wilson v . New**, 243 U.S. 332, 348 , 37 S.Ct. 298, 302, L.R.A. 1 91 7 E, 938, Ann.Cas. 191 8A, 1024.

Then, the final destructive nail, on March 25, 1964, under Pres. Lyndon B. Johnson, the Secretary of the Treasury announced that Silver Certificates would no longer be ***redeemable*** for silver dollars. Subsequently, another act of Congress dated June 24, 1967, provided that Silver Certificates could be exchanged for silver bullion for a period of one year, until June 24,1968. At the year's end , ***the certificate became non-redeemable***.[1]

The People were then compelled into a ***debased and fluctuating currency system untraceable to a delegation of power within the federal Constitution***. This has destroyed economic freedom, which is the condition in which individuals can act autonomously while pursuing their economic livelihood and greater prosperity. The restraint against economic freedom, which every American now finds him\herself, violates a person's rights to life, liberty, and the pursuit of happiness. Fundamental rights have been fatally compromised.

In 1932, Congress together with the President ***loaned*** money [Prohibited, and not an enumerated power of Congress] in the form of gold certificates to European debtor nations in violation of Article I, clause 8 of the Federal Constitution. In 1932, France (with other debtor nations), a debtor nation to the United States, redeemed upon the loaned gold certificates, and during a moratorium of one year repayment, depleted the United States of over $750,000,000 of actual gold coin and bullion. [***See*** **EXHIBIT "_" *OPERATING THE GOLDEN GOOSE*]*** As a result of this treasonous act of disloyalty to the American people, the United States abrogated the Gold Standard.

*OPERATING THE GOLDEN GOOSE

(POST MORATORIUM)

"The Federal Reserve System has been threatened with raids upon its gold supply by foreign nations, notably by France. There has been that threatening situation, the conjecture-and it is a conjecture-being that that country wanted to affect our situation with respect to reparations and with respect to her indebtedness to the United States. I do not make the assertion. I say that it is conjecture.

[1] Bureau Of Engraving and Printing, U. S. Department of the Treasury— http://www.moneyfactory.gov/silvercertificates.html

The officials of the Bank of France have simply outwitted the officials of the · Federal Reserve System of this country."

-- SENATOR CARTER GLASS,
Formerly Secretary of the
Treasury, moving in the
United States Senate, February
17, 1932, the Glass-Steagall
bill, an emergency act to
protect the American gold reserve.

"The United States, they said, had entered the path to ***inflation***. This was the beginning of the end of the gold dollar. Will the people now believe it? The franc was the good gold money of the world." Ibid pg 109

This act of disloyalty appropriating the actual money of the American People for foreign nations resulted in a declaration by executive order criminalizing the American People as "hoarders" over their wealth. The greater picture is that the servants, government (the created), have criminalized their Masters (***The Creators)***. Each American Citizen was compelled under force of law to hand over his gold certificates, lawful gold coins, and bullion under penalty of a fine up to $10,000 and\or up to 10 years in prison. It is apparent that the free People were not as free as they thought. The US government ***reneged*** on their solemn promise to pay by dishonoring redemption and criminally converting the property of the certificates' bearers.

These acts of Congress and the President were not acts of heroics toward the European debtor nations, but **acts of disloyalty (treason)** to the Sovereignty of the People of America, which *eventually* placed them into an ever increasing and fluctuating, perpetual debtor system. It is a maxim, "One cannot serve two masters for he shall prejudice the one and benefit the other." In this matter, all Americans were prejudiced by their servants, whom

moved as a country of men versus a country of Law under loyalty, which was beneficial to the Foreign European debtor nations.

Your petitioner, and all the American People, lost their rights to their properties, their free and unrestrained destinies, the rights to their plenary liberty, whilst sitting idle, trusting their leaders, who robbed them of their wealth. The continuous state of emergencies that we Americans find ourselves has none to blame but the ***heads of the federal state***. It is the abuse by those in the representative factor of government who have brought and continues to bring our nation and People to their knees. It is now time to isolate the real and actual issue in America and to bring forward the remedy, which only the states in their wisdom may perform.

Friedrich Hayek once observed, "***To be controlled in our economic pursuits means to be controlled in everything***."[2] At the emergence of this great nation, each person controlled the fruits of his/her own labor and initiative. Individuals are empowered – indeed, entitled –to pursue their dreams by means of their own free choice, to do anything less is conquest. ***See*** EXHIBIT "__" In re Jacob.

The misapplication of the current currency [non-funded, non-redeemable Federal Reserve Notes] of the United States to the 16th Amendment is a conspicuous and unreasonable misapplication of clearly established Supreme Court precedent that has breached the 16th and rights of California citizens.

ISSUE PRESENTED

Neither the office of the Recorder, nor Sheriff of the County have been in compliance with the Supreme Law. The interpretation of the Supreme Court is clear and unambiguous. Funded, redeemable notes or coin (specie), or its equivalent, are the applicable money for debts, taxes, and etc., since the 1870s by Supreme Court interpretation. At the time of the passage of the 16th, ***non***redeemable notes were not an applicable consideration, and the

[2] Friedrich A. Hayek, The Road to Serfdom (Chicago, Ill.: University of Chicago Press, 1944

16th Amendment cannot have a new interpretation purely for convenience to avoid required procedures of law. The amendment would either have to be abolished and a new amendment raised in its place, or the amendment would have to be amended to include the ***debased and fluctuating currency***.

The Office of the Recorder has been recording federal instruments, which have arisen upon the transactions of the non-funded, nonredeemable notes current within America since 1968. It is a Maxim of law that ***if the foundation, (****nonredeemable notes****), are unlawful then nothing lawful (****federal instruments arising from these notes****) may be built atop***, or in this case recorded into the State by means of the Office of the Recorder. This writ of prohibition is to prohibit the County Recorder from accepting and recording federal instruments based on nonredeemable notes since 1968. It is also a writ of mandamus ***commanding*** both the Sheriff and the Recorder of the County to the Law as interpreted by the Supreme Court of the United States.

WHY REVIEW SHOULD BE GRANTED

Beneficial and Public Interest

The petitioner claims that this court uphold his right to proceed, because his beneficial and the public interests had been violated by the Sheriff and Recorder of the County of Sonoma.

> "Generally speaking, writ of mandate issued upon verified petition of party beneficially interested to compel performance of an act which law specifically enjoins as duty resulting from office, trust, duty, or station where there is no plain, speedy, and adequate remedy in ordinary course of law."[3]

> "A petitioner is not required to show any legal or special interest in the result when the question raised in the petition is one of public right and the object of the writ is to procure the

[3] People v. Superior Court of Marin County (1968) 72 Cal.Rptr. 330, 69 Cal.2d 491, 446 P.2d 138.

> enforcement of a public duty; it is sufficient that the petitioner is interested as a citizen in having the laws executed and the respondent's duty enforced."[4]

First impression issue

Additionally, petitioner's writ presents a first impression issue, requiring an acknowledgment of the conflict between the current United States currency and the interpretation of legal tender by the U.S. Supreme Court, and the noncompliance of the Sheriff and Recorder of the County under that Supreme Law.

> "A writ of mandate may be granted when the petition presents an issue of first impression that is of general interest to the bench and bar."[5]

Compel a Ministerial Duty

The petitioner has a right to writ relief because he is commanding the Sheriff and the Recorder of the County to perform under their ministerial duties an act which law specifically enjoins as a duty under the Supreme Law of the land. The petitioner is prohibiting the Office of the Recorder from recording any federal instruments that arise on legal tender that is not compliant, and not within the interpretation of legal tender by the Supreme Court of the United States. The petitioner has a public and beneficial right to the performance of that duty.

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[4] Common cause v. Board of Supervisors (1989) 49 Cal. 3d 432, 439, 261 Cal. Rptr. 574, 777 P.2d 610.

[5] Baeza v. Superior Court (App. 5 Dist. 2011) 135 Cal.Rptr.3d 557, 201 Cal.App.4th 1214

That the respondents follow the law as interpreted by the Supreme Court of United States is within their ministerial duties. The petitioner has a public right to enforce the public duty.

> "... Writ of mandate where the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the petitioner need not show that he has any legal or special interest in the result..." [6]
>
> "To obtain writ relief, a petitioner must show (1) a clear, present and usually ministerial duty on the part of the respondent; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty."[7]

Law Furnishes No Other Remedy in This Matter

> "Mandamus is extraordinary remedy to be used where law furnishes no other remedy and one should be afforded to promote ends of justice."[8]

The Public Need in This Matter Is Weighty

Because of the subject matter of this writ, the Citizens of the State of California previously, currently, and continuously have been injured with loss of their substantive rights. Their properties gyrate, which the Founding Fathers warned (and prohibited) as a result of a debased and fluctuating currency.

> "The Supreme Court may accept a writ petition to consider ***an urgent matter of overriding public importance***. See *examples* Lockyer v. City and County of San Francisco (2004) 33 C4th 1055, 1066, 17 CR3d 225 (original proceedings in Supreme Court compel city and County officials to comply with

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[6] Save the Plastic Bag Coalition v. City of Manhattan Beach (2011) 127 Cal.Rptr.3d 710, 52 Cal.4th 155, 254 P.3d 1005.
[7] Branciforte Heights, LLC v. City Of Santa Cruz (App. 6 Dist. 2006) 42 Cal.Rptr.3d 96, 138 Cal.App.4th
[8] Nider v. City Commission of City of Fresno (App. 4 Dist. 1939) 36 Cal.App.2d 14, 97 P.2d 293

> marriage statutes and cease issuing marriage licenses to same-sex couples; court issued a writ); Farley vs. Healey (1967) 67 C2d 325, 326, 62 CR 26 (mandamus proceeding filed in Supreme Court because urgency of the issue made appeal to court of appeals inadequate remedy)."

NECESSITY FOR RELIEF REQUESTED:

Petitioner seeks extraordinary relief from the court in the ***first instance*** because, in addition to the matters set out in the above paragraphs, the following circumstances make it proper and necessary that a writ issue from this court:

This ***first impression case*** arises upon violations of law by the county Sheriff and Recorder, the result of which is injurious not only to your petitioner but to Citizens of the State. Neither lower courts nor appellate courts have precedents for guidance. Nor does the State Supreme Court have precedents to guide it in this matter, except for interpretations of legal tender from the Supreme Court of the United States.

The case is "unusual" and the jurisdiction of the superior and appellate courts of California cannot realistically view this case as a routine exercise of their discretion. This first impression case raises important questions concerning the currency of the United States after 1968, and authority of Congress to maintain the legal tender aspect of these current bills of credit in payment "for all debts public and private," without first amending the 16th Amendment of the Federal Constitution through the votes of the several states. Such constitutional misapplication of the current nonredeemable Federal Reserve Note (FRN) to the 16th Amendment (income tax) is contrary to, or an

unreasonable application of, clearly established federal law by the interpretation of legal tender by the Supreme Court of the United States.

The Congress has exceeded its powers under the Constitution, thus intruding upon and creating injuries to the Sovereignty and authority of the State of California and its Citizens.

There is no basis in precedents or principle to deny the petitioner standing to raise this claim.

1. The right to relief by alternate writ in this first instance in this matter is obvious. The Recorder's Office of the County is processing federal instruments, which rely on the current federal currency, and which is in noncompliance with the Supreme Court's interpretation of “Legal Tender”.

2. This currency deprives and continues to deprive the petitioner and the Citizens of this State a stable, non-debased, and noninflationary currency that will promote the economy and ownership of property.

3. The petitioner lacks an adequate means, such as a direct appeal, by which to attain relief.

4. The petitioner has, is, and will continue to suffer harm and\or prejudice in a manner that cannot be corrected by inferior courts of this State.

If the relief requested herein ***is not granted***, the Citizens of California shall continue to labor for an ever increasing and perpetual national debt, which is based since 1968 upon these current notes that are in nonconformity with interpretations by

the Supreme Court of the United States on legal tender. Families will continue to lose their homes through foreclosures; people will continue to lose their employment; downsizing will continue; businesses will continue to fold; prices will continue to increase; food lines shall continue to increase (welfare/food stamps); the end shall be the same as the end for the following countries in currency collapses: Argentina, in 1932; Finland, Italy, and Norway, in 1992; Mexico in 1994, which spread economic hardships throughout Latin America; the Thai baht fell through the floor, effects spreading to Malaysia, the Philippines, Indonesia, Hong Kong, and South Korea, in 1997; the Russian ruble in 1998, and ***Cyprus*** in March of 2013. ***This is a momentous issue, and the fate of our State lies within the Supreme Justices of California. We are within harsh times, which calls for drastic measures to save this State.***

Similar writs shall be filed into each state's supreme court, because the nation needs to retrace itself to the point of better times when the gold coin was movable land and men ***actually*** owned property.

Respectfully Submitted:

DATED: _____, 201__

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PETITION

By this verified petition, Petitioner alleges:

PARTIES:

1. Petitioner Rowen is a Citizen of the State of California and respondents are the Sheriff, Recorder, and Dist. Atty. of the County of Sonoma, State of California; and the Atty. Gen. of the State of California.

2. The Real Party in Interest are the Citizens of the State of California.

JURISDICTION OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

The Supreme Court of California has jurisdiction to hear this petition pursuant C.C.P. § 1103(a); C.C.P § 1104; C.C.P §1085(a); C.C.P § 1086; C.C.P §1087

The petitioner seeks this writ under the following authorities:

> "To have public interest standing to seek a writ of mandate where the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the petitioner need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced."[9]

MEMORANDUM OF POINT AND AUTHORITIES

POINT

IN ACCORDANCE WITH ALL THE LEGAL TENDER AND OTHER CONNECTED CASES DETERMINED FROM AND BY THE SUPREME COURT OF THE UNITED STATES, THE 16TH AMENDMENT (INCOME TAX) SHALL ONLY APPLY TO SPECIE (LAWFUL GOLD OR SILVER COIN OR BULLION) OR CONVERTIBLE NEGOTIABLE INSTRUMENTS INTO ACTUAL MONEY, SUCH AS ***REDEEMABLE*** NOTES. THE FEDERAL RESERVE NOTE, WHICH IS CURRENT AND THE CURRENCY OF THE UNITED STATES, IS A ***NON-REDEEMABLE*** NOTE AND ITS APPLICATION TO THE 16TH AMENDMENT IS IN NON-COMPLIANCE TO THE SUPREME COURT INTERPRETATIONS OF LEGAL TENDER. FOR THE FEDERAL RESERVE NOTE TO BE

[9] Save the Plastic Bag Coalition v. City of Manhattan Beach (2011) 127 Cal.Rptr.3d 710, 52 Cal.4th 155, 254 P.3d 1005.

PERMISSIBLE AS LEGAL TENDER UNDER THE 16TH AMENDMENT, THE 16TH AMENDMENT WOULD HAVE TO BE ABOLISHED AND A NEW AMENDMENT ENACTED TO INCORPORATE NON-REDEEMABLE NOTES BY A VOTE OF THREE-QUARTERS OF THE STATES OF THE UNION.

THE RECORDER'S OFFICE WITHIN EVERY COUNTY OF THIS STATE ARE IN NON-COMPLIANCE WITH THE UNITED STATES CONSTITUTION. THE RECORDERS ARE UNDER OATH TO UPHOLD THE CONSTITUTION AS INTERPRETED BY THE SUPREME COURT. EACH RECORDING OF A FEDERAL INSTRUMENT, [WHICH INSTRUMENT ARISES UPON POST 1968 FEDERAL RESERVE NOTES] , BY THE OFFICE OF THE RECORDER OF THE COUNTY IS IN NONCOMPLIANCE OF THE SUPREME LAW.

Maxim: "IF THE FOUNDATION IS UNLAWFUL NOTHING LAWFUL MAY BE BUILT ATOP."

This State is held to the law, and not to convenience.

The Petitioner's Personal Injury

It is not required for the petitioner to show an injury in this matter. That his agents within County offices throughout the state are violating the law is evidence of private and public rights being violated. It is a ministerial duty of all of the officers of the state of California to uphold the law as interpreted by the Supreme Court; and, that is the basis of the argument presented.

The injury petitioner has suffered is directly owing to fluctuations of the *alleged value* of the nonredeemable notes, which are the current legal tender. (Petitioner states "*alleged value*" because the US Treasury states openly on its website, that the only thing backing the Federal Reserve note is the "***confidence"*** of the American People. **Confidence is not a unit of value, it is an emotion/feeling. *See*** Article I, §8, Cl. 5 – *Coin Money).* All goods and services are in flux on any given day because of the nature and characteristics of the current Federal Reserve notes. What your dollar could buy 10 of today, may buy less or more tomorrow. When the currency is in flux, there is always an injury and an opposing benefit. In deflation, the one selling goods or services is injured - he makes less currency. However, the one buying the goods and services achieves more for his dollar. Inflation, reverses the roles. One can search the historical records and never see evidence of the Founding Fathers opting for

an *unstable* and fluctuating economy through inflation and deflation. These men understood principles of money and the mischief of what paper money could do not only to commerce, but the destruction caused to the population.

The petitioner is a physician, but rising costs, due to inflation, of medical services and products nationwide has barred his doors to many. The cost of products and services has increased manifold, the wages and salaries from labor has not been directly proportional to the increase. In inflation, the products and services cost me more though my income remains relatively unchanged.

I've been directly injured by these unsanctioned non-redeemable notes. I have lost patients. My supplies and tools are exorbitant. Office rent has increased. Just the simple necessities of life are directly elevated in price because of the inflation these non-funded, nonredeemable notes have produced.

Fluctuation, depreciation, inflation, and deflation are scourges upon the *People* of the State of California, that has set man against man, and man against government, and is the cause of foreclosures, unemployment, bankruptcy, and the economic slump that we, as a nation, are currently experiencing. Downsizing in order for a company to stay afloat has placed many on the streets, which **is directly related to the increase in crime**. 103 million Americans (approximately 1/3 the American population) are in food lines better known as *Welfare*. But isn't that precisely why the Founding Fathers refused to allow "***bills of credit***" to be emitted into the system? ***See*** historical notes below.

Purchasing power is directly related to inflation and deflation of the current currency, Federal Reserve Notes, and its application in relation to products and services. A bread loaf of the 1950's that cost $.10, now costs $3.50 – 5.00. The average house in the 1950's in San Francisco cost $6000 and now costs $700,000—900,000 or more. Gasoline was $0.10 - $0.25 per gallon for 40 years until the end of the Silver Standard. Now it ranges from $3.90—$5.50 per gallon (though that same silver 1964 quarter fetches $4-5.00 in FRNs for a gallon). The price of prescriptions is out of reach for most Americans. For many, these inflated prices directly relate to life-and-death situations. Frankly, most prescriptions are prohibitive, even when covered by insurance.

On the other hand, while ***redeemable*** notes for gold or silver are *unstable to a degree*; they are always reliable in keeping ***fluctuation of the currency to a minimum***.

I've suffered in my practice because of unstable markets based on these ***non***-redeemable notes. We as a State have come to an extraordinary time. The entire foundation of the economy teeters. We'll know the extent of the damages when the tremors subside and the entire system collapses. But that day is ***not*** far off. Unless we act now and follow the interpretation of the Supreme Court in the Legal Tender Cases, ***we remain a Nation in peril***.

In our country, the common person cannot anticipate the value of the paper money at any given time. Yet, the principle behind allowing the Congress to coin money was to prevent **fluctuation and debasement** of any currency; and to keep it uniform across the states. Congress was entrusted with this ***great power***, but it is apparent they have not read history, or have disregarded history as to **why they have the power to *coin* money in the first instance.** In addition, money was to maintain a ***known*** value. At enactment of article I, §8 Cl. 5, the Founders understood this (paper currency) would be ***a mischief that could cause ruination, destroy the confidence between man and man and deeply affect prosperity of all.*** It is asinine ***not to*** acknowledge that if states could not emit bills of credit because of the mischief it could cause the country, ***that the Federal Government would not have been granted such a power to debase and fluctuate money through paper***. But that is precisely what has happened. Paper money, now nonredeemable, fluctuates prices of properties, products and services.

Concerning the jobless millions, is this a joyous occasion for the individual? Or, has this caused calamities for families and strife between man (workers) and man (employers)? Of course it has. No one who has lost his job through layoff, termination, business collapse, or downsizing walks away overjoyed. His future is precarious. This has been the curse of America because of the currency debasement and fluctuation. ***That power to debase and fluctuate the currency has never been a delegated power granted to the Congress of the United States***; yet, this nation is immersed in this devious and mischievous power that has been nationally destructive. The Congress ***was never granted the power to emit the bills of***

credit. Admittedly ***that is not the argument presented before this court, but it does need to permeate into our thoughts.***

The best evidence to prove that this type of currency was never intended is within the following quotes.

> "Such a medium (paper money) **has been always liable to considerable fluctuation**. Its value is continually changing; and ***these changes, often great and sudden, expose individuals to immense loss, are the sources of ruinous speculations, and destroy all confidence between man and man.*** **To cut up this mischief by the roots, a mischief which was felt through the United States, and which deeply affected the interest and prosperity of all; the people declared in their constitution, that no state should emit bills of credit.** If the prohibition means anything, if the words are not empty sounds, it must comprehend the emission of any paper medium, by a state government, for the purpose of common circulation." [10]
>
> "The power to coin money is one of the ordinary prerogatives of sovereignty, and is almost universally exercised in order to preserve a **proper circulation of good coin of a known value** in the home market***. In order to secure it from debasement it is necessary, that it should be exclusively under the control and regulation of the government;*** for if every individual were permitted to make and circulate, what coin he should please, there would be an opening to the grossest frauds and impositions upon the public, by the use of base and false coin. And the same remark applies with equal force to foreign coin, if allowed to circulate freely in a country without any control by the government. Every civilized government, therefore, with a view to prevent such abuses, to facilitate exchanges, and thereby to encourage all sorts of industry and commerce, ***as well as to guard itself against the embarrassments of an undue scarcity of currency, injurious to its own interests and credits, has found it necessary to coin money, and affix to it a public stamp and value,*** and to regulate the introduction and use of foreign coins.
>
> The grounds, upon which the general power to coin money, and regulate the value of foreign and domestic coin, is granted to the national government, cannot require much illustration in order to vindicate it. ***The object of the power is to produce uniformity of value throughout the Union, and thus to preclude us from the***

[10] U.S.,1830—Craig et al. vs. The State of Missouri 29 U.S. 410, 4 Pet. 410, 1830 WL 3864 (U.S.Mo.), 7 L.Ed. 903

embarrassments of a perpetually fluctuating and variable currency.[11]

Clearly stated, I am in a perpetual debtor system in an ever-increasing out of control national debt. It is a system based upon non-redeemable debt notes since 1968, in a fluctuating system of inflation (endless printing), deflation. They're backed with nothing of value save "confidence". 103 million Americans, who are on welfare, would not have the confidence in this currency if they had the knowledge of why they're so impoverished. They are prohibited from many of the luxuries of life, and are provided bare necessities. And the bottom line is, these nonredeemable notes do not comply with the Supreme Court's interpretation of legal tender.

Public policy and repetitive practice to implement the non-redeemable Federal Reserve notes as the current currency of the United States.

"Court says Obama exceeded authority in making appointments"[12]

> "President Obama exceeded his constitutional authority by making appointments when the Senate was on a break last year, a federal appeals court ruled Friday. The court's broad ruling would sharply limit the power that presidents throughout history have used to make recess appointments in the face of Senate opposition and inaction."
> "A unanimous three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit flatly rejected the Obama administration's rationale for appointing three members of the National Labor Relations Board (NLRB) while the Senate was on a holiday break."
> "The White House criticized the court ruling. "The decision is novel and unprecedented, and it contradicts 150 years of practice by Democratic and Republican administrations," White House press secretary Jay Carney told reporters Friday. "We respectfully but strongly disagree with the ruling.""
> "Chief Judge David B. Sentelle sharply criticized the administration's interpretation of when recess appointments may be made, …He added, "This cannot be the law."

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[11] 3 Story 16
[12] ***The Washington Post***, July 23, 2012

As evident above, there has been a ***policy*** and ***practice*** by the Presidents for the last 150 years to make appointments while the Senate was in recess. A unanimous three-judge panel of the US Court of Appeals for the District of Columbia flatly rejected the Obama administration's rationale effectively overturning 150 years of policy/practice.

Although it was ***convenient*** for the Presidents of the United States to appoint during times of Senate recess, they moved ***without*** the authority of Law.

It may also be ***convenient*** for the United States to accept the Federal Reserve's ***issuing*** of the non-funded, non-redeemable notes post 1968, which are not in conformity with the Law under the interpretations of *legal tender* by the Supreme Court of the United States, however, that particular authority is *without the authority of Law* under the federal Constitution no matter how long it's been maintained as a practice.

Follows is the incontrovertible evidence that the nonfunded, non-redeemable Federal Reserve notes are not applicable as payments under the 16th Amendment to the United States Constitution because they do not in fact comply with the interpretations of legal tender under the Supreme Court of the United States.

Title 31 §5103 specifies how legal tender is defined in the United States, and its application to debts, public charges, taxes, and dues. Inclusive in the subject of legal tender are United States coins and currency, inclusive of Federal Reserve notes and circulating notes of the Federal Reserve banks and national banks.

> **Title 31 Chapter 51 §5103. Legal tender**
>
> "United States coins and currency (including Federal Reserve notes and circulating notes of Federal Reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. ***Foreign gold or silver coins*** are not legal tender for debts."

Of special note in the above section is the sentence, "***Foreign gold or silver coins are not legal tender for debts.***" The law prescribes that this code must be interpreted concerning ***the whole body of the code and not by segmenting portions for interpretation.*** These Foreign coins would have once been comparable to United States coins [specie] the

composite of which were of gold and silver. No one would argue that this section, 5103 is the current law of the United States. However, it is obvious that this code ***is not*** addressing ***clad coins***, simply for the reason the whole of this code section implies a comparison between US and foreign gold and silver coins.

It is self evident that there are no foreign gold and silver coins circulating as currency within the United States. That's not only because the law forbids using them as legal tender, but also, because foreign gold and silver coins are not minted as currency. Actually, no country in the world, if any, coins gold or silver coin and circulates it into its population at a dollar per dollar rate to paper money. It would be certain that if gold or silver coins made it to the United States they would quickly be taken out of circulation by the People for their intrinsic values.

Another interesting point in the above code is that the United States has not mentioned any foreign paper money. Paper money and clad/base metal coins are the only currency within the economic international borders of most if not all countries worldwide.

But as law prescribes, we cannot read one sentence of the Legal Tender section 5103 without addressing the entire section as one law, each sentence relying in balance on all others. The question arises that if it is prohibited for foreign gold and silver coins to be legal tender in this country, then what is the nature of the "coins and currency" and "including Federal Reserve notes and circulating notes of Federal Reserve banks and national banks?" This question is answered upon the cases that the federal government points to as defining this section's constitutionality.

Constitutionality of §5103

Concerning the *constitutionality* of this section, the government points to and relies on the support of "Former §452 [Title 31] was constitutional [1872]." Norwich & W.R. Co. v. Johnson, U.S.Conn. 1872, 82 U.S. 195.

> "The constitutionality of the Acts of Congress of February 25, 1862, and of subsequent acts in addition thereto, making certain notes of the United States a legal tender in payment of debts, reaffirmed.

> Johnson sued the Norwich and Worcester Railroad Company on certain coupons for interest attached to bonds, made by the said company A.D. 1860. When the coupons fell due, the amount was tendered in the legal tender notes of the United States, issued under the act of Congress of February 25, 1862, and the several acts in addition thereto, and they were refused. The state court rendered judgment that this tender was not good, and that the plaintiff should receive the amount with interest in the gold and silver coin of the United States. This writ of error was brought to reverse that judgment."

And,

> "Former §452 (Title 31) was *constitutional* when applied to contracts made before its passage." **Legal Tender Cases**, U. S. Tex. 1870, 79 U. S. 457, 20 L.Ed. 287, 12 Wall. 457.

Of paramount importance concerning the constitutionality of Title 31 §5103 is that these cases were determined by the Supreme Court within the time period between 1860's-1879's. Two important qualities were determined to exist under the Supreme Court rulings. The legal tender notes were *issued by the United States*. In addition, there was a *promise to pay in specie dollars* upon the notes, making the notes *redeemable in gold or silver at a future date because of the state of emergency during the Civil War*. In 1879, the gold standard was re-established at the pre-War price of gold. A person could redeem his Greenbacks for gold at the government-guaranteed price.

As viewed in the second case above, the *constitutionality* of §5103 of Title 31 rests on the ***Legal Tender Cases***.

The ***Legal Tender Cases*** were a series of United States Supreme Court cases in the latter part of the nineteenth century that affirmed constitutionality of paper money. In the 1870 case of *Hepburn v. Griswold*, the Court had held that paper money legal tender violated the United States Constitution. The *Legal Tender Cases* reversed *Hepburn*, beginning with *Knox v. Lee* and *Parker v. Davis* in 1871,[13] and then *Juilliard v. Greenman* in 1884.[2][14]

In the Legal Tender cases the Supreme Court determined that the paper money, issued in **emergency,** which was declared legal tender, had to at some future time be

[13] Knox v. Lee, 79 U.S. 457 (1871)
[14] Juilliard v. Greenman, 110 U.S. 421 (1884).

redeemable during peace. It also determined that the legal tender had to be *issued by the United States*. The nonredeemable notes, which are currently in circulation within the United States, were not addressed in the Legal Tender Cases. However, the Supreme Court did say, "…, ***nor do we assert that Congress may make anything which has no value [into] money.***" This is precisely what is afloat as currency in America, paper "money" without value, save an emotional value, confidence.

Moreover, having quality of the redeemability withdrawn from the notes current in the nation does not instill confidence by the American People when they were forced into this mendacious system of valueless currency. Not one American citizen voted on having their wealth in actual money (species) removed from their purse. The plantation slave was given script to buy at the plantation store, one could say he had confidence in the script, but in reality he was not paid money but forced to accept the script.

Julliard vs. Greenman- 1884

> "The manifest intention of this act is that the notes which it directs, after having been redeemed, to be reissued and kept in circulation, shall retain their original quality of being a legal tender. The ***single question***, therefore, to be considered, and upon the answer to which the judgment to be rendered between these parties depends, is **whether *notes of the United States*, *issued in time of war*, under acts of congress declaring them to be a legal tender in payment of private debts, and *afterwards in time of peace redeemed and paid in gold coin at the treasury*, and *then reissued under the act of 1878*, can, under the constitution of the United States, be a legal tender in payment of such debts.** Upon full consideration of the case, the court is unanimously of opinion that it cannot be distinguished in principle from the cases heretofore determined, reported under the names of the Legal-tender Cases, 12 Wall. 457; Dooley v. Smith, 13 Wall. 604; Railroad Co. v. Johnson, 15 Wall. 195; and Maryland v. Railroad Co. 22 Wall. 105; and all the judges, except Mr. Justice FIELD, who adheres to the views expressed in his dissenting opinions in those cases, are of opinion that they were rightly decided.

Legal Tender Cases - 79 U.S. 457 (1870)

Page 79 U. S. 553

> **"The legal tender acts do not attempt to make paper a standard of value.** We do not rest their validity upon the assertion that

> their emission is coinage, or any regulation of the value of money; **nor do we assert that Congress may make anything which has no value money**. **What we do assert is that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts,** or to multiples thereof. It is hardly correct to speak of a standard of value. The Constitution does not speak of it. It contemplates a standard for that which has gravity or extension; but value is an ideal thing. The coinage acts fix its unit as a dollar; but the gold or silver thing we call a dollar is, in no sense, a standard of a dollar. It is a representative of it. There might never have been a piece of money of the denomination of a dollar. There never was a pound sterling coined until 1815, if we except a few coins struck in the reign of Henry VIII, almost immediately debased, yet it has been the unit of British currency for many generations. **It is, then, a mistake to regard the legal tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value.**

Clearly evident in the legal tender cases, even in time of war or emergency, the legal tender ultimate goal is redemption in specie.

Legal Tender Cases

79 U.S. 457, 1870 WL 12742 U.S. December Term 1870

> Mr. Justice BRADLEY, concurring:
>
> ***65** **No one supposes that these government certificates are never to be paid-that the day of specie payments is never to return. And it matters not in what form they are issued.** The principle is still the same. Instead of certificates they may be treasury notes, or paper of any other form. And their payment may not be made directly in coin, but they may be first convertible into government bonds, or other *562 government securities. Through whatever changes they pass, **their ultimate destiny is to be paid.**

As evident, the legal tender cases clearly state that the ***ultimate goal of government certificates was to be paid in specie.*** The constitutional interpretation of §5103, which the government relies for support of this section are the Legal Tender Cases. The United States has delegated to the Federal Reserve (absent Constitutional authority to redelegate a power) an exclusive executive power to perpetually issue non-redeemable notes that do not comply

with the interpretation within the Legal Tender Cases. Consequently, ***current currency***, Federal Reserve notes of the United States, ***is without uniformity with the Supreme Law***.

In Mathes v. COMMISSIONER OF INTERNAL REVENUE (1978), the Fifth Circuit of the Court of Appeals of the United States stated the following:

> "Close to a century ago, the Supreme Court stated:
>
> Under the power to borrow money on the credit of the United States, and to issue circulating notes for the money borrowed, (Congress') power to define the quality and force of those notes as currency is as broad as the like power over a metallic currency under the power to coin money and to regulate the value thereof.
>
> Under the two powers, taken together, Congress is authorized to establish a national currency, either in coin or in paper, and to make that currency lawful money for all purposes, as regards the national government or private individuals. . . . (Emphasis added)"[15]

Even in the above case of Mathes v. COMMISSIONER, the Circuit Court refers to an earlier time, "Close to a century ago, [Legal Tender Cases]" that the Supreme Court had made the determination on the authority to create notes by the United States. However, the Fifth Circuit in Mathes was oblivious to the fact that the Supreme Court also determined that the notes **were to be paid at a future date in gold (species)**.

In Title 31 Sections 5101 et. seq., there are many sections therein that refer to §5103 as the standard for legal tender. Yet, as 5103 relies on the Legal Tender Cases for its constitutionality, it is clear that section 5103 arises upon negotiable instruments that can be converted into specie. In addition, these negotiable instruments (currency) must be issued by the United States!

While subsequent courts have referred to Julliard as sustaining Congress's broad power over "notes as currency" or "legal tender," all modern cases that have relied on the Legal Tender Cases have neglected the requirements concerning current notes, FRN's, to the paper currency named within the Legal Tender Cases. In accordance with the Legal Tender

[15] **Mathes v Commissioner of the Internal Revenue** — 576 F.2d 70, United States Courts of Appeals, July 10, 1978

Cases determined by the Supreme Court of the United States declared lawful currency must have the following requirements: 1) Issued by the United States: 2) In a time of war, and: 3) Later to be redeemed in specie, and: 4) reissued after redemption with expectations of being paid.

It is the Law in California that the money of accounts is the dollar, cent and mill. The State of California had enacted a statute regarding money of accounts: Political code (1872) Sec. 3272. Public accounts and all proceedings in Courts must be kept and had in conformity to this regulation. Stats. 1850, p. 459, Sec. 1. This has been brought forward into the current government code §6850. In 1850, the dollar was coined specie (precious metal). Section 6850 of the government code is identical to the political code of 1850 Section 3272. The former in the present code §§ represent coined gold or silver. The code in this matter relies upon Article I, §8, Cl. 5 — The Right of Congress to coin money….

One would argue that America was in the state of emergency at the time they suspended the gold standard and then the silver standard, but is their authority to implement an emergency powers that is not within the express power of Congress under an emergency event?

The argument might be that America was forced into non-redeemable notes since 1968 because of national emergency. The law is clear on this point, ***the war/emergency power of the federal government is not created by the emergency of war, but it is a power given to meet that emergency. … even the war power does not remove constitutional limitations safeguarding essential liberties.***

> "Emergency does not create power. Emergency does not increase granted power or remove or diminish the restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. ***Its grants of power to the federal government and its limitations of the power of the States were determined in the light of emergency, and they are not altered by emergency***. What power was thus granted and what limitations were thus imposed are questions [290 U.S. 398, 426] which have always been, and always will be, the subject of close examination under our constitutional system.

> While emergency does not create power, emergency may furnish the occasion for the exercise of power. **'<u>Although an emergency may not call into life a power which has never lived</u>,** nevertheless emergency
>
> may afford a reason for the exertion of a living power already enjoyed.' **Wilson v . New**, 243 U.S. 332, 348 , 37 S.Ct. 298, 302, L.R.A. 1 91 7 E, 938, Ann.Cas. 191 8A, 1024. The constitutional question presented in the light of an emergency is whether the power possessed embraces the particular exercise of it in response to particular conditions. Thus, ***<u>the war power of the federal government is not created by the emergency of war, but it is a power given to meet that emergency.</u>*** It is a power to wage war successfully, and thus it permits the harnessing of the entire energies of the people in a supreme co-operative effort to preserve the nation. ***<u>But even the war power does not remove constitutional limitations safeguarding essential liberties.</u>***"

Clearly evident from above, the War Powers cannot remove constitutional limitations. Substantive rights are those rights that preceded the enactment of the Articles of Confederation and the Federal Constitution. The right of the People in secure ownership of their property, inclusive of their money, is a Civil Liberty essential element.. Confiscating the wealth of the American People by Executive Order breached the Federal Constitution and created a new power not within the authority of the War Power of the United States

<u>The 16th amendment income is to be measured and paid in species or its equivalent in accordance with the determinations of the Supreme Court of the United States</u>

The 16th Amendment was enacted in March of 1913, and the Federal Reserve was enacted in December of the 1913. In 1913 the United States was on the Gold and Silver Standard. As a result, the currency at the time applying to and concerning the 16th Amendment would have been specie or negotiable instruments that could be converted to species.

At that time, non-funded, nonredeemable notes didn't exist; all notes were funded/redeemable. By 1964 the last of funded redeemable notes were issued

under the Silver Standard, the Silver Certificate. Since 1968, all notes issued by the Federal Reserve were and are nonredeemable. These current notes change the nature of payment. They are in direct opposition to redeemable notes, which made payments under the 16th Amendment income tax. Notwithstanding, the 16th Amendment was not amended to include valueless, non-funded, non-redeemable notes ("obligations" 12 USC § 411). To tax non-redeemable notes at a future date from 1913 would require the 16th amendment be amended to incorporate the non-redeemablility of notes. The circumstances under which the 16th amendment was enacted has ceased to exist: payment in specie. If Congress had meant the 16th Amendment to have a new interpretation it would have either amended the 16th Amendment, or have abolished the 16th amendment and added a new amendment for the new interpretation of the law to include non-redeemable notes/obligations.

> "Assuming that we have correctly interpreted the meaning of the term 'by law made current' in the Act of 1806, what would be the status of this phrase if the Act had not been amended in 1951? Would we then say we must now give this provision of the law a new interpretation and make it apply to coins made current in a foreign country; otherwise, it would become inoperative and have no further place in the law? ***A law and its application can only be changed by Congress either by the abolition of the old law and the passage of a new law or by an amendment of the old law clearly showing that Congress intended for the law to have a new meaning. We cannot wish a new interpretation into a law or give it a new application merely because the situation which caused its passage had ceased to exist.***"[16]

"In Peabody v. Eisner,[17] decided on the same day and deemed to have been controlled by the preceding case, the court ruled that a dividend paid in the stock of another corporation, although representing earnings that had accrued before ratification of the amendment, was also taxable to the shareholder as income the dividend was likened to a distribution **in specie**."

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[16] United States Court of Appeals Tenth Circuit. Durrell Edward TYSON, Appellant, v. UNITED STATES of America, Appellee. Nov. 16, 1960. 285 F.2d 19

[17] 247 U. S. 347 (1918).

> "This case arose under the federal Income Tax Act of October 3, 1913, c. 16, 38 Stat. 114, 166, c. 16. The controversy is over the first cause of action set up by plaintiff in error in a suit against the collector for the recovery of an additional tax exacted in respect of a certain dividend received by plaintiff in the year ***1914***…"
>
> It hardly is necessary to say that this case is not ruled by our decision in ***Towne v. Eisner***, since the dividend of Baltimore & Ohio shares was not a stock dividend, but a distribution ***in specie*** of a portion of the assets of the Union Pacific, and is to be governed for all present purposes by the same rule applicable to the distribution of a like value in **money**. It is controlled by **Lynch v. Hornby**, *ante,* 247 U. S. 339. [emphasis added]

As is evident, in the Peabody case the Supreme Court deemed the measure of income for the tax as specie or instruments that were convertible to specie. The current Federal Reserve notes are not convertible to specie. In fact, they have no convertibility into any value or unit of wealth.

As to the Interpretation of the 16th Amendment Concerning Payment

> ***See***, e.g., People v. Kan, 574 N.E.2d 1042 (N.Y. 1991) ("**All courts are, of course, bound by the United States Supreme Court's interpretations of…the Federal Constituition**." (citations omitted)); State v. Gomez, 163 S.W.3d 632, 651 (Tenn. 2005) ("**Like all Tennessee courts, this Court is bound by the United States Supreme Court's interpretation of the United States Constitution.**").

As ruled, specie or its equivalent was considered the method of income measure under the income tax act of 1913. The 16th amendment was enacted when determining the income itself and the money for tax payment was identified as gold or silver coin or redeemable notes, and any other negotiable instrument that was exchangeable to specie. The 16th Amendment to the Federal Constitution "…***should not be broadened or interpreted otherwise than as in the original act***" [18] within a new interpretation to include non-redeemable notes ***which were not within the consideration of Congress at the time of***

[18] Tyson v. United States of America, 285 F.2d 19

its enactment. Nor would the tax collector have collected anything but gold and silver lawful coins of the United States, and legal tenders in the forms of instruments redeemable/convertible to gold or silver.

To apply current *non-redeemable* notes as payments under the 16th amendment for revenue debts would violate and breach the *Supreme Law* as determined by the Supreme Court of the United States. The Supreme Court has repeatedly supported the form of payment under the Legal Tender Cases, which are redeemable notes issued by the United States and lawful coin of the United States.

In United States v. Fisher[19] the Supreme Court stated,

> "... it would be going a great way to say that a constrained interpretation must be put upon them [laws] to avoid an inconvenience ***which ought to have been contemplated in the legislature when the act was passed***, and which in its opinion was probably overbalanced by the particular advantages it was calculated to produce."

Certainly, Congress did not contemplate unfunded, nonredeemable notes to apply to the 16th Amendment. Nonredeemable notes did not exist in the public jurisdiction as currency. ***To move as though they were included as applying to the 16th Amendment for revenue owed would overthrow all the cases interpreted by the Supreme Court upon the Legal Tender Cases***. Yet, the constitutionality of legal tender notes are evidenced under Legal Tender Cases from over a century ago. However, the current FRN currency does not apply into the interpretation of these legal tender cases by the Supreme Court.

> "We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted." Mattox v. U.S. 156 US 237, 243. (1895)
>
> "The Constitution is a written instrument. As such, its meaning does not alter. That which is meant when it was adopted, it means now." S. Carolina v. U.S., 190 9 U.S. 437, 448 (1905).

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[19] **United States v. Fisher, 6 U.S. 2 Cranch 358 358 (1805)**

It's self evident that redeemable notes and nonredeemable note are in direct opposition of each other. One is a claim upon specie a commodity of gold and/or silver, and the other is not a claim, and represents no value save "confidence."

This court must be mindful of the solemn duty imposed in obeying the Supreme Law within the Constitution and interpretation of those laws by the Supreme Court. The 16th Amendment was enacted several months before the Federal Reserve Act. Revenue payments have been interpreted within the Legal Tender Cases by the Supreme Court. The last instruments of either gold/silver Lawful coin, and gold/silver legal tender certificates and notes were invalidated between 1933 through 1968. The **16th Amendment does not automatically amend itself to include these non-funded, non-redeemable notes for the convenience of bypassing the process of law to incorporate a new interpretation into the Amendment.** Acknowledging and acting upon this new interpretation by bypassing the process of law for enacting new interpretations is a direct challenge and breach to the existing interpretations by the Supreme Court.

The petitioner ***claims*** that the 16th amendment was passed under the law of specie (see Peabody) being the common commodities of income measure and revenue debt payment. The petitioner further claims that if the Congress could have anticipated a future of payments in non-redeemable, non-funded notes, it would have so included them. The basis of all national exchange at the enactment of the 16th Amendment was predicated upon specie, and not upon the lack of specie/redeemability in the currency system.

> "As the Court can never be unmindful of the solemn duty imposed on the judicial department when a claim is supported by an act which conflicts with the Constitution, so *the Court can never be unmindful of its duty to obey laws which are authorized by that instrument*."[20]

For those that state petitioner has implemented antiquated case law in this matter I would point them to the best example of understanding true intent of the law.

[20] Ibid

The River is most pristine at its source than at its mouth. Towards the mouth it absorbs contaminants from fields, farms, fish, and man. To prove this point, how many would sip at the mouth of the river rather than its source? Reasonable men would be drawn to the source. And, that is where the petitioner raises the intent of the law.

Further, the petitioner is certain that most of us have been party to or have experienced the example of a row of people, the first in line given a phrase to pass down the row. The phrase travels from mouth to ear, but when it reaches the end of the row, and compared to the original phrase, they are significantly different. This country is over 200 years of age, and this is why the courts still turn to the Federalist papers, Declaration of Independence, Magna Charta, the legal tender cases, the Debates in the Congress (Federal Convention), Madison's papers, Alexander Hamilton's treaties on the creation of the Mint, and a plethora of historical documents and cases for their interpretation of the Constitution.

> "If we look to these as safe sources whence to now draw our knowledge of constitutional law, or respect them as to rule the present decision, they must be so taken in future; and though the legislative authority of Westminster-Hall over us has been extinct for more than 60 years, this tribunal must continue to still look to its emanations, whether in treatises or judicial decrees, to ascertain the meaning of our own Supreme Law."[21]

Unless we forget why this nation was forbidden to "emit bills of credit," the paper money in circulation the reason is clearly stated in the following case:

> "In **Craig v. State of Missouri**[22] and 1830 case, it was well understood that bills of credit would be redeemable at a future day. That is what it has always meant!
> 'To 'emit bills of credit,' conveys to the mind the idea of issuing paper intended to circulate through the community for its ordinary purposes, as

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[21] Peabody vs. Eisner 247 U. S. 347 (1918).

[22] U.S.,1830—Craig et al. vs. The State of Missouri 29 U.S. 410, 4 Pet. 410, 1830 WL 3864 (U.S.Mo.), 7 L.Ed. 903

money, **which paper is redeemable at a future day. This is the sense in which the terms have been always understood**.

At a very early period of our colonial history, the attempt to supply the want of the precious metals by a paper medium was made to a considerable extent; and the bills emitted for this purpose have been frequently denominated bills of credit. During the war of our revolution, we were driven to this expedient; and necessity compelled us to use it to a most fearful extent. The term has acquired an appropriate meaning; and 'bills of credit' signify a paper medium, intended to circulate between individuals, and between government and individuals, for the ordinary purposes of society. Such a medium has been always liable to considerable fluctuation. Its value is continually changing; and these changes, often great and sudden, expose individuals to immense loss, are the sources of ruinous speculations, and destroy all confidence between man and man. To cut up this mischief by the roots, a mischief which was felt through the United States, and which deeply affected the interest and prosperity of all; the people declared in their constitution, that no state should emit bills of credit. If the prohibition means anything, if the words are not empty sounds, it must comprehend the emission of any paper medium, by a state government, for the purpose of common circulation.

But it is contended, that though these certificates should be deemed bills of credit, according to the common acceptation of the term, they are not so in the sense of the constitution; because they are not made a legal tender.

The constitution itself furnishes no countenance to this distinction. The prohibition is general. It extends to all bills of credit, not to bills of a particular description. That tribunal must be bold indeed, which, without the aid of other explanatory words, could venture on this construction. It is the less admissible in this case, because the same clause of the constitution contains a substantive prohibition to the enactment of tender laws. The constitution, therefore, considers the emission of bills of credit, and the enactment of tender laws, as distinct operations, independent of each other, which may be separately performed. Both are forbidden. To sustain the one, because it is not also the other; to say that bills of credit may be emitted, if they be not made a tender in payment of debts; is, in effect, to expunge that distinct independent prohibition, and to read the clause as if it had been entirely omitted. We are not at liberty to do this.

The history of paper money has been referred to, for the purpose of showing that its great mischief consists in being made a tender; and that therefore the general words of the constitution may be restrained to a particular intent.

We learn from Hutchinson's History of Massachusetts, vol. 1, p. 402, that bills of credit were emitted for the first time in that colony in 1690. An army returning unexpectedly from an expedition against Canada, which had proved as disastrous as the plan was magnificent, found the government totally unprepared to meet their claims. Bills of credit were resorted to, for relief from this embarrassment. They do not appear to have been made a tender; but they were not on that account the less bills of credit, nor were they absolutely harmless. The emission, however, not being considerable, and the bills being soon redeemed, the experiment would have been productive of not much mischief, had it not been followed by repeated emissions to a much larger amount. ***The subsequent history of Massachusetts abounds with proofs of the evils with which paper money is fraught, whether it be or be not a legal tender.***

Paper money was also issued in other colonies, both in the north and south; and whether made a tender or not, was productive of evils in proportion to the quantity emitted. In the war, which commenced in America in 1755, Virginia issued paper money at several successive sessions, under the appellation of treasury notes. This was made a tender. Emissions were afterwards made in 1769, in 1771, and in 1773. These were not made a tender; but they circulated together; were equally bills of credit; and were productive of the same effects. In 1775 a considerable emission was made for the purposes of the war. The bills were declared to be current, but were not made a tender. In 1776, an additional emission was made, and the bills were declared to be tender. The bills of 1775 and 1776 circulated together; were equally bills of credit; and were productive of the same consequences.

Congress emitted bills of credit to a large amount; and did not, perhaps could not, make them a legal tender. This power resided in the states. In May 1777, the legislature of Virginia passed an act for the first time making the bills of credit issued under the authority of congress a tender so far as to extinguish interest. It was not until March 1781 that Virginia passed an act making all the bills of credit which had been emitted by Congress, and all which had been emitted by the state, a legal tender in payment of debts. Yet they were in every sense of the word bills of credit, previous to that time; and were productive of all the consequences of paper money. We cannot then assent to the proposition. that the history of our country furnishes any just argument in favour of that restricted construction of the constitution, for which the counsel for the defendant in error contends.

The certificates for which this note was given, being in truth 'bills of credit' in the sense of the constitution, we are brought to the inquiry:

Is the note valid of which they form the consideration?
It has been long settled, that a promise made in

consideration of an act which is forbidden by law is void***. It will not be questioned, that an act forbidden by the constitution of the United States, which is the supreme law, is against law. Now the constitution forbids a state to 'emit bills of credit.' The loan of these certificates is the very act which is forbidden. It is not the making of them while they lie in the loan offices; but the issuing of them, the putting them into circulation, which is the act of emission; the act that is forbidden by the constitution.*** The consideration of this note is the emission of bills of credit by the state. The very act which constitutes the consideration, is the act of emitting bills of credit, in the mode prescribed by the law of Missouri; which act is prohibited by the constitution of the United States.

The precise meaning and interpretation of the terms, *bills of credit*, has no where been settled; or if it has, it has not fallen within my knowledge….The natural and literal meaning of the terms import a bill drawn *on credit merely*, and not bottomed upon any real or substantial fund for its redemption. There is a material and well known distinction between a bill drawn upon a fund, and one drawn upon credit only. A bill of credit may therefore be considered a bill drawn and resting merely upon the *credit* of the drawer; as contradistinguished from a *funa* constituted or pledged for the payment of the bill. Thus, the constitution vests in congress the power to borrow money on the credit of the United States. A bill drawn under such authority would be a bill of credit. And this idea is more fully expressed in the old confederation, (Art. 9.) 'Congress shall have power to borrow money or *emit bills* on the credit of the United States.' Can the certificates issued under the Missouri law, according to the fair and reasonable construction of the act, he said to rest on the credit of the state? Although the securities taken for the certificates loaned are not in terms pledged for their redemption, yet these securities constitute a fund amply sufficient for that purpose, and may well be considered a fund provided for that purpose. The certificates are a mere loan upon security in double the amount loaned. And in addition thereto, (section 29), provision is made expressly for constituting a fund for the redemption of these certificates. These are guards and checks against their depreciation, by insuring their ultimate redemption."

The Delegation of Currency to the Federal Reserve

"Congress has delegated the power to establish this national currency which is lawful money to the Federal Reserve System. 12

U.S.C. § 411. [23] ***How can the Congress delegate power, a great and important power, to others which Congress did not possess themselves?*** This involves a monopoly, which affects the equal rights of every citizen. Unlike species, gold and silver, paper money has led to (often unknown) penal regulations, and heretofore unconstitutional adhesions of the People to the central government. If this power is not there, the exercise of it involves guilt of usurpation, and has established a precedent of interpretation, leveling all barriers which limit the powers of the General Government, and protect those of the State Governments and their citizens.

There is a distinction between a power necessary and proper for Government or Union, and a power necessary and proper for executing the enumerated powers. In the latter case the powers included in each of the enumerated powers, were not expressed, but to be drawn from the nature of each. In the former, the powers composing the government were expressly enumerated. No power, therefore, non-enumerated, could be inferred from the general nature of government. Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been covered, or supplied by an amendment of the Constitution."

James Madison, Federalist **No. 44, p.287**

"The extension of the prohibition to **bills of credit** must give pleasure to every citizen in proportion to his love of justice and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of **paper money** on the necessary confidence between man and man, on the necessary confidence in the public councils, on the industry and morals of the people, and on the character of republican government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it. In addition to these persuasive considerations, ***it may be observed that the same reasons which show the necessity of denying to the States the power of regulating coin prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin.*** Had every State a right to regulate the value of its **coin**, there might be as many different currencies as States, and thus the intercourse among them would be impeded; retrospective alterations in its value might be made, and thus the citizens of other States be injured, and animosities be kindled among the States

[23] **Mathes v Commissioner of Internal Revenue 1978** 576 F.2d 70

> themselves. The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit **paper money** than to **coin** gold or silver. ***The power to make anything but gold and silver a tender in payment of debts is withdrawn from the States on the same principle with that of issuing a paper currency."***

***Jonathan Elliot, Debates on the Adoption of the Federal Constitution*, Vol. 1, p.369**

> By our original Articles of Confederation, the Congress have power to borrow money and emit **bills of credit** on the credit of the United States: agreeable to which was the report on this system, as made by the committee of detail. When we came to this part of the report, a motion was made to strike out the words "to emit **bills of credit**:" Against the motion we urged, that it would be improper to deprive the Congress of that power; that it would be a novelty unprecedented to establish a government which should not have such authority; that it was impossible to look forward into futurity so far as to decide that events might not happen that should render the exercise of such a power absolutely necessary; and that we doubted whether, if a war should take place, it would be possible for this country to defend itself without having recourse to paper credit, in which case there would be a necessity of becoming a prey to our enemies, [p.370] or violating the constitution of our government; and that, considering the administration of the government would be principally in the hands of the wealthy, there could be little reason to fear an abuse of the power by an unnecessary or injurious exercise of it. ***But, sir, a majority of the Convention, being wise beyond every event, and being willing. to risk any political evil rather than admit the idea of a paper emission in any possible case, refused to trust this authority to a government to which they were lavishing the most unlimited powers of taxation, and to the mercy of which they were willing blindly to trust the liberty and property of the citizens of every state in the Union; and they erased that clause from the system.***

The nation's hope rests upon the California Supreme Court in this matter. Petitioner has presented incontrovertible evidence in support of the constitutional misapplication of the currency of the United States, the non-funded, nonredeemable Federal Reserve Note of the Federal Reserve. What the United States cannot do directly, it cannot do indirectly. It has never been given power to make paper money currency, though that is not the issue. Notwithstanding, it has delegated the power to establish this national currency which is legal

tender to the Federal Reserve System (a foreign (non-Federal) privately owned Corporation, (Lewis: 680 F.2d 1239)), absent enumerated powers to re-delegate (12 U.S.C.§411). It has taken the individual sovereignty of the state citizens [see Chisholm vs. Georgia 2 U.S. (2 Dall.) 419 (1793)] and has compelled each into the status of a *subject* [see first sentence of first paragraph of the 14th Amendment], and subject to Article IV Congressional powers to make regulations regarding property (FRNs) of the United States. Once the people of this great nation were renowned as the *Majesty of the People*. They are now subjects commanded to labor for an ever increasing and perpetual national debt. Such a delegation of power is violative of the office of Congress in that the power within the Congress is rigid in its capacity and adherence to the office and may not leave the office. Only the elected or appointed officers may access this power and none other. It is not a fountain to be directed outward for any who has not been appointed or elected. It hasn't original purpose and that purpose may not be transferred into the hands of non-officials or officials not delegated into that office. And only those of Congress may implement the powers for the benefit of the people.

In this matter, a foreign corporate commodity, paper money, has been commanded upon the American People. It has set man against man and man against government. It has fluctuated and has depreciated. It is an atrocity, a cancer that kills business, removes manufacturers, and increases unemployment. It is directly the cause of economic calamities, inclusive of foreclosures, an endless welfare system, and where those who "have" are commanded to give to those who "have not" in violation of the fundamental principles which authorized existence of the central government. (**Calder et Ux. v. Bull et Ux**., 3 Dall. 386).

The California Supreme Court must apply the law in this matter as determined by the U.S. Supreme Court.

As the justices of the Supreme Court of the State of California, you are bound to follow the law in this matter under the Supremacy Clause of the Federal Constitution, which states:

Article VI

> "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the

judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States." [This includes recorders office and sheriff.]

The inconvenience of the law in this matter cannot be addressed. It is the law that we are bound to follow and not the circumstances upon which we find ourselves.

Opinion of Petitioner

America greatly prospered under honest money. We left this honest system for dishonest money; which steals immense wealth, setting man against man and man against government. Vast millions in America are on welfare. The new food lines (food stamps/welfare) exist, but out of the public view and co-mingle amongst those in the supermarkets. It will take a miracle to reverse what happened in America. This Court holds the power of the Great People of the State of California. The question before this court, before each of the jurist, will you move as one of the Citizens of this State to benefit fellow Citizens or shall you move as a mechanism of the great machine that plunges us into a never ending debt, malignantly eating our substance?

CONCLUSION

America is in crisis. The **debt** of the nation is at $16,066,000,000,000.00. Gross Domestic Product is at $15,776,000,000,000.00. This nation is at 102% Debt/GDP. If we do nothing, this country certainly shall perish. There are estimates that unfunded entitlements (Social Security, Medicare, etc.) may exceed $70 trillion. We must step back and trace the limited scope of authority delegated to Congress. **It is inaccurate to declare that the United States has the unlimited prerogatives of a Sovereign.** It is a fact that only specific prerogatives are enumerated, and limited in scope by the People of America. Among the powers not delegated to the Federal Government is ***debasement*** **and** ***fluctuating*** **the currency** of the People. ***Fluctuation of the currency is not a fixed standard under the***

right of Congress to coin money. In and of itself fluctuation corrupts "fix Standard and Weight and Measures" [Article I, Section 8, Clause 5]

As a Nation-State within 50 Nation-States we have a clear and corresponding duty to protect the rights of all within our compact. All of the Nation-States have failed to uphold the Supreme Law in this matter. The result of this is an unprecedented suffering of the People. One-third of Americans in food lines, 120,000 Californians in prison, 34% of California citizens on welfare, over 1 1/2 million receive unemployment, more than 2 million California homeowners, nearly thirty percent (30%) of all homeowners with a mortgage, are underwater. Their mortgages exceed the current home values,[24] California's small business failure rate was 69% higher than the national average, the worst of all the states, the report said,[25] inflation and deflation creates uncertainty against the security of the People.

America sits upon a precipice. Should we stand idle, the law of Nature shall take effect. Our nation as we know it shall cease to exist. Notwithstanding, we have options before us - retrace our footsteps to better times of far greater stability. Inducers of economic fluctuations are mischievous and malevolent and shall surely result in great losses for the population. We must uphold the Law of the Federal Constitution as interpreted by the Supreme Court of the United States and government code §6850. It matters not of inconvenience, we must do so because it is the Law and it is the Right!

Most know that something is seriously wrong with our economy, but few have read into history the precise cause of such a result. Unfunded, **infinitely printable**, non-redeemable bills of credit/debt compelled into legal tender with "confidence" placed as their value. And we all know, confidence is not a unit of value, nor can confidence be weighed.

This is not a constitutional challenge of federal law, nor is the intent of this petition to prohibit FEDERAL RESERVE NOTES from circulating. It is, however, a writ to command County and state officers to uphold the law.

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[24] Press Release, "CoreLogic Reports Negative Equity Increase in 4Q 2011: Negative Equity Back to Q3 2009 Housing Market Trough Level" at 6 (Mar. 1, 2012), available at http://www.corelogic.com/aboutu

[25] Recent report from Dun & Bradstreet suggests

Considered this most important point, the Congress has reneged on the promise to pay the gold certificates, then the silver certificates, and we are left with nonredeemable Federal Reserve notes. The possibility exists, since there is not a promise upon the face of these to redeem them, or give value for them by the government, that tomorrow the Congress of the United States may also renege on them making them worthless in purchasing power. There is no security in these notes but the worth of the integrity of the United States which history proves to be duplicity and disloyalty.

VERIFICATION

I, Robert Rowen, the Petitioner herein, declare as follows:

I have read the foregoing petition for writ of alternate writ of prohibition\mandamus and know its contents.

The facts alleged in the petition are true to the best of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on _____, 20__ at Santa Rosa, California.

_____

Robert Rowen

REQUEST FOR RELIEF

WHEREFORE, Petitioner, Robert Rowen requests that this Court:

1. Issue a Prohibition upon the county recorder preventing recording of any federal instrument(s) based on non-redeemable currency from 1968 forward until such time as the Congress adheres to the requirements for legal tender currency as defined by the Supreme Court of the United States

2. Issue Mandamus upon the county Sheriff commanding enforcement directives over the County Recorder in prohibiting recordation of federal instruments until the Federal Supreme Court requirements for legal tender currency are fulfilled.

Respectfully Submitted:

DATED: _____

ROBERT ROWEN – In Pro Per
321 S. Main St
Sebastopol, CA 95472
(707) _____