NO. 68554

IN THE SUPREME COURT OF THE STATE OF NE

FILED

AUG 05 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

Erick M. Brown,
Petitioner,
vs.
STATE OF NEVADA,
Respondent.

Case No. 0

District Crt No. 03C189658-1

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, PETITIONER, Erick M. Brown (Petitioner), by and through his proper person, and hereby petitions this Honorable Court to issue an Original Writ of Habeas Corpus (Writ), for the reasons as set forth herein the foregoing Writ.

JURISDICTION

This Court's jurisdiction is sought pursuant to the provisions of the Constitution of the State of Nevada (Const. of Nev.), Article (Art.), 6, §4, Nevada Revised Statute (NRS), 34.360 to 34.680; more specifically NRS 34.500(1), (3), (8), and (9),[1] which state in part: (When the jurisdiction of the court or officer has been **exceeded**; when the process is deffective in some matter of substance required by law, rendering it void; where the petitioner has been committed or indicted on any criminal charge under a statute or ordinance that is unconstitutional; where the court finds that there has been a specific denial of the petitioner's constitutional rights with respect to his convict-

[1] Petitioner's utilization of the NRS, is not by any means an acknowledgement that Petitioner that the NRS are constitutionally valid laws, Petitioner does acknowledge that "currently", this Court acknowledges the NRS as prima facie evidence of the law. See NRS 220.170(3).

RECEIVED
AUG 05 2015
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

1

15-23658

ion or sentence in a criminal case), NRS 34.170, Nevada Rules of Appellate Procedure (NRAP), Rule 21.

That, jurisdiction can be additionally invoked pursuant to, or in comparison to opinions of this Court i.e.: Miller v. State, 113 Nev. 722, 724, 941 P.2d 456, 457 (Nev. 1997), this Court held: ... but this rule is relaxed in cases involving plain error or "constitutional issues." (emphasis added);

In Levingston v. Washoe County By and Through Sheriff of Washoe County, 112 Nev. 479, 482, 916 P.2d 163, 166 (Nev. 1996), this Court held: This opportunity is necessary because "the privilege of 'bringing every law to the test of the constitution belongs to the humblest citizen,' who owes 'no obedience to any' legislative act, which transcends the constitutional limits.'" ";

In Bradley v. Romeo, 102 Nev. 103, 104, 716 P.2d 227, 228, (Nev. 1986), this Court held: The ability of this Court to consider relevent issues sua sponte in order to prevent plain error is well established;

In McCullough v. State, 99 Nev. 72, 74, 657 P.2d 1157, 1158 (Nev. 1983), this Court held: However, when constitutional questions are raised ..., we have the power to address them;

In Warden, Nevada State Prison v. Peters, 83 Nev. 298, 301, 302, 429 P.2d 549, 551, 552 (Nev. 1967), this Court held: We deem the procedural label to be of little importance. The fact remains that courts which make a mistake in rendering a judgment which works to the extreme detriment of the defendant will not allow it to stand uncorrected. In a situation such as this, ..., the court has inherent power to reconsider a judg-

ment for good cause shown ...; ..., and in such proceedings judicial acts may be annulled if they are determined to be in excess of the court's powers;

In Clem v. State, 119 Nev. 615, 620, 81 P.3d 521, 525 (Nev. 2003), this Court held: We will depart from our prior holdings only where we determine that they are so clearly erroneous that continued adherence to them would work a manifest injustice; and

In Snow v. State, 105 Nev. 521, 523, 779 P.2d 96, 97 (1989), this Court held: The writ of habeas corpus is available to allow the presentation of "questions of law which cannot otherwise be reviewed, or that are 'so important as to render ordinary procedure inadequate and justify extraordinary remedy.'" Director, Dep't of Prisons v. Arndt, 98 Nev. 84, 85, 640 P.2d 1318, 1319 (1982); see also State ex rel. Osborn v. Foglianni, 82 Nev. 300, 417 P.2d 148 (1966).

The foregoing Writ does present questions of law which cannot otherwise be reviewed, or that are so important as to render ordinary procedure inadequate and justify extraordinary remedy, as to be further stated infra. Snow, 105 Nev. at 523, 779 P.2d at 97, Levingston, 112 Nev. at 482, 916 P.2d at 166. And should require review for plain error affecting substantial rights. See: Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001).

Additionally, while Krig v. State, No. 50976 Feb. 2, 2009, is an Unpublished Disposition, and Supreme Court Rule (SCR), 123 states: an unpublished order shall not be regarded as precedent and shall not be cited as legal authority, the language of Krig, has been utilized with impunity in oppositions, orders, and responses, in the court's below.

Petitioner request that, upon review of the foregoing Writ, argument etc., that this Court will determine that the language in Krig, misstates the law of Nevada as concerns the NRS. That, any utilization of Krig, must be denounced, rejected, and Krig, be withdrawn even though an Unpublished Disposition. Clem. 119 Nev. at 620, 81 P.3d at 525.

Further, the foregoing Writ presents question(s) of subject matter jurisdiction, which this Court has held "subject matter jurisdiction 'can be raised at any time.'" See: Landreth v. Malik, 127 Nev. Adv. Rep. 16, 251 P.3d 163, 166 (Nev. 2011), see also People v. McMurty, 122 P.3d 237, 241 (Colo. 2005); Tiger v. State, 900 P.2d 406, 412 (Okl. 1995), and Am. Fire & Gas Co. v. Finn, 341 U.S. 6, 17-18 (1951).

That, the foregoing Writ is also presented to provide this Court with the opportunity to resolve, the same constitutional questions, subject matter questions, that will be urged upon the federal court(s); in order to allow this Court the opportunity to correct violations of federal rights as set forth herein. See: O'Sullivan v. Boerckel, 526 U.S. 838, 844 (1999); Duncan v. Henry, 513 U.S. 364, 365 (1995); Rose v. Lundy, 455 U.S. 509, 510 (1982); Picard v. Connor, 404 U.S. 270, 276 (1971); and Casey v. Moore, 386 F.3d 896, 916 (9th Cir. 2004).

The above, and that argued infra, although neither controlling nor fully measuring this Court's discretion to invoke its jurisdiction, however, should indicate character and substantial reason(s), that this Court should invoke its jurisdiction to resolve the constitutional questions, and question(s) of subject matter jurisdiction (the lack thereof):

That, state district court's of Nevada have entered decisions in conflict with decisions of other district court's of Nevada on the same or similar issues; have failed in accordance to law to have the Attorney General's Office, to address the constitutional question on separation of power, or concerning the Secretary of State's Office (prior to dismissal of the action), or have decided an important question (s) in a way that conflicts with a decision of this court of last resort, and has departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Levingston, 112 Nev. at 482, 916 P.2d at 1166; and Snow, 105 Nev. 523, 779 P.2d at 97,

That, even though this Court acknowledges that "subject matter jurisdiction can be raised at any time!" Landreth 251 P.3d at 1166; see also McMurty, 122 P.3d at 241; Tiger, 900 P.2d at 412; and Am. Fire & Gas Co., 341 U.S. at 17-18.

This Court has not provided appellate review on appeals as to questions of subject matter jurisdiction, from final dispositions in the district court, due to the vehicle utilized to raise the constitutional questions, and questions concerning subject matter jurisdiction even though the "vehicle" utilized to bring the question of subject matter jurisdiction (the lack thereof), to the courts attention is of little importance. See: Great Western Casino, Inc. v. Morongo Band of Mission Indians, 74 Cal. App. 4th 1407, 1408, 88 Cal. Rptr. 828, 886 (1999), Peters, 83 Nev. at 301.

Again, this Court on appeals from "motions to dismiss for lack of subject matter jurisdiction", has dismissed those

appeals pursuant to Castillo v. State, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). See: Appellate Case No.'s 64198, 64219, 64295; 64431; 65037; and 65190.

Likewise, this Court has denied to grant a "petition for rehearing", wherein, it is argued as to how and why this Court should have heard the appeals. (See Exhibit "1" copy sample of Petition For Rehearing, submitted to Sup. Ct. of Nev. requesting rehearing).

Additionally, Petition(s) For Writ of Habeas Corpus (Post-Conviction), have been utilized in the district(s), to address the constitutional questions, question of the lack of subject matter jurisdiction presented in this Writ; i.e. whether the NRS publications are constitutionally valid laws of the State of Nevada, to no avail, i.e. they were denied, not deciding the merit of the claims.

The constitutional questions presented herein with the exception of the enacting clause, Art. 4, §23, have not been addressed by the district attorney's office(s), nor has the attorney general's office addressed the Art. 5, § 20 claim. That, the Art. 4, §23, question of law has been addressed "contrary" to the paramount law of the State of Nevada, and prior decisions of this Court.

When Petition(s) For Writ of Habeas Corpus (Post-Conviction) pursuant to NRS 34.724(2)(b), are utilized to raise constitutional questions of law, subject matter jurisdiction, i.e. not challenging the conviction or sentence Lewington, 112 Nev. at 482, 916 P.2d at 166; Snow, 105 Nev. at 523, 779 P.2d at 97, the State raises the defense of procedural bar, time bar and laches. Thus, the petitions are subsequently dismissed, denied

pursuant to NRS 34.726(1), and NRS 34.810 et seq.

That, despite any vehicle utilized to raise the constitutional questions, subject matter jurisdiction questions, the district court's summarily deny the pleadings, regardless of the argument presented for the questions to be heard, fully developed. Whereby, the unconstitutionality of the laws, nor the unconstitutionality of the legislative act, cannot be tested to determine whether the law, legislative act transcends constitutional limits. Levingston, 112 Nev. at 482, 916 P.2d at 1166.

Thus, no plain, speedy, and adequate remedy exists Marquis & Aurbach v. Eighth Judicial Dist. Court, 122 Nev. 1147, 1155, 146 P.3d 1130, 1136 (2006), again to determine whether legislative acts, laws have transcended constitutional limits Levingston, 112 Nev. at 482, 916 P.2d at 1166, to address these purely legal issues. Compare: Ostman v. Eighth Judicial Dist. Court, 107 563, 565, 816 P.2d 458, 459-60 (1991); State v. Babayan, 106 Nev. 155, 174, 787 P.2d 805, 819-20 (1990).

Wherefore, the Writ now before this Court calls for the exercising of this Court's original jurisdiction, pursuant to Art. 6, §4, of the Const. of Nev., for this Court to exercise its supervisory power; to resolve the constitutional questions herein, and the questions of lack of subject matter jurisdiction. Gallego, 117 Nev. at 365, 23 P.3d at 239; Levingston, 112 Nev. at 482, 916 P.2d at 1166; Ostman, 107 Nev. at 565, 816 P.2d at 459-60; Babayan, 106 Nev. at 174, 787 P.2d at 819-20; Snow, 105 Nev. at 523, 779 P.2d at 97.

. . .

. . .

Statement of the Case

Petitioner is in the custody of the Nevada Department of Corrections (NDOC), pursuant to a Judgment of Conviction (JOC), entered in Case No.(s) 03C189658-1 Dc. 14

Petitioner was arrested in the year of 2002, and subsequently a Criminal Complaint, or Indictment was filed against the Petitioner.

This Writ specifically challenges whether the NRS publications are constitutionally valid laws, as set forth herein.

The Due Process Clause requires that a person have the opportunity to "establish any fact" which would be "protection to him," or his property. The Due Process Clause of the Const. of Nev. Art. 1, 38, not only requires that a person shall be properly brought into court (subject matter jurisdiction), yet that he shall have opportunity to "establish any fact" which according to usages of common law or provisions of constitution, would be protection to him or his property. (emphasis added). See: Wright v. Cradlebaugh, 3 Nev. 341 (1867); cited Persing v. Reno Stock Brokerage Co., 30 Nev. 342, 349, 96 Pac. 1054 (1908); State v. Fauquette, 67 Nev. 505, 514, 221 P.2d 404 (1950), see also Vipperman v. State, 96 Nev. 592, 614 P.2d 532 (1980); Casio v. State, 106 Nev. 327, 793 P.2d 836 (1990).

In Peugh v. United States, 569 US ___, 133 S Ct 2072, 186 LED 2D 84 (2013), the High Court held: The Clause ensures that individuals have fair warning of applicable laws and guards against vindictive legislative action.

3 ...

CONSTITUTIONAL QUESTIONS PRESENTED

1. Whether Art. 3, §1, of the Const. of Nev. was violated, and such violation has deprived Petitioner of Due Process and Equal Protection of law rights under the United States Constitution (U.S. Const.), Fifth (5th), and Fourteenth (14th), Amendments, and Art. 1, §8, of the Const. of Nev.?;

2. Whether the Legislature of the State of Nevada (Legis. of Nev.), 47th Session 1955, violated the provision of Art. 4, §1, of the Const. of Nev., by abdicating its essential duties, functions, to the statute revision commission contrary to Art. 4, §1, and Art. 3, §1, of the Const. of Nev.?; and the abdication of essential legislative duties, functions to the statute revision commission violating Art. 4, §1, of the Const. of Nev., and has deprived Petitioner of Due Process and Equal Protection of law rights under the 5th and 14th Amend. to the U.S. Const., and Art. 1, §8, of the Const. of Nev.?;

3. Whether provisions of Art. 4, §18, have been violated, whereby the Nevada Revised Statutes (NRS), cannot be authenticated to constitute, to be the lawful law of the State of Nevada to which Petitioner is bound? That, not being able to authenticate Senate Bill No. 2 ("the revision bill"), the Act of the 48th Session of the Legis. of Nev. 1957, January 25, adopting and enacting the NRS as law of the State of Nevada violates Petitioner's Due Process and Equal Protection of law rights to the 5th and 14th Amend. to the U.S. Const., and Art. 1, §8, of the Const. of Nev.?;

4. Whether the provision of Art. 4, §23, of the Const. of Nev., has been violated, when the NRS publication in 1957,

and the NRS publication in the year of 2002, were published without the constitutionally mandated enacting clause upon their face? That, when the NRS for the year of _____, were published without the enacting clause upon their face, they are not binding upon Petitioner, any citizen of Nevada, and violated Petitioner's Due Process and Equal Protection rights to the 5th and 14th Amend. to the U.S. Const., and Art. 1, §8, of the Const. of Nev.?;

(A). Whether the NRS are "not" required to contain the enacting clause, due to the fact that the NRS are "not laws enacted by the legislature?"

(B). Whether the NRS "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law?";

(C). Whether the NRS, being the statute laws set forth after section 9 of the act (Act of The 48TH Session of The Nevada Legislature Adopting And Enacting Nevada Revised Statutes), were adopted and enacted as law of the State of Nevada?;②

(D). Whether the actual laws of Nevada are contained in the Statutes of Nevada?;

5. Whether the provision of Art. 5, §20, of the Const. of Nev., has been violated by current and or past Secretary of State of Nevada, by failing to keep true record of the Official Acts of the Legislative Department, particularly the Act of the 48th Session January 25, 1957, ("the revision bill), Senate Bill (S.B.), No. 2? That, the violation of Art. 5, §20, of the

2. Review both copies that are presented as exhibit's. If cannot be determined that either document is authentic pursuant to Art. 4, §18, Const. of Nev.

10

Const. of Nev., Petitioner nor any citizen is bound to obey the NRS publication, republication etc., and the violation of Art. 5, §20, of the Const. of Nev. has violated Petitioner of Due Process and Equal Protection of law rights to the 5th and 14th U.S. Const. Amendments, and Art. 1, §8, of the Const. of Nev.

6. Whether any and or all constitutional violations as set forth herein, divested the district court of subject matter jurisdiction ab initio, that the Judgment, Order etc., entered against Petitioner is void; and that prior to reversal, warranting Petitioner's release from incarceration?

Whether any and or all constitutional violations of the Const. of Nev., as set forth infra, under any and or all Grounds, Sections, violated Petitioner's United States Constitutional rights to the 5th, and 14th Amendments; the right to Due Process, and Due Process and Equal Protection of the law, warranting Petitioner's release from incarceration.

...

...

...

...

...

...

...

ARGUMENT

It is Petitioner's contention that the "Act" of the Legis. of Nev. Adopting and enacting Nevada Revised Statutes, Chapter 2, Statutes of Nevada 1957, page 2, S.B. No. 2 ("the revision bill"), transcends constitutional limits; as more fully set forth infra, such that Petitioner owes no obedience to the legislative act etc. Levingston, 112 Nev. at 482, 916 P.2d at 1166.

Likewise, the NRS for the year of 2002, being derived from the January 25, 1957, Act of Legis. of Nev. which transcends constitutional limits, and the NRS for the year of 2002, being published without the constitutionally mandated enacting clause upon their face; Petitioner owes no obedience to the legislative act. Levingston, 112 Nev. at 482, 916 P.2d at 1166.

That, where the Const. of Nev. provides a "greater protection" than that of the U.S. Const., as to the Amendments of the U.S. Const., that are at issue in the foregoing Writ, Petitioner seeks that greater protection as to any violation of Petitioner's U.S. Const. Amendment rights. Wilson v. State, 123 Nev. 587, 595 (Nev. 2007); citing Miranda v. State, 114 Nev. 385, 387 (1998).

That, the Due Process Clause also contemplates: Even where these concerns are not directly implicted, however, the Clause also safeguards "a fundamental fairness interest, ... in having the government abide by the rules of law it establishes to govern the circumstances under which it can deprive a person of his or her liberty or life. Carmell v. Texas, 529 US 513, 533 (2000).

...

...

I. Petitioner contends that the provision of Art. 3, §1, of the Const. of Nev. were violated by the Legislature of Nevada of 1955, and 1957, and or the Supreme Court of Nevada, for the reason(s) set forth herein:

Art. 3, §1, of the Const. of Nev. reads in part as follows: "Three separate departments; separation of powers. The powers of the Government of the State of Nevada shall be divided into three separate departments, - the Legislative, - the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise 'any functions, appertaining to either of the others'", ... (emphasis added). Ex parte Blanchard, 9 Nev. 101 (1874); Sawyer v. Dooley, 21 Nev. 390, 32 Pac. 437 (1893), cited Ormsby County v. Kearny, 37 Nev. 314, 341, 142 Pac. 803 (1914). (Legislature is not permitted to abdicate or to transfer to others essential legislative functions with which it is vested). AGO 188 (8-28-1935).

In King v. The Board of Regents, 65 Nev. 535, 556, 200 P.2d 221, 232 (1948), this Court held:

> "A Constitution being the paramount law of a state, designed to separate the powers of government and to define their extent and limit their exercise by the several departments, as well as to secure and protect private rights, no other instrument is of equal significance. It has been very properly defined to be a legislative act of the people themselves in their sovereign capacity, and when the people have declared by it that certain powers shall be possessed and duties performed by a particular officer or department, their exercise and discharge by any other officer or department are forbidden by a necessary and unavoidable implication. Every positive delegation of power to one officer or department implies a negation of its exercise by any other officer, department, or person."

(emphasis added to original).

It is well established that statutes are presumed to be valid, and the challenger bears the burden of showing that a statute is unconstitutional. Halverson v. Secretary of State, 124 Nev. 484, 487, 186 P.3d 893, 896 (2008), Nevadans for Nevada v. Beers, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006).

In this Writ, Petitioner is challenging S.B. No. 2 ("the revision bill"), of the legislative Act of the Legis. of Nev. 48th Session adopting and enacting the NRS as law of the State of Nevada, as being constitutionally invalid; having transcended constitutional limits, making the NRS enacted January 25, 1957, invalid laws, and the NRS of 2002, invalid laws being derived from invalid laws. Thus, making the JOC entered against Petitioner ab initio, for all of the following reasons:

When construing constitutional provisions the Sup. Ct. of Nev. utilizes the same rules of construction used to interpret statutes. Nevada Mining Ass'n v. Erodes, 117 Nev. 531, 538, 26 P.3d 753, 757 (2001); Barrios-Lomeli v. State, 114 Nev. 779, 780, 961 P.2d 750, 751 (1998); and Del Papa v. Board of Regents, 114 Nev. 388, 956 P.2d 770-773-74 (1998).

Contrary to the plain and unambiguous language of the Const of Nev. Art. 3, §1, the Legis. of Nev. in 1955, created the statute revision commission (commission), comprised of the three justices of the supreme court, authorized such commission to appoint a reviser of statutes to be known as the director of the statute revision commission (director), and charged the commission to commence the preparation of a complete revision and compilation of the laws of the State of Nevada to be known as Nevada Revised Statutes. (See Exhibit

"2" FOREWARD page XI (2001)). Or did the Legis. of Nev. create the commission?

There is reason to believe that "The Statute Revision Commission was 'originally created by the Supreme Court in 1951 and became involved in bill drafting as an adjunct to its statute revision work.'" (See Exhibit "3" NEVADA LEGISLATURE The People's Branch of Government The Legislative Counsel Bureau), still a violation.

At the time of being on the commission created in 1955, by the Legis. of Nev., or the Supreme Court its self, from 1955, to approximately 1963 (barring earlier deaths), Justice's Milton B. Badt (Badt), Edgar Eather (Eather), and Charles M. Merrill (Merrill), were then sitting justice's of the Sup. Ct. of Nev. charged under Art. 6, §4, of the Const. of Nev., to perform appellate Court judicial duties and functions. (See Exhibit "2" the 4 names under the STATUTE REVISION COMMISSION).

Badt, Eather, and Merrill, current Justice's charged under Art. 6, §4, of the Const. of Nev., Badt, Eather, and Merrill, were prohibited from performing any essential duty or function of the legislature. King, 65 Nev. at 556-57, 200 P.2d at 232. Badt, Eather, and Merrill could not be a part of the Legis. of Nev. i.e. "be an extra-legislative body, or quasi-legislative body", performing "any essential duty or function appertaining to the legislative Department, and certainly could not 'create the statute revision commission', to allow themselves to be a part of. King, 65 Nev. at 556-57, 200 P.2d at 232, AGO 188 (8-28-1935

3. Prior to the creation of the NRS, the laws in the State of Nevada were known as the Statutes of Nevada.

15

The legis. of Nev. is not permitted to abdicate or to transfer to others essential legislative functions with which it is vested. AGO 188 (8-28-1935), Art. 3, §1, Const. of Nev.

Petitioner argues that, there is no room for construction to the plain and unambiguous language of Art. 3§1, of the Const. of Nev. Del Papa, 114 Nev. at 392, 956 P.2d at 773-74.

To rule that Badt, Father, and Merrill, "did not" violate Art. 3, §1, of the Const. of Nev., while charged under Art. 6, §4, of the Const. of Nev., and performing essential duties and functions under Art. 4, §1, legislative duties and functions, for seven (7) yeas, is to render, to cause an absurd result to be reached, applied to the plain, unambiguous language of Art. 3, §1, of the Const. of Nev. Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757, Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; Del Papa, 114 Nev. at 392, 956 P.2d at 773-74; and King, 65 Nev. at 556-57, 200 P.2d at 232.

Perhaps Galloway v. Truesdell, 83 Nev. 13, 19, 422 P.2d 237, 241-42 (Nev. 1967), brings sufficient Clarity to the plain, unambiguous language, meaning of Art. 3, §1, as is also urged by Petitioner herein the foregoing Writ.

In Galloway, this Court held: "The Constitution confirms and firmly fixes this principle of separation of governmental powers by creating, in Article 4, Article 5, and Article 6, a legislature, an executive, and a judiciary. 'In the' opening words of 'each Articles first section the whole power there 'granted' is 'lodged in that branch;' . . . .'" (Emphasis added to the original). Id.

Galloway, also holds: "The separation of powers, the

independence of one branch from the others; the 'requirement that one department' cannot exercise the powers of the other two' is 'fundamental' in our system of government.'" (emphasis added). Id. at 83 Nev. 19, 422 P.2d at 242.

To emphasize the point, the Galloway, court quoted: "Montesquieu has recited the reasons for the desirability of having the governmental powers separate. In City of Enterprise v. State, 69 P.2d 953 (Ore. 1937), he is quoted: '*** there can be no liberty *** if the power of judging be not separated from the legislative and executive powers. *** Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for 'the judge would be the legislator:'" . . . ." Id. at 19, 422 P.2d at 242.

Further, in Galloway, the Sup. Ct. of Nev. put the seal on the whole separation of powers issue when the Court ruled:

> "In addition to the constitutionally expressed powers and functions of each department, (the Legislative, the Executive, and the Judicial) each possesses inherent and incidental powers that are properly termed **ministerial**. Ministerial functions are methods of implementation to accomplish or put into effect the basic function of each Department. No Department could properly function without the inherent ministerial functions. Without the inherent powers of ministerial functions each Department would exist in a vacuum. It would be literally helpless. It is because of the inherent authority of ministerial functions that the three Departments are thus linked together and able to form a co-ordinated and interdependent system of government. While the Departments become a co-ordinated, efficient system under such a process, 'yet each Department 'must' maintain its 'separate autonomy.'"

Id at 21, 422 P.2d at 243 (emphasis strongly added to original).

Finally, in Galloway, the court cautioned concerning a duty of the Departments as follows: "However, it is the area of inherent ministerial powers and functions that prohibited en-

croachments upon the basic powers of a Department mostly occur. 'All Departments' must be 'constantly alert to prevent such prohibited encroachments'' lest our fundamental system of government' division of powers be eroded.'' To permit even one seemingly harmless prohibited encroachment and adopt an indifferent attitude could lead to very destructive results. There are not a small number of decisions of courts of last resort in this country that have fallen into this trap of error. It is essential to the perpetuation of our system that the principle of the separation of powers be understood. The lack of understanding about the principle is widespread indeed, and creates a problem of no small proportions. There must be a fullness of conception of the principle of the separation of powers involving all of the elements of its meaning and its correlations to attain the most efficient functioning of the governmental system, and to' attain the maximum protection of the rights of the people.'" Id. at 22, 422 P.2d at 243-44, King, 65 Nev. at 556-57, 200 P.2d at 232.

It is enlight of this vital problem having occurred, especially since the Supreme Court orginally created the Statute Revision Commission, and allowing themselves to be a part of the commission to perform essential duties and functions of the Legis. of Nev., that; the instant Writ must be examined in depth and thoroughly.

Briefly stated, legislative power is the power of lawmaking representative bodies to frame and enact laws, and to amend or repeal them. Galloway, 83 Nev. at 20, 422 P.2d at 242.

Reviewing Exhibit "2" it is set forth that the commission did frame laws, amended laws, revised laws, drafted laws etc. (See Exhibit "2" commencing at As the work progressed...).

Performing essential duties and functions of the Legis. of Nev. i.e. amending, revising, etc. by the appellate Judicial Department, is a prohibited encroachment, a violation of separation of powers, and is not harmless. Clinton v. Jones, 520 U.S. 681, 699 (1997); O'Bryan v. Eighth Judicial Dist. Court, 95 Nev. 386, 388, 594 P.2d 739, 740 (1979); City of N. Las Vegas ex rel. Arndt v. Daines, 92 Nev. 292, 294, 550 P.2d 399, 400 (1976); Secretary of State v. Nevada State Legislature, 120 Nev. 456, 466, 93 P.3d 746, 753 (2004); Galloway, 83 Nev. at 22, 422 P.2d at 243-44; King, 65 Nev. at 556-57, 200 P.2d at 232.

In review of Montesquieu's quote from City of Enterprise, 69 P.2d 953, i.e. "there can be no liberty *** if the power of judging be not separated from the legislative and executive powers. *** Where the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would be the legislator."

Based upon Montesquieu's quote, and the actions of Bacht, Eather, and Merrill, the commission, they were legislators, or acted in a legislative capacity; performing essential legislative duties and functions, etc. (See Exhibit "2"); that by virtue of the above and foregoing Art. 3, §1, of the Const. of Nev. was violated by Bacht, Eather, Merrill, and the Legislator's of Nevada in 1955, which created the commission; and the Legis. of Nev. 1957, which enacted the created NRS of, by the commission. (Or was violated by the Supreme Court which originally created the Statute Revision Commission), for any and or all of the reasons argued above.

Wherefore, Petitioner was erroneously arrested, charged, etc. via invalid, unconstitutional laws from illegal, unconstitu-

19

tional legislative acts of 1955, 1957, and or 1951 of the Supreme Court, and the laws for the year of 2002, the year of Petitioners arrest also being invalid, being derived from the unconstitutional acts of the commission; and the Legis. of Nev. to create and enact the NRS of January 25, 1957, utilizing the judicial Department to create the NRS, to amend laws, revise laws, etc.[4]

That, the NRS of 1957, being created in violation of Art. 3, §1, of the Const. of Nev., Petitioner's Due Process and Equal Protection rights under the 5th and 14th Amend. to the United States Const. have been violated. See: Zinerman v. Burch, 494 U.S. 113, 125 (1990), citing Daniels v. Williams, 474 US 327, 331 (1986); Carey v. Piphus, 435 U.S. 247, 259 (1978); and Rochin v. California, 342 US 165, 169 (1952).

In the interest of justice, to hault any further fundamental miscarriage of justice, recognizing that "due process is flexible and calls for such procedural protections as the particular situation demands." Morrissey v. Brewer, 408 U.S. 471, 481 (1972); Burleigh v. State Bar, 98 Nev. 140, 145, 643 P.2d 1201, 1204 (Nev. 1982), this Court is requested to review, resolve and grant relief.

Aside from all else "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn. Crim. App. 54, 456 S.W. 879, 883. ( ).

This situation, question of constitutional violation demands review, as to whether Art. 3, §1, of the Const. of Nev. has been violated as set forth herein? That, steps be taken to protect the

4. Petitioner contends that there is evidence of malfeasance, and Non feasance, "STEALTH FRAUD", committed in office. Its stated that it took seven (7) years to create the NRS (see Exhibit "4" page XIV LEGISLATIVE COUNSEL'S PREFACE), where it reads: "The revised statutes were the result of 7 years of labor by the statute revision commission...." However, the commission was created in 1955!! How then, can the revised statutes be the result of 7 years of labor? Via the act of the Supreme Court 1951?

Const. of Nev. its art.'s, and protection of Petitioner's U.S. Const. rights, and rights under the Const. of Nev. Levingston, 112 Nev. at 482, 916 P.2d at 166; Snow, 105 Nev. at 523, 779 P.2d at 97; Galloway, 83 Nev. at 22, 422 P.2d at 243; and King, 65 Nev. at 556-57, 200 P.2d at 232; Zinermon, 494 U.S. at 125; Daniels, 474 US at 337; Carey, 435 U.S. at 259; and Rochin, 342 U.S. at 169, respectively.

That, whether the "statute revision commission" was originally created by the "Supreme Court" in 1951, see Exhibit "3"; or the Legis. of Nev. in 1955, created the "statute revision commission", the act, creation of the commission, and the essential duties and functions undertaken by the commission; clearly violate the separation of powers mandate of Art. 3, §1, of the Const. of Nev. Compare: United States of America v. Cortes, 697 F. Supp. 1305 (S.D. NY 1988), citing Bowsher v. Synar, 478 US 714 (1986).

The commission disturbed the functional division of power among the branches. See, e.g. Nixon v. Administrator of General Services, 433 U.S. 425, 443 (1977). I.e. any challenge to a statute created, amend, revised etc., by the commission could not be appealed for review to the Sup. Ct. of Nev., due to the justices work on the commission etc. The commission was granted authority, power more properly exercised by another Branch. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 587-89 (1952); INS v. Chadha, 462 U.S. 919, 963 (1983).

Where, the declared purpose of separating and dividing the powers of government, of course, was to "diffuse power the better to secure liberty." Youngstown Sheet & Tube Co. v. Sawyer, 343 US at 635. The creation of the commiss-

21

ion and the justice's being on the commission etc. failed to secure liberty. There can be no liberty where the legislative and judicial powers are united in the same person, or body of magistrates. Compare: The Federalist No. 47, p325 (J. Cooke ed 1961).

That, since "Justice's" of the Sup. Ct. of Nev. were on the commission, the "Justice's" then, and now as appellate justice's cannot be sensitive to the limits of their own authority, when asked to declare the actions of the Legis. of Nev.; and the Sup. Ct. of Nev. unconstitutional as violating Art. 3, §1, of the Const. of Nev., or any other Art. of the Const. of Nev.

Wherefore, unless it can be substantiated that Art. 3, §1, of the Const. of Nev., was not violated, for any of the reasons articulated above, then Petitioner is entitled to relief; as the laws for the year of 2002, are invalid, unconstitutional, and the JOC entered against Petitioner is void, and that prior to reversal.

That, for the above and foregoing reasons, it is requested that this Court issue a permanent Writ, Ordering Petitioner's immediate release from incarceration, and expungement of Petitioner's criminal record.

. . .

. . .

. . .

. . .

22

II. Whether the provisions of Art. 4, §1, of the Const. of Nev. was violated by the Legis. of Nev. of 1955, Whether the Legis. of Nev. abdicated its powers to an illegal commission, for the reason(s) set forth herein:

Petitioner does hereby adopt the facts, argument, etc., as set forth in Ground/Section I, as though fully stated and re-iterated herein section II.

The Const. of Nev. Art. 4, §1, reads: Legislative power vested in senate and assembly. The Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of Nevada" ....

This Court is called upon to determine whether the Legis. of Nev. 1955, decision to create the statute revision commission and to pass power to the commission to create the NRS, to amend, revise laws of the State of Nevada etc.; constituted abdication of unconstitutional delegation of legislative power.

Based upon a review of the Const. of Nev. and relevant legal authority, it should be concluded that, to the extent the acts of the commission, involved "core legislative essential duties and functions"; such as amending, revising etc., are functions constitutionally committed to the Legis. of Nev. by Art. 4, §1, of the Const. of Nev.; and this power "cannot" be delegated to another Department of government. Compare: Comm'n on Ethics v. Hardy, 212 P.3d 1098 (Nev. 2009), Galloway, supra, King, supra.

It must be further held that any conduct of the commission involving essential core legislative function, activities runs afoul of the separation of powers doctrine and therefore was unconstitutional. Compare: Comm'n on Ethics v. Hardy, 212 P.3d 1098.

23

In Sessions v. State, 106 Nev. 186, 191, 789 P.2d 1242, 1245 (Nev. 1990), this Court opined: "This court is not bound to follow a decision of the federal district court regard Nevada law)." citing State v. Smith, 99 Nev. 806, 810, 672 P.2d 631, 634 (1983).

While this Court is not bound to follow a decision of the federal district court regarding Nevada law, the opinion as set forth in Zaragoza v. Bennett-Haron, 828 F.Supp. 2d 1195, 1204 (Dist. of Nev. 2011), is note worthy as to Petitioner's arguments herein the foregoing Writ.

Federal District Court Judge Philip M. Pro (Pro), in his decision of Zaragoza, 828 F.Supp. 2d at 1204 held: Nevada's equal protection and due process clauses mirror their federal counterparts, and Nevada looks to federal authority for guidance on these provisions. In re Candelaria, 245 P.3d 518, 523 (Nev. 2010) ("The standard." (quotation omitted)); Reinkemeyer v. Safeco Ins. Co. of Am., 117 Nev. 44, 16 P.3d 1069, 1072 (Nev. 2001) (stating the Nevada Constitution's due process "virtually mirror" language to the U.S. Constitution and Nevada therefore "look[s] to federal case law for guidance"). However, the U.S. Constitution does not contain an explicit separation of powers clause. Rather, the federal separation of powers doctrine is based on the structure of the three branches of government within Articles I, II, and III. Carter v. Galaza, 508 F.3d 1261, 1263 (9th Cir. 2007). The Nevada Constitution contains the same structural separation of powers in Articles 4, 5, and 6. Comm'n on Ethics, 212 P.3d at 1103. But the Nevada Constitution goes further and contains an explicit separation of powers clause:

24 "... Nev. Const. art. 3, §1 (quotation omitted)). The

Nevada Supreme Court has Characterized its constitutional separation of powers as "probably the most important single principle of government." Comm'n On Ethics, 212 P.3d at 1108 (quotation omitted).

(emphasis added to original).

Galloway, has set forth: "As was pointed out above, non-judicial functions cannot be imposed upon courts and judges unless expressly stated in the Constitution. Also, it is recalled that the intent of the framers of the Constitution must be fulfilled." Since Article 3, Section 1, states that there shall be legislative, executive and judicial powers separated in this State, we should determine for the purposes of decision what the framers meant when they separated the judicial department from the legislative and executive departments. The best authority for the answer is the Constitution itself." Id at 83 Nev. at 26, 422 P.2d at 247 (emphasis added).

Thus, Art. 4, §1, must be viewed as being a statement concerning the areas over which the Legis. of Nev. exercise their power, and the judicial Department cannot.

It should also be determined that the commission created in 1955, by the 47th Session of the Legis. of Nev., or the Supreme Court of Nevada 1951," being comprised of Justice Badt, Eather, and Merrill, had no position in Nevada's tri partite government system. The power of judging was joined with the legislative, the three justice's were legislator's", Galloway, 83 Nev. at 19, 422 P.2d at 242, whom as Justice's Art. 6, §4, Const. of Nev., could not sit in judgment of any NRS being the creaters of the NRS, or have performed essential legislative duties and functions as concerns the NRS. The function of the judicial branch is the

administration of justice, Art. 6, §4, . . . , of the Const. of Nev. In fact, the three Justice's could not be "unbiased" as to any legal challenge against the NRS, due to their extensive involvement with the creation, amending, revising of the NRS.

And, to that end Petitioner contends that the Legis. of Nev. abdicated its authority, power under Art. 4, §1, of the Const. of Nev. When the Legis. of Nev. in 1955, created the commission, and authorized, charged the commission, Badt, Eather, and Merrill, to perform essential duties and functions of the Legis. of Nev. (And/or allowed the Supreme Court to create the Statute Revision Commission in 1951, and for the reasons above abdicated their authority, power to the commission).

In Porch v. Patterson, 39 Nev. 251, 268, 156 P. 439, 445 (1916), held: "A State Constitution is also binding on the courts of the state, and on every officer, and every citizen. 'Any attempt to do that which is prescribed in' 'any manner than that prescribed', 'or to do that which is prohibited', is repugnant to that supreme and paramount law, and 'invalid.'" (emphasis added).

Rapacious act(s) have been committed by unknown former members of the Legis. of Nev., the 47th Session, 1955, which created the commission, and allowed the commission to be illegally comprised of then sitting justices of the supreme court. (Exhibit "2").

These unknown members of the 47th Session of the 1955, Legis. of Nev., were further fatuous, when the Legis. of Nev. charged the unconstitutional commission, as argued above to perform essential duties and functions of the Legis. of Nev. contrary to the Const. of Nev. Art. 4, §1. Villanueva v. State, 117 Nev. 684, 668, 27 P.3d 443, 445 (Nev. 2000), (It is without question that the Legis. of Nev. cannot delegate its power), Galloway, 83 Nev. at 21,

22, 26, 422 P.2d at 243, 247; King, 65 Nev. at 556-57, 200 P.2d at 232; and AGO 188 (8-28-1935). And by virtue of the three Justice's on the commission, negates the Justice's ability to be sensitive to the limits of their own authority, as to their duties and functions under Art. 6, §4, of the Const. of Nev.

The essential duties, functions, authority, power of the Legis. of Nev. is to amend, create, enact, frame, revise, or to repeal laws. Galloway, 83 Nev. at 20, 422 P.2d at 242; King, 65 Nev. at 556-57, 200 P.2d at 232.

Exhibit's "2", and "4", attached hereto set forth detailed information of the essential duties and functions of the legislature, that the commission was charged to perform.

In Exhibit "2" the foregoing is stated: "Reference is made to chapter 220 of Nevada Revised Statutes for the **further** duties and **authority** of the commission relating to the preparation of Nevada Revised Statutes;" ....

Chapter 220 of the "**Nevada Revised Statutes**", cannot make any reference to, of "**Nevada Revised Statutes**", as the commission was **charged** to commence the preparation of a complete revision and compilation of the laws of the State of Nevada" to be **known as "Nevada Revised Statutes."** Simply put, the NRS had "**not yet been created**, framed, etc.", that the NRS could be made reference to provide a provision.

Clearly this statement, reference is in error, and thus could not provide provision to the commission any authority, especially since the laws of the State of Nevada; were to be **known** as "Nevada Revised Statutes."

Defining the following words should aid this Court in deter-

mining that the commission performed essential duties and functions of the Legis. of Nev.

The word **revision** means: to examine and improve or **amend**. (See Oxford Pocket Dictionary and Thesaurus Second American Edition Copyright © 2002 by Oxford University Press, Inc. (Oxford) page 718).

Revised Statutes means: Laws that have been collected, arranged, and reenacted as a whole by a legislative body. (See BLACK'S LAW DICTIONARY ABRIGED NINTH EDITION BRYAN A. GARNER, EDITOR IN CHIEF COPYRIGHT © 2010 (Black's) page 1213).

Again, to revise is completed by a "legislative body", and not a judicial body. King, 65 Nev. at 556-57, 200 P.2d at 232, see also Cortes, 697 F. Supp. 1305; citing Bowsher, 478 US 714

Legislative Power: Constitutional law. The power to make laws and to "alter them"; a legislative body's "exclusive authority to make, **amend**, and **repeal** laws". . . . "A legislative body may delegate a portion of its law making authority to agencies within the executive branch for purposes of rule making and regulation. But a legislative body may not delegate its authority to the judicial branch, and the judicial branch may not encroach on legislative duties." Black's page 774. AGO 188 (8-28-1935).

Based upon the above and foregoing, the Legis. of Nev. 1955, 47th Session abdicated its authority under Art. 4, §1, of the Const. of Nev., or abdicated its authority by allowing the Supreme Court to create the statute revision commission. Exhibit "3".

Further, that, pursuant to the above and foregoing that Badt, Eather, and Merrill, then Sup. Ct. of Nev. Justice's, were legislator's, and or acted in a legislative capacity contrary to

Art. 4, §1, of the Const. of Nev., for all of the reasons above.

Wherefore, Petitioner was erroneously arrested, charged etc., via invalid, unconstitutional laws of 1957, due to illegal, unconstitutional acts of the Legis. of Nev., Justice's of the Sup. Ct. of Nev. on the commission, whereby the laws for the year of _____, the year of Petitioner's arrest also being invalid, unconstitutional, being derived from the illegal, unconstitutional acts of the Legislature of 1955, 1951, and again 1957.

That, the violation of Art. 4, §1, of the Const. of Nev. by the 47th Session of the Legis. of Nev. 1955, in authorizing the Judicial Department to perform essential duties and functions, of the Legis. of Nev.; or the Supreme Court creating the statute revision commission, to perform essential duties and functions of the Legis. of Nev, i.e. amend, create, frame, repeal, revise, etc. and then to enact the same via the 48TH Session of the Legis. of Nev.; violated Petitioner's Due Process and Equal Protection rights of the 5th and 14th Amendments to the U.S. Const. Zinermon, 494 U.S. at 125; citing Daniels, 474 U.S. at 337; Carey, 435 U.S. at 259; and Rochin, 342 US at 169.

That, due to the abdication, violation of Art. 4, §1, of the Const. of Nev. by the Legis. of Nev. 1955, 47 Session, doing that which is repugnant to the Const. of Nev.; or the Supreme Court creating the statute revision commission, also doing that which is repugnant to the Const. of Nev., and the commission having done that which is repugnant to the Const. of Nev.; Porch, 39 Nev. at 268, 156 P. at 445; see also Galloway, 83 Nev. at 21, 22, 24, 422 P.2d at 243, 247, and AGO 188 (8-28-1935), Petitioner is entitled to relief. The JOC entered against Petitioner is void ab initio.

III. Whether the provision(s) of Art. 4, §18, of the Const. of Nev. were violated, for the reasons set forth infra, such that the adopted, enacted, and approved Nevada Revised Statutes of 1957, cannot be authenticated as the law of the State of Nevada, which does "invalidate the NRS for the year of 2002".

Art. 4, §18, of the Const. of Nev. reads in part as follows:
Sec. 18. Reading of bill; vote on final passage; majority necessary to pass bill or joint resolution; signatures; consent calendar.
"Every bill, except a bill placed on a consent calendar adopted as provided in this section, shall be read by sections on three several days, in each House, unless in case of emergency, two thirds of the House where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with, and the vote on the final passage of every bill or joint resolution shall be taken by yeas and nays to be entered on the journals of each House; and a majority of all the members elected to each house, shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed, shall be signed by the presiding officers of the respective House and by the Secretary of the Senate and clerk of the Assembly....."

That, as may be utilized herein, Petitioner does hereby adopt all of the facts, argument, etc., as set forth in Grounds/Sections I, and II, as though fully stated and set forth herein III.

It is well established that "statutes are presumed to be

valid, and the challenger bears the burden of showing that a statute is unconstitutional." Halverson, 124 Nev. at 487, 186 P.3d at 896; Beers, 122 Nev. at 939, 142 P.3d at 345.

"A legislative enactment is presumed to be constitutional absent a 'clear showing to the contrary.'" Starlets Int'l v. Christensen, 106 Nev. 732, 735, 801 P.2d 1343, 1344 (1990).

In Levingston, 112 Nev. at 482, 916 P.2d at 166, this Court held in part: "... the privilege of "bringing every law to the test of the constitution belongs to the humblest citizen, who owes no obedience to any 'legislative act, which transcends the constitutional limits.'"

S.B. No. 2 "the revision bill (bill), signed into law January 25, 1957, transcends constitutional limits for various reasons contrary to Art. 4, §18, of the Const. of Nev.

Petitioner states that official engrossed copy of Senate Bill No. 2 cannot be utilized as the enrolled bill (See Exhibit "5" Resolutions and Memorials Senate Concurrent Resolution No. 1 - Committee on Judiciary FILE NO. 1), nor can Laws of The State of Nevada Passed at the Forty-Eighth Session of The Legislature (See Exhibit "6" LAWS OF THE STATE OF NEVADA Passed at the FORTY-EIGHTH SESSION OF THE LEGISLATURE 1957), nor the Act of The 48TH Session of The Nevada Legislature... (See Exhibit "7" ACT OF THE 48TH SESSION OF THE NEVADA LEGISLATURE ADOPTING AND ENACTING NEVADA REVISED STATUTES Chapter 2, Statutes of Nevada 1957, page 2), to authenticate S.B. No. 2 as an "official act of the Legis. of Nev.", as these documents transcends constitutional limits due to the fact that these

31

documents cannot be "authenticated", as official acts of the Legis. of Nev. pursuant to Art. 4, §18, and or Art. 4, §35 or Art. 5, §20 of the Const. of Nev.

Exhibit "5" is rebutted as being authentic due to the fact that the signature of the Secretary of State John Koontz (Koontz), appears to be a forgery. In comparing the signature of STATE OF NEVADA EXECUTIVE DEPARTMENT Senate Bill No. 2 (See Exhibit "8" STATE OF NEVADA EXECUTIVE DEPARTMENT SENATE BILL NO. 2 RECEIVED Jan 23, 1957), to State of Nevada Executive Department Senate Bill No. 3 (see "9" STATE OF NEVADA EXECUTIVE DEPARTMENT SENATE BILL NO. 3 RECEIVED January 25, 1957), the signatures are not the same.

Yet, most importantly Exhibit "8", is rebutted as being authentic due to the fact that Senate Bill No. 2 (Exhibit "8"), sets forth that S.B. No. 2 was RECEIVED AND FILED in the STATE OF NEVADA OFFICE OF SECRETARY OF STATE, on JAN 23 1957 at 1:10 p.m. However, it was not APPROVED in the STATE OF NEVADA EXECUTIVE DEPARTMENT until "January 25, 1957 at 10:25 am two (2), days latter." (These documents Exhibit's "8" and "9" were received from the Nevada State Library and Archives 100 N. Stewart Street Carson City NV 89701 See Exhibit "10" STATE OF NEVADA DEPARTMENT OF ADMINISTRATION Nevada State Library and Archives 100 N. Stewart Street Carson City, NV 89701).

That, Exhibit's "6" and "7", fails to meet the Constitutional requirement of Art. 4, §18, that all bills shall be signed by the presiding officers of the respective House and by

32

the Secretary of the Senate and Clerk of the Assembly. See: Cardwell v. Glenn, 18 Nev. 34, 1 Pac. 186 (1883), cited State ex rel. Sutherland v. Nye, 23 Nev. 99, 101, 42 Pac. 866 (1895); State ex rel. Osburn v. Beck, 25 Nev. 68, 80, 56 Pac. 1008 (1899); cited State ex rel. Coffin v. Howell, 26 Nev. 93, 100, 64 Pac. 466 (1901).

In Nevada v. Swift, 10 Nev. 176, 183 (1875), the Swift Court, held: "The case is stronger in Nevada, for here the 'constitution itself prescribes the 'mode of authenticating the statutes', and provides not only that they 'shall be signed by the presiding officers of the two houses of the legislature, but also by the secretary of the senate and clerk of the assembly (Art. IV, Sec. 18')." (emphasis added).

That, despite the efforts made to obtain "public documents", records for the Legislative, Assembly history from the 1957, and 1969, Legislative sessions, which would naturally include the required signatures for the legislative acts; for the documents requested persuant to Art. 4, §18, said documents are unavailable. (See Exhibit "11" missive from STATE OF NEVADA OFFICE OF THE SECRETARY OF STATE dated February 20, 2013).

The search to obtain the Assembly/Legislative History did not stop there, in fact, due to additionally discovered evidence concerning the NRS enactment etc., the request for legislative, assembly History was expanded to the years of 1951, 1953, 1955, and 1963, with 1957, and 1969, being requested. (See Exhibit "12" STATE OF NEVADA OFFICE OF THE SECRETARY OF STATE February 4, 2014).

The result of these two (2), search requests were the same, that, the office of the Secretary of State no longer has

33

"legal custody" and "control" of the information requested.

Seeking to exercise due diligence, the search did not stop there, as it is imperative to determine whether S.B. No. 2, 1957, contained the required signatures pursuant to Art. 4, §18, of the Const. of Nev.; or, whether this too would be another constitutional issue where constitutional limits were transcended. Levingston, 112 Nev. at 482, 916 P.2d at 166; Porch, 39 Nev. at 268; 156 P. at 445; and Swift, 10 Nev. at 183.

Wherefore, a request was made to "Nevada State Archives. (See Exhibit "13" missive to Nevada State Archives dated May 28, 2013) and copy of mailing envelope)

That, through a rather highly unusual method, the Nevada State Archives responded to the research request. The response from Nevada State Archives went to NDOC-Kimberly Peterson, which stated: Nevada State Archives informed Ms. Peterson that they no longer perform research for inmates due to Budget Cuts. Ms. Peterson has forward your original request to Nevada State Archives back to you via my office. (See Exhibit "14" INTER OFFICE S.D.C.C. MEMO From: AW to Gentry Date June 26, 2013, with copy of mailing envelope).

Without authenticity of S.B. No. 2, the legislative enactment of S.B. No. 2, cannot be presumed to be constitutional. State ex rel. Sutherland, 23 Nev. at 101; State ex rel. Osburn, 25 Nev. at 80; and State ex rel. Coffin, 26 Nev. at 100.

The argument presented herein establishing that S.B. No. 2, nor Senate Concurrent Resolution No. 1 - Committee on Judiciary (Exhibit's "5"; "6"; and "7" respectively), cannot be authenticated, is another significant linchpin

34

in the cog of the wheel establishing the invalidity, unconstitutionality of the NRS for the year 1957, thus the year of 2002

Despite other available remedy, the Sup. Ct. of Nev., may in the interest of justice, exercise its discretion to entertain a writ where circumstances reveal urgency and strong necessity, Ashokan v. State Dept. of Ins., 109 Nev. 662, 667, 856 P.2d 224, 247 (Nev. 1993); or prevent irreparable harm, and or fundamental miscarriage of justice. Barngrover v. 4th Judicial District Court, 115 Nev. 104, 110-11, 979 P.2d 216, 219 (Nev. 1994).

Petitioner strongly states, and urges that the circumstances herein strongly reveal urgency and strong necessity Ashokan, 109 Nev. at 667, to prevent irreparable harm, and or fundamental miscarriage of justice Barngrover, 115 Nev. at 110-11, to constitutionally authenticate S.B. No. 2, and or Resolutions and Memorials Senate Concurrent Resolution No. 1 - Committee on Judiciary FILE NO. 1 (Exhibit's "5", "6", and "7" respectively), of the Legis. of Nev. to adopt and enact the NRS as law of the State of Nevada.

That, without authentication of the Legislative act of the 48th Session 1957, to adopt and enact the NRS as the law of the State of Nevada, Petitioner was erroneously arrested, charged, via invalid, unconstitutional laws from illegal acts of the Legis. of Nev. 1957, and or the Sup. Ct. of Nev. 1951, 1955, 1957; thus the laws for the year of 2002, the year of Petitioner's arrest also being invalid, unconstitutional, being derived from the illegal, unconstitutional legislative act(s) of 1951, 1955, and 1957.

35

The violation of Art. 4, §18, of the Const. of Nev. due to the lack of authentication, violated Petitioner's right to Due Process under the 5th Amendment, and the Due Process and Equal Protection Clause of the 14th Amendment to the U.S. Const. See: Zinerman, 494 U.S. at 125; Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 US at 169.

(A) Resolution and Memorials Senate Concurrent Resolution No. 1 - Committee on Judiciary FILE NO. 1, Assembly Concurrent Resolution No. 1 - Committee on Judiciary "is" UNCONSTITUTIONAL and Invalid.

Statutes of Nevada 1956-57, Resolutions and Memorials Senate Concurrent Resolution No. 1 - Committee on Judiciary FILE NO. 1, SENATE CONCURRENT RESOLUTION - Providing that the official engrossed copy of Senate Bill No. 2 may be used as the enrolled bill (See Exhibit "5"), is in violation of Art. 4, §18, Art. 4, §35, of the Const. of Nev., thus transcending constitutional limits Lexington, 112 Nev. at 482, 916 P.2d at 1166.

Exhibit "5" also states "WHEREAS, The provisions of sec. 8 of chapter 3, Statutes of Nevada 1949, as amended by chapter 385, Statutes of Nevada 1955, provide that the official engrossed copy of a bill may by resolution be used as the enrolled bill; now, therefore, be it Resolved by the Senate of the State of Nevada, the Assembly concurring, That the official engrossed copy of Senate Bill No. 2 shall be used as the enrolled bill as provided by law."

As provided by law, Senate and Assembly concurrent resolutions, are required to contain the enacting clause as required by Const. of Nev. 4, §23, and is required to be

presented to governor for his signature as required by the Const. of Nev. Art. 4, §35.

Exhibit "5" Resolution and Memorial No. 1 FILE NO. 1 does not contain the enacting clause, nor was it presented to the governor for his signature. Wherefore, Senate Concurrent Resolution FILE NO. 1, and Assembly Concurrent Resolution No. 1 FILE NO. 2, transcends the Const. of Nev. Art. 4, § 23, and Art. 4, § 35, wherefore, said resolution does not have the force and effect of law. See: Nevada Highway Patrol Ass'n v. Nevada Department of Motor Vehicles And Public Safety, 107 Nev. 547, 549, 815 P.2d 608, 610 (Nev. 1991).

Wherefore, any effort to utilize Resolution (App. of Ex. "5"), to authenticate the form of a bill in type written form a.k.a. S.B. No. 2, as the Official Act etc., must fail.

For the reasons as argued above, and for the reasons as brought forth in Grounds / Sections I, II, and III, Petitioner is entitled to relief.

Petitioner has adequately and sufficiently produce evidence beyond refute, as to the constitutional deficiencies of Resolution and Memorial (Exhibit "5"), and S.B. No. 2 (Exhibit's "6" and "7"), as pertains to constitutional mandates of Art. 4, §18, Art. 4, §23; and Art. 4, §35, of the Const. of Nev. that these document's, exhibit's fail to meet.

Thus, due to constitutional violations of the Const. of Nev., the invalid, unconstitutional Resolution, Petitioner is entitled to relief from the JOC entered against Petitioner under the NRS for the year of 2002, the NRS of 2002, having been derived from invalid, unconstitutional NRS of 1957.

IV. Whether the provisions of Art. 4, §23, of the Constitution of Nevada was violated when the Nevada Revised Statutes of 1957, were published, republished without the enacting clause upon their face, and when the NRS published, republished in the year of 2002, were published, republished without the constitutionally mandated enacting clause upon their face.

Petitioner does hereby adopt and utilize where applicabe, all of the facts, arguments etc., as set forth in sections I, II, and III, as though fully stated and set forth herein Ground/ Section IV.

Art. 4, §23, of the Const. of Nev. reads in part as follows: "The enacting clause of every law shall be as follows: 'The people of the State of Nevada represented in Senate and Assembly, do enact as follows,' and no law shall be enacted except by bill."

When construing "constitutional provisions", the Sup. Ct. of Nev., utilizes the "same rules of construction used to interpret statutes. Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757; Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. 388, 956 P.2d at 773-74.

In Clean Water Coalition v. The M. Resort, LLC, 127 Nev. Adv. Rep. 24, 255 P.3d 247, 253 (2011), citing Goldman v. Bryan, 106 Nev. 30, 37, 787 P.2d 372, 377 (1990), the Sup. Ct. of Nev. delineated "The Constitution is the 'supreme law of the State,' which 'controls over' any conflicting statutory provisions'" (emphasis added), see also 73 Am. Jur. 2d "Statutes" §100, p. 325, cases cited; State v. Rogers, 10 Nev. 250, 255-56 (1875).

38

This is a matter of grave importance as to this constitutional issue, question, as concerns the publication, republication on all laws, every law to contain the enacting clause in the statute books. Art. 4, §23, Const. of Nev.

Petitioner contends that the plain and unambiguous language of Art. 4, §23, of the Const. of Nev., mandates that: "every law", not just "bills" enacted by the legislature, yet again "every law"; published, republished in the Statute book in the State of Nevada "must contain the specific language of the enacting clause on their face." State v. Rogers, 10 Nev. at 261.

The **laws** under which Petitioner was arrested in the year of 2002, do not contain the mandatory enacting clause language upon their face, pursuant to Art. 4, §23, of the Const. of Nev.

The constitutional provision which prescribes an enacting clause for "**all laws**", "**every law**" Art. 4, §23, is not directory, yet is mandatory. This includes and encompasses laws which have been classified, codified, and annotated pursuant to the "paramount" law of the State of Nevada, the Const. of Nev. See: Caine v. Robbins, 61 Nev. 416, 131 P.2d 516, 518 (Nev. 1942); citing Sjoberg v. Security Savings & Loan Association, 73 Minn. 203, 75 N.W. 1116, 72 Am. St. Rep. (1898); State v. Rogers, 10 Nev. at 255-56; Nevada Highway Patrol Ass'n, 107 Nev. at 519, 815 P.2d at 610. This mandatory provision of the Const. of Nev. Art. 4, §23," cannot be legislated away without amending the Const. of Nev., via the approval of the people of Nevada.

The use of the enacting clause does not merely serve as a "flag", under which" bills run their course through the legis-

39

lative machinery. Vaughn & Ragsdale Co. v. State Bd. of Eq., 96 P.2d 420, 424 (Mont. 1939). The enacting clause of a law goes to its substance, and is not merely procedural. Morgan v. Murray, 328 P.2d 644, 654 (Mont. 1958).

(A). Whether the Nevada Revised Statutes publications, republications are "not required to contain the enacting clause, due to the fact that the Nevada Revised Statutes are 'not laws enacted by the legislature of Nevada?'"

The following supposition has been hypothesized in pleadings (Opposition's, Responses of the District Attorney's Office Clark County, Nevada, Eighth Judicial District Court): "The enacting clause of every law shall be as follows: 'The People of the State of Nevada, represented in Senate and Assembly, do enact as follows,' and no law shall be enacted except by bill. NEV. CONST. art. 4, §23. The Nevada Supreme Court has interpreted this Constitutional provision to mean an enacting clause 'must be included in every law 'created' by the Legislature' and the law must express on its face 'the authority by which they were enacted.' State v. Rogers, 10 Nev. 250, 1875 WL 4032, 7 (1875). The Court further found that nothing can be law that is not introduced by the very words of the enacting clause. Id. at 256. 'However, while it is well established that the laws of Nevada must include an enacting clause, 'the Nevada Revised Statutes do not have the same requirement, 'as they **are not laws enacted by the legislature?**'" Instead, the Nevada Revised Statutes consist of **previously enacted laws** which have been classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. Thus,

the reason the Nevada Revised Statutes are referenced in criminal proceedings is because they "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law." NRS 220.170(3)(emphasis added). Further, the content requirement for the Nevada Revised Statutes, as laid out in NRS 220.110, do not require the enacting clause to be republished in them. See NRS 221.110. Therefore, the lack of an enacting clause in the Nevada Revised Statutes does not render them unconstitutional." (See Exhibit "15" State's Response To Defendant's "Caveat," Motion To Dismiss For Lack of Subject Matter Jurisdiction, Errata To Accused Motion To Dismiss For Lack of Subject Matter Jurisdiction/ Motion For Show of Proof, & Petition For Writ of Mandamus pages 4-5 mailing date July 10, 2013, Hearing date of July 15, 2013).

First, lets address the spurious notion that "the NRS are not laws enacted by the legislature."

Exhibit's 2, 4, 5, 6, and 7, in one manner or another specifically mentions, the adopting and enacting of the NRS by the Legis. of Nev. the 48th Session 1957, as the law of the State of Nevada.

Yet, Petitioner directs this Court's attention to Exhibit "4", which reads in part as follows: "Accordingly, Nevada Revised Statutes in typewritten form was submitted to the 48th session of the legislature in the form of a bill providing for its enactment as law of the State of Nevada. This bill, Senate Bill No. 2 (hereafter referred to in this preface as "the revision bill"), was passed without amendment or dissenting vote, and on January 25, 1957, was approved by

41

Governor Charles H. Russell."

Accordingly, this should "forever" resolve that the Legis. of Nev. 48th Session 1957, adopted and enacted the NRS as law of the State of Nevada. Whether the NRS was legally, lawfully," constitutionally adopted and enacted", is the constitutional question that Petitioner calls upon this Court to resolve as well!

However, since its substantiated that the NRS "were adopted and enacted by the Legis. of Nev. (Exhibit "4"), this should also then resolve the question as to whether the NRS, as published, republished to the citizen's of Nevada in 1957; and 2002, the year of Petitioner's arrest **must contain** the enacting clause upon their face. And let it not be forgotten that this Court has ruled in Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757; Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. 388, 956 P.2d at 773-74, that when construing constitutional provisions this Court utilizes the same rules of construction used to interpret statutes.

Wherefore, Art. 4, § 23, of the Const. of Nev. **must be given its plain, unambiguous meaning.** See: Pellegrini v. State, 117 Nev. 860, 874, 34 P.3d 519, 528 (Nev. 2001). The plain and unambiguous meaning is that, "every law" must have the enacting clause upon their face.

That, the NRS as published, republished in 2002, the year of Petitioner's arrest, are reviewed, come before this Court without the enacting clause upon their face, the NRS for the year of 2002, are "unconstitutional, 'void.'" State v. Rogers, 10 Nev. at 261. (The Roger's, court stated the statute as found in the statute book cited by this

Court as "Stat. 1875, 66," is unconstitutional as the statute had an insufficient enacting clause on its face, it was deemed to be "not a law.").

Wherefore, two (2), components of the above supposition must fail: (1) that the Legis. of Nev. 48th Session 1957, did not enact the NRS as law of the State of Nevada; and (2) that the NRS as law of the State of Nevada for the year 1957, nor 2002, the year of Petitioner's arrest are not required to have the enacting clause upon their face.

Second, whether the NRS consist of previously enacted laws, which have been classified, codified, and annotated by the Legislative Counsel. See NRS 220.120; **is absolutely of little or no importance!!** Because when all is said and done, "The 'Nevada Revised Statutes,' being the statute laws set forth after section 9 of this act, are hereby 'adopted and 'enacted' as 'law of the State of Nevada.'" (See Exhibit's "6" and "7").

Wherefore, the NRS being the statute laws of the State of Nevada, having been adopted and enacted as law of the State of Nevada, are by constitutional mandate of Art. 4, §23, of the Const. of Nev., required to have the enacting clause upon their face; when published, republished as the law of the State of Nevada. State v. Rogers, supra.

Third, the reason the NRS can be referenced in criminal proceedings is, not only because they "constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law", yet again the NRS may be "cited" "due to the fact that the NRS have

43

been by legislative act," adopted and enacted" as the "law of the State of Nevada." (See Exhibit's "4"; "5"; "6" and "7"), and (Exhibit "16" State's Opposition To Defendant's "Accused Motion For Decision On The Merits of Invalid Laws of The State of Nevada Causing The District Court To Be Divested of Subject Matter Jurisdiction Ab Initio" mailing date November 25, 2013, Hearing date November 27, 2013, page 6 lines 12 thru 25).

Fourth, the supposition that NRS 220.110, does not require the enacting clause to be republished in them. Therefore, the lack of an enacting clause in the Nevada Revised Statutes does not render them unconstitutional, must also fail. This supposition must fail, should NRS 220.110 contemplate to mean that the enacting clause, need not to be republished upon the face of the NRS; this meaning does contravene the plain and unambiguous language of Art. 4, §23. Clean Water Coalition, 255 P.3d at 253; Pellegrini, 117 Nev. at 874, 34 P.3d at 528, see also State ex rel. Moon v. State Bd. of Examiners, 104 Idaho 640, 648, 662 P.2d 221, 229 (Idaho 1983), State v. Rogers, 10 Nev. at 255; Stumpf v. Lau, 108 Nev. 826, 844, 839 P.2d 120, 131 (Nev. 1992), Porch, 39 Nev. at 268, 156 P. at 445.

Additionally, [T]he general rule of law is, when a statute or "Constitution" is plain and unambiguous, the court is not permitted to indulge in speculation concerning its meaning, nor whether it is embodiment of great wisdom.*** It is not within the province of the court to read an exception in the Constitution which the framers thereof did not see

fit to enact therein. Baskin v. State, 232 Pac. 388, 389, 107 Okla. 272 (1925); see also Posados v. Warner, B & Co., 279 U.S. 340, 344 (1928); Internat. Shoe Co. v. Shartel, 279 U.S. 429, 434 (1928); and 73 Am. Jur. 2d "statutes" §100, p. 325, Cases cited. Compare: Hartz v. Mitchell, 107 Nev. 893, 897, 822 P.2d 1667, 1669 (Nev. 1991), Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757, Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. at 392, 956 P.2d at 773-74.

It must be remembered that the enacting clause being placed upon the face of "every law", Const. of Nev. Art. 4, §23, is not simply a mere formality yet the acknowledgement of the specific function, that the enacting clause performs. The enacting clause establishes the authority of the law. Nevada v. Swift, 10 Nev. at 183.

(B). Whether the Nevada Revised Statutes" constitute the official codified verison of the Statutes of Nevada and may be cited as prima facie evidence of the law?"

It is not wholly clear to Petitioner exactly what purpose NRS 220.170 serves, as it is abundantly clear that the Legis. of Nev. fully intended to enact the NRS as the law of the State of Nevada. The NRS being adopted and enacted as law of the State of Nevada, pursuant to the Legislative Act in 1957, See Exhibit's 4, 5, 6 and 7, would indicate, and be sufficient enough to cite the NRS as law.

It appears that the NRS were created to replace the "Statutes of Nevada", see SEC. 3 of Exhibit "6" and "7", which reads as follows: Repeal of Prior Laws. Except as

45

15

provided in section 5 of this act and unless expressly continued by specific provision of Nevada Revised Statutes, all laws and statutes (i.e. Statutes of Nevada), of the State of Nevada of a general, public and permanent nature enacted prior to January 21, 1957, hereby "are repealed."

A review of SEC. 5 of Exhibit's "6" and "7", establish that the Statutes of Nevada, were not revived under the NRS.

The language of S.B. No. 2 is clear and unambiguous "An Act to revise the laws and 'statutes of the State of Nevada' of a general or public nature; to adopt and enact such revised laws and statutes, 'to be known as the' Nevada Revised Statutes, 'as the law of the State of Nevada;'" to 'repeal all prior laws and 'statutes'" of a general, public and 'permanent nature'; providing penalties; and other matters relating thereto." Clean Water Coalition, 255 P.3d at 253; Pellegrini, 117 Nev. at 874, 34 P.3d at 528; Nevada Mining Ass'n, 117 Nev. at 538; 26 P.3d at 757; Barrios-Lameli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. at 392, 956 P.2d at 773-74.

Wherefore, NRS 220.170 et seq., is ambiguous, and or conflicts with S.B. No. 2, as set forth above. That, the NRS are the official replacement of the Statutes of Nevada. That, the NRS are expressly the law of the State of Nevada, having been created, enacted, to replace all prior laws and statutes of Nevada.

Wherefore, the NRS due not "constitute the official codified version of the Statutes of Nevada", the NRS are now the law of the State of Nevada, to cite to the "Statutes of Nevada", is error.

46

There is an imperative importance of a public nature for these questions to be resolved, due to the fact of the riven among the District Court's of the State of Nevada, and that of State District Attorney's Office's; in the following cases have hypothesized the same suppositions as set forth above as can be referenced in Case No.'s: 04C200221-6; 99C160684; 07C232434; C12-284295; 271788-1; C-12-278625-1; 05217360; 08C248205; 93C115852-1; 93C111401; 08C241681-2; C-11-275616-1; C-11-273826-1; 94C121817; 04C204941; 98C147763; 91C103532; 03C192433-1; 92C-107652; 03C192375; 08C241598; 07232763; 98C151350; 08C242441; 95C129415; 92C104928; 08C248883; 10C263963-1; 96C137479-2; 81C055698; 03C189658-1; C-11-270762-1; 94C-119521; 93C114390; from the Eighth Judicial District, Clark County, Nevada; Case No.'s CR6650; CR6097; CR6101; CR6125; Fifth Judicial District, Nye County; Case No.'s CR11-1722; CR09-0178; CR00-0833, from the Second Judicial District Court, Washoe County.

The evidentiary nature of the enacting clause language obviously directs, the enacting clause to be included on "every law." And, since "no law shall be enacted except by bill", the enacting clause must be on every "bill" as well. This fact can be witressed by examining the law established by State v. Rogers, 10 Nev. at 261, wherein: "All laws ... shall, upon their face, express the authority by which they were enacted..." (emphasis added). Thus, obviously the enacting clause provision applies to laws as well as bills.

It is utterly preposterous and an oxymoron to suggest

that the only purpose for an enacting clause is to show the "legislative body", in other words "the authority" that is considering passing a bill, what authority is behind the bill, that they might pass!

Since it has been repeatedly held that an enacting clause must appear "on the face" of a law, such a requirement affects the printing and publishing of those laws. The fact that the Const. of Nev. requires "every law" to have an enacting clause makes it a requirement not just on bills within the legislature, yet on published, republished laws as well. Should the Const. of Nev. have stated "every bill" shall have an enacting clause, it probably could be said that the enacting clause use in publications would not be required. Yet, the historical usage and application of an enacting clause has been for them to be printed and published, republished along with the body of law, thus "appearing 'on the face'" of the law.

The NRS are the statute laws, laws of the State of Nevada, therefore, the published, republished NRS must contain the enacting clause upon their face. Art. 4, § 23 Const. of Nev.

It is obvious, then, that the enacting clause must be readily visible on the face of a statute in the common mode in which it is published, so that "citizens' don't have to search through the legislative journals or other records and books to see the kind of 'clause' used, or if any exists at all.'" Thus, a law in a statute book without an enacting clause is not a valid publication of law. In regards to the validity of a law that was found in the "statute books" with a defective enacting clause, the law was found to

not be a law. See supra at pages 42 & 43. Additionally, the decision of that Court bares repeating here:

> Our constitution expressly provides that the enacting clause of every law shall be, "The people of the State of Nevada, represented in Senate and Assembly, do enact as follows." This language is susceptible of but one interpretation. There is no doubtful meaning as to the intention. It is in our judgment an imperative mandate of the people, in their sovereign capacity, to the legislature requiring that all laws to be binding upon them, shall, upon their face, express the authority by which they were enacted; and, since this act comes to us without such authority upon its face, it is not a law.

State v. Rogers, 10 Nev. at 261; approved in Caine, 61 Nev. 416, 131 P.2d at 518; Ketauver v. Spruling, 290 S.W. 14, 15 (Tenn. 1926); Sjoberg, 73 Minn. at 212-214.

It is only by inspecting the publicly printed statute book that Petitioner, the People of the State of Nevada can determine the source, authority and constitutional authenticity of the law they are expected to bind themselves to.

Considering the exigency of this rule it is easy to perceive of what extreme importance it is that there should be some high authentic and unquestionable record to which not only courts and public officers, "but private citizens", may resort," and by 'simple inspection determine for themselves' with infallible certainty' what are the statutes, of the State, and what are their terms.'" State v. Swift, 10 Nev. at 183.

The bottom line is whether the NRS when published, republished in the year of 2002, are to have the enacting clause as mandated pursuant to the Const. of Nev. Art. 4, § 23, upon their face?

Petitioner states that, the NRS being the adopted, enacted, and approved law of the State of Nevada, that this can be answered only one way! That, when the NRS are published, republished for simple review, inspection by the People of Nevada, the enacting clause "must" be upon the face of any and all NRS publications. Art. 4, § 23, Const. of Nev.; State v. Rogers, 10 Nev. at 261, State v. Swift, 10 Nev. at 183.

The failure of the publication of the NRS for the year of 2002, to "not contain the enacting clause upon their face", makes the NRS of 2002, not laws at all. State v. Rogers, 10 Nev. at 261. Thus, the district court was, is, has been divested of subject matter jurisdiction.

The violation of Art. 4, § 23, of the Const. of Nev., due to the failure of the NRS of 2002, the year of Petitioner's arrest, to contain the constitutionally mandated enacting clause upon their face; violated Petitioner's right to Due Process under the 5th Amendment, and Due Process and Equal Protection under the 14th Amendment to the U.S. Const. Zinermon, 494 U.S. at 125; citing Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 U.S at 169. see also Brown v. Nations Bank Corp, 188 F.3d 579 (5th Cir. 1999), The guarantee of due process protects citizens against deliberate harm from government officials.

Wherefore, based upon the above and foregoing, Art. 4, § 23, of the Const. of Nev. in its plain an unambiguous language having been violated as argued above, Petitioner is entitled to relief.

V. Whether the provisions of Article 5, §20, of the Constitution of Nevada has been violated by current and/or past Secretary of State, in failing to keep a true record of the Official Acts of the Legislative Department, particulary Senate Bill No. 2, of January 25, 1957, Adopting and Enacting the Nevada Revised Statutes as law of the State of Nevada.

Art. 5, §20 Secretary of state: Duties. reads in part as follows: "The Secretary of State shall keep a true record of the 'Official Acts' of the legislative and ... Departments of the Government, and shall when required, lay the same and all matters relative thereto, before either branch of the Legislature."

Enrolled bill signed by proper officers and deposited with secretary of state must be accepted by courts as conclusive evidence of regular enactment, and validity of bill enacted to disincorporate city could not be questioned in quo warranto proceedings to determine whether board of county commissioners was lawfully governing unincorporated town created by bill on ground that required by Nev. Art. 4, §18, had not been followed in enacting bill. State ex rel. Osburn v. Beck, 25 Nev. 68, 56 Pac. 1008 (1899), cited State ex rel. Coffin v. Howell, 26 Nev. at 100, 64 Pac. 466 (1901), In re Ah Pah, 34 Nev. 283, 291, 119 Pac. 770 (1911), State ex rel. Bartlett v. Brodigan, 37 Nev. 245, 248, 141 Pac. 988 (1914).

Petitioner has been unable to obtain from the "Office of the Secretary of State", a true and correct copy of the Enrolled bill signed by proper officer's for S.B. No. 2 January 25, 1957, complying with NRS 218D.675 to adopt and enact the NRS as the law of the State of Nevada.

51

The Const. of Nev. Art. 5, §20, expressly, in its plain and unambiguous language Clean Water Coalition, 255 P.3d at 253; Pellegrini, 117 Nev. at 874, 34 P.3d at 528; Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757; Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. at 392, 956 P.2d at 773-74, only authorizes the "Office of the Secretary of State", to have, maintain, authorized legal custody, care and control of "official Acts of the Legislative Department." That, S.B. No. 2 January 25, 1957, is an "Official Act of the Legislative Department."

Petitioner directs this Court's attention to Exhibit's 11, 12, 13, and 14, as prima facie evidence of the efforts made to obtain true and correct copies of S.B. No. 2 January 25, 1957, signed by the proper officers Art. 4, §18, Const. of Nev.; from the office of the Secretary of State. Art. 5, §20, Const. of Nev.

Exhibit's 11, 12, 13, and 14, "must" stand as prima facie evidence, as a showing to the contrary Starlets Int'l, 106 Nev. at 735, 801 P.2d at 1344, that S.B. No. 2 January 25, 1957, cannot be presumed to be constitutional; an "Official Act of the Legislative Department, wherefore, the provision(s) of Halverson, 124 Nev. at 487, 186 P.3d at 896, are satisfied.

NOTE: That, Exhibit's 5, 6, and 7, have come from the State of Nevada Legislative Counsel Bureau Legislative Building 401 S. Carson Street Carson City NV 89701-4747, and or the State of Nevada Department of Administration Nevada State Library and Archives 100 N. Stewart Street Carson City NV 89701, NOT from the Office of the Secretary of State. Art. 5, §20, Const. of Nev. Exhibit "10" etc.

52

Without S.B. No. 2 January 25, 1957, an Act of the Legis. of Nev. 48th Session, to adopt and enact the NRS as law of the State of Nevada, in the Office of the Secretary of State, S.B. No. 2 January 25, 1957, cannot be deemed to be an "Official Act of the Legislative Department" of the State of Nevada. Art. 5, § 20. S.B. No. 2 January 25, 1957," cannot be looked to, to ascertain terms of the law. Thus, there isn't conclusive evidence as to the passage of the act. State ex rel. Cardwell, supra; cited State ex rel. Sutherland, 23 Nev. at 101; State ex rel. Osburn, 25 Nev. at 80; State ex rel. Bartlett, 37 Nev. at 248, Swift, 10 Nev. at 183.

There is a vested interest in this Court resolving this matter, due to the fact that, the Office of the Secretary of State is under the distinct impression that, the language of the Const. of Nev. Art. 5, § 20, is "not mandatory"; and that Art. 5, § 20, mandatory language can only be changed by vote.

In a missive from the Office of the Secretary of State the following is intimated: "While Article 5, § 20, of the Nevada Constitution provides that 'the Secretary of State shall keep a true record of the Official Acts of the Legislative and Executive Departments of the Government,' it does 'not maintain that the Secretary of State's must indefinitely retain all bills passed by the Legislature." (See App. at Ex. "17" State of Nevada Office of the Secretary of State July 29, 2014, missive).

Upon receipt of the July 29, 2014, missive from the Office of the Secretary of State, a response was immediately sent, requesting the following be provided:

53 53

1. Please inform me whom wrote the July 29, 2014, missive?;
2. Please inform me by what provision of law etc., that the Secretary of State is no longer mandated by the Nevada Constitution Article 5, §20, to "Keep" a true record of the Official Acts of the Legislative . . . Department?;
3. Please inform me when the Nevada Constitution was amended and approved by the vote of the "people", to amend Article 5, §20, to remove this mandatory requirement of the Secretary of State?; and
4. Please provide a legible signature to the response to this missive. (See Exhibit "18" missive to the Office of the Secretary of State August 4, 2014).

Petitioner has established before this Court, to a reasonable degree of certainty that, the legislative act to adopt and enact S.B. No. 2 January 25, 1957, enacting the NRS as law of the State of Nevada; **cannot** be authenticated, via the constitutional standard as mandated by the Const. of Nev. Art. 5, §20, i.e. the "Official Acts of the Legislative Department", being kept in the Office of the Secretary of State.

The failure to Keep the "Official Acts of the Legislative Department", in the Office of the Secretary of State is a violation of Art. 5, §20, of the Const. of Nev., and violates Petitioner's right to Due Process under the 5th Amendment, and the Due Process and Equal Protection Clause of the 14th Amendment to the U.S. Const. See: Zinermon, 494 U.S. at 125; citing Daniels, 474 U.S. at 337; Carey, 435 U.S. at 259; and Rochin, 342 US at 169, as the Act to adopt and enact the NRS as law of the State of Nevada S.B. No. 2 "**cannot**

be authenticated." State ex rel. Sutherland, 23 Nev. at 101; State ex rel. Osburn, 25 Nev. at 80; State ex rel. Barlett, 37 Nev. at 248; State ex rel. Coffin, 26 Nev. at 100; In re Ah Pah, 34 Nev. at 291.

The NRS have sought to be enacted as law of the State of Nevada via two (2), Legislative Acts: the first:

1. Through S.B. No. 2 January 25, 1957, as demonstrated by Exhibit's 6 and 7. Again, these documents fail due to the lack of authenticity from the Office of the Secretary of State, and not to mention the other argued constitutional deprivations, violations supra; second:

2. Through Senate Concurrent Resolution No. 1 Exhibit 5, which reads in part as follows: . . . , be it Resolved by the Senate of the State of Nevada, the Assembly concurring, That the "official engrossed copy of Senate Bill No. 2 shall be used as the enrolled bill as provided by law."

This Resolution and Memorials Senate Concurrent Resolution Exhibit 5, must fail due to constitutional violations i.e. Art. 4, § 18; Art. 4, § 23; and Art. 5, § 20 of the Const. of Nev.

Thus, the NRS not being laws of the State of Nevada, Petitioner is not bound under the provisions of NRS.

Wherefore, based upon the aforesaid constitutional violation(s), Petitioner is entitled to relief due to the constitutional violations as set forth supra.

. . .

. . .

55 . . .

55

VI. Whether any and or all constitutional violations as presented herein the foregoing Writ, divested the district court of Subject Matter Jurisdiction ab initio; and that prior to reversal, warranting Petitioner's release from incarceration.

Petitioner does hereby adopt all of the arguments, facts, law, etc., as set forth in Grounds, Sections I, II, III, IV, and V, as though fully stated and set forth herein Ground, Section VI.

Petitioner states that "there cannot be finality to the judgment, order entered against Petitioner without resolution on the merit to the Constitutional questions that are set forth in this Writ.

The general judicial policy favoring the finality of judgments cannot, therefore, always prevail against an attack by a writ of habeas corpus. As important as finality is, it does not have a higher value than "constitutional guarantees of liberty." Protection of life and liberty from unconstitutional procedures is of greater importance than is res judicata. In Sanders v. United States, 373 U.S. 1, 8 (1963), the United States Supreme Court emphasized the point by stating: "Conventional notions of finality of litigation have 'no place where life or liberty is at stake and' infringement of constitutional rights is alleged'" ...." Hurst v. Cook, 777 P.2d 1029, 1035 (Utah 1989).

Petitioner's Writ strongly sets forth that infringment of Federal and State constitutional rights are set forth herein. Sanders, 373 U.S. at 8.

This Court in Mott v. Warden, Nevada State Prison,

540 P.2d 1061, 1062 (Nev. 1975), has delineated that a Constitutional challenge to the validity of a statute is a proper subject for habeas corpus. citing Ex parte Montell and Raigen, 47 Nev. 95, 216 P. 509 (1923).

The constitutional question's herein this Writ demonstrate that, this Court "must not ignore" its duty to protect and defend the paramount law of the United States, and the State of Nevada. Stumpf, 108 Nev. at 844, 839 P.2d at 131, as well as to permit Petitioner the opportunity to bring the law of the State of Nevada, to the test to determine whether constitutional limits have been transcended. Levingston, 112 Nev. at 482, 916 P.2d at 1166.

This Court like other court's has opined that question's of "Subject Matter Jurisdiction", can be raised at any time. See: Landreth, 251 P.3d at 1166; see also McMurty, 122 P.3d at 241; Tiger, 900 P.2d at 412; and Am. Fire & Gas Co., 341 U.S. at 17-18.

Proceedings in any court are **void** if it wants jurisdiction of the case in which it has assumed to act. Jurisdiction is, first, of the subject-matter.... See: Thomas M. Cooley, A Treatise on the Constitutional Limitations, Little, Brown, & Co., Boston, 1883, p. 493.

To try a person for the commission of a crime, the trial court must have jurisdiction of both the subject matter and.... 21 American Jurisprudence, "Criminal Law", § 338, p. 588.

Jurisdiction of the subject matter involves the actual thing involved in the controversy. If the property or thing in dis= pute **never existed** there would be no subject matter jurisdiction.

The subject-matter of a criminal offense is the crime itself. Subject-matter in its broadest sense means the cause; the object; the thing in dispute. Stilwell v. Markham, 10 P.2d 15, 16 (Kan. 1932).

It thus is said in a general sense that subject matter jurisdiction refers to the power of the court to hear and decide a case, or a particular class of cases; United States v. Morton, 467 US 822, 828 (1984), this is because jurisdiction of a court is derived from law (constitution or statute), and cannot be conferred by consent.

The law creates courts and defines their powers. Consent cannot authorize a judge to do what the law has not given him the power to do. Singleton v. Commonwealth, 208 S.W. 2d 325, 327, 306 Ky. 454 (1948); see 21 American Jurisprudence, 2nd, "Criminal Law," §339, p. 589.; see also Harris v. State, 82 A.2d 387, 389, 46 Del. 111 (1950); Matter of Green, 313 S.E. 2d 193, 195 (N.C. App. 1984); and Honomichl v. State, 333 N.W. 2d 797, 799 (S.D. 1983) (A reviewing court is required to considered the issue of subject matter jurisdiction even where it was not raised below in order to avoid an unwarranted exercise of judicial authority).

Subject matter jurisdiction involves more than having the right offense for the right court. Even if the court has jurisdiction over the type, class or grade of crime committed, it will still lack subject matter jurisdiction should the law which the crime is based upon is invalid, void, unconstitutional, or nonexistent.

Jurisdiction over the subject matter of action is essential to power of a court to act, and is conferred only by constitution or by valid statute. Brown v. State, 37 N.E. 2d 73, 77

58

58

(Ind. 1941).

The court must be authorized to hear a crime, and have a valid law that creates a crime. Thus, the crux of subject matter jurisdiction is always the crime or offense. Should a law be invalid there is no crime; should there be no crime there is no subject matter jurisdiction.

If a criminal statute is unconstitutional, the court lacks subject matter jurisdiction and cannot proceed to try the case. 22 Corpus Juris Secundum, "Criminal Law," §157, p. 189; citing People v. Katrinak, 185 Cal. Rptr. 869, 136 Cal. App. 3d 145, 156-57 (1982).

An invalid, unconstitutional or non-existent statute also affects the validity of the "charging document", i.e. the complaint, indictment, or information.

When a criminal defendant is indicted under a not-yet-effective statute, the charging document is void. State v. Dungan, 718 P.2d 1010, 1014, 149 Ariz. 537 (1985).

That, any action taken by a court when it lacked jurisdiction is a nullity and void. Gschwind v. Cessna Aircraft Co., 232 F.3d 1342, 1347 (10th Cir. 2000), Schnier v. District Court of Denver, 696 P.2d 264, 266 (Colo. 1985); and Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 353-54 (1920).

No authority need be cited for the proposition that, when a court lacks jurisdiction, any judgment rendered by it is void and unenforceable,*** and without any force or effect whatever. Hooker v. Boles, 346 F.2d 285, 286 (1965); Honomichl, 333 N.W. 2d at 799.

Where judicial tribunals have no jurisdiction of subject

59

matter, the proceedings are void. 21 Corpus Juris Secundum, "Courts," §18, p. 25; People v. McKinnon, 362 N.W.2d 809, 812 (Mich. App. 1985).

In the State of Nevada charges in Complaints, Indictments, or Informations, stem from statutes, which statutes stem from constitutional enactments of bills passed via the legislature, which bills become laws when signed into law by the Governor etc.

The questions as set forth in Grounds, Sections I thru IV, supra, present sound evidence that the NRS adopted, enacted January 25, 1957, are unconstitutional, void, unenforceable, without any force or effect, having transcended constitutional limits; being created etc., contrary to constitutional mandates of the Const. of Nev. i.e. Art's 3, §1; 4, §1; 4, §18; 4, §23. Levingston, 112 Nev. at 482, 916 P.2d at 166.

The aforesaid NRS of January 25, 1957, being unconstitutional, then the NRS for the year of 2002, are also unconstitutional, void, unenforceable, without any force or effect, having transcend constitutional limits; for any and all of the reasons set forth in Grounds, Sections I through IV, and V, being derived from the unconstitutional statutes of 1·25·1957.

Additionally, the statutes of January 25, 1957, are unconstitutional as said Official Act(s), of the Legislative Department of 1957, to adopt and enact the NRS as law of the State of Nevada, are not maintained in the Office of the Secretary of State violating Art. 5, §20, of the Const. of Nev.

Jurisdiction is a fundamental prerequisite to a valid prosecution and conviction, and a usurpation there of is a

nullity. 22 Corpus Juris Secundum, "Criminal Law," §150, p. 183.

The rule is fundamental that, where the court has no jurisdiction over the subject matter of the action, all proceedings in such action are void. The rule is likewise well settled that refusal to obey a void order or judgment is not contempt. See: Wolski v. Lippincott, 25 N.W. 2d 754, 755 (Neb. 1947).

The Exhibit's, arguments, etc., do to reasonable degree of certainty, established that Art's 3, §1; 4, §1; 4, §18; 4, §23; and 5, §20; of the Const. of Nev. have been violated.

The violations of the Const. of Nev., are of such constitutional magnitude, as to render the NRS created and enacted January 25, 1957, void, unconstitutional; that, the NRS for the year of 2002, are also void, unconstitutional being derived from unconstitutional statutes, Acts of the Legis. of Nev.

Thereby the district court was divested of subject matter jurisdiction, making the proceedings from the date of Petitioner's arrest in the year of 2002, void, unconstitutional. Wolski, 25 N.W. 2d at 755; Gschwind, 232 F.3d at 1347; Schnier, 696 P.2d at 266; and Valley, 254 U.S. at 353-54.

That, any single violation of any Art. of the Const. of Nev. as argued in Grounds/Sections I through V, supra, of this Writ violate's, violated Petitioner's right to Due Process under the 5th Amendment, and the Due Process and Equal Protection Clause of the 14th Amendment to the U.S. Const. Zinerman, 494 U.S. at 125; citing Daniels, 474 U.S. at 337; Carey, 435 U.S. at 259; and Rochin, 342 US at 169; and Art. 1, §8, Fouquette, 67 Nev. at 514, 221 P.2d at 409.

61

61

Wherefore, based upon the aforesaid violations of the Const. of Nev. Art's, Petitioner is entitled to relief as the district court lacked Subject Matter Jurisdiction. 22 Corpus Juris Secundum, "Criminal Laws," §157, P.189; citing Kattinak, 185 Cal. Rptr. 869, 136 Cal. App. at 156-157; see also Hooker, 346 F.2d at 286; Hanamichl, 333 N.W.2d at 799; Garcia, 596 S.W.2d at 528; Gschwind, 232 F.3d at 1347; Schnier, 696 P.2d at 266; Valley, 254 U.S. at 353-54; and 21 Corpus Juris Secundum, "Courts," §18, p. 25; McKinnon, 362 N.W.2d at 812.

Petitioner via this Writ "objects", to the constitutionality of Act's of the Legis. of Nev., whose rights these unconstitutional Act's does effect, therefore, Petitioner does have an interest in defeating the illegal unconstitutional Act's. That, Petitioner seeks to resist the operation of the illegal, unconstitutional Act's, and is calling upon judicial power to pronounce those illegal Act's void, unconstitutional as to Petitioner or Petitioner's rights, that the objections, unconstitutionality of the Legislative Act's can be presented and sustained. (Cooley, Const. Lim. 196, 197)(In re Sticknoth's Estate, 7 Nev. 223), Levingston, 112 Nev. at 482, 916 P.2d at 166.

The foregoing also contemplates an objection to the illegal attempt to utilize a Resolution and Memorial App. of Ex. "5" to support, and validate the "copy" of the engrossed S.B. No. 2 when the Resolution and Memorial App. of Ex. "5", fails to meet mandates of the Const. of Nev. Art's 4, §23, and 4, §35, not to mention Joint Resolution Rule (7); and as compared to Nevada Highway Patrol Ass'n, 107 Nev. 547, 549, 815 P.2d at 610.

2 62

VII. Whether there is significant riven amongst the several District Court's of the Counties of the State of Nevada, and whether there is riven within a "single" County, District Court(s), warranting that this Court review the Writ, to "declare the law" essential to the question's of law, the questions of Subject Matter Jurisdiction raised herein.

There is riven amongst the several District Court's of the Counties of the State of Nevada, as to defendant's, petitioner's seeking "similar relief", as to similar, should it not be identical pleadings submitted; raising similar, identical issues, filed throughout the counties of the State of Nevada.

That, as to the Constitutional issue's, questions raised herein, as well as the lack of subject matter jurisdiction question's raised herein; that motion's, writ's, etc., have been submitted to the following District Court's in the Counties of: the **First** Judicial District Court (Jud. Dist. Ct.), Carson County; Case No. 06-00589C, the court in which the action was filed, has taken no action other than to file the pleadings submitted; the **Second** Jud. Dist. Ct. Washoe County, Case No. CR00-0833, the Court required the State to answer, however, pursuant to **NRS 30.130**, the Attorney General's Office was **not** required to answer on behalf of the Secretary of State violation of Article 5, §20, of the Const. of Nev.; Case No. 09-0178, the Court did **not** require the District Attorney's Office to answer the allegations, nor for the Attorney General's Office to answer, the Court simply dismissed the action issuing an Order. Case No. CR11-1722, the court converted the Motion to a habeas corpus, subsequently denied the habeas petition

on procedural grounds, time bar, the petitioner has sought a Relief From Judgment Or Order pursuant to, Nevada Rules of Civil Procedure (NRCP), Rule 60(b);[5] the Fifth Jud. Dist. Ct., Nye County, Case No's CR 6097; CR 6101; CR 6125 and CR 6650, were dismissed on the Court's Order, the district attorney not required to answer; nor the attorney general's office to the Art. 5, §20 Const. of Nev. violation, the Seventh Jud. Dist. Ct., Lincoln County, Case No. CR-0513010, has issued its Order denying, the Court did not require the Attorney General's Office to answer any allegation of the Art. 5, §20, of the Const. of Nev. violation. Additionally, the Order Denying was issue 2013 DEC-9, however, the Defendant did not receive a copy of same until JUN 24 2014. The Defendant has executed and filed a petition for writ of mandamus Case No. 662663, to be able to file an appeal to exhaust state court remedies; there is currently only one case out of the Eighth Jud. Dist. Ct. Clark County, worth detailed discussion and that's Case No. C-11-275616-1. (Most, should it not be all other filings were denied, and the Attorney General's Office was not required to answer the Art. 5, §20, Const. of Nev. violation).

On January 10, 2014, the district court opined as follows: "This motion, filed within the criminal case wherein the Defendant Gaston Danjou . . . , is styled by the Defendant as a motion challenging the jurisdiction of this court ab initio, based upon the notion that the law under which

5. While other pleadings filed and appealed, have argued the enacting clause argument, those pleadings have not raised, argued the separation of power argument, and other arguments presented herein this Writ with the attached exhibits, nor the specific subject matter jurisdiction argument.

61

4

he was sentence is void ab initio for violation of constitutional separation of powers principles. The motion is therefore a collateral attack upon his conviction. Mr. Danjou has previously filed a petition for a writ of habeas corpus, which the court has denied. In response the District Attorney has countered that the movant has provided no authority for his novel proposition, whereby all the criminal laws of Nevada would necessarily be void ab initio, and has therefore failed to meet his burden. Additionally, the District Attorney points out that to the extent that movant alleges that the Secretary of State has failed to maintain records contrary to his duty under Nevada's Constitution, it would fall to the Attorney General to respond on behalf of the Secretary of State. Accordingly it is ORDERED: That the Attorney General shall be served by the clerk of the court with copies of the motion, opposition and reply, and shall have 45 days within which to file and serve any additional opposition to the granting of the motion; further ORDERED That the District Attorney shall have 20 days from service of the Attorney Generals response to file any supplement to its opposition; and further ORDERED That the defendant/movant shall have 20 days after service of any supplemental opposition by the District Attorney within which to serve and file any supplemental reply; ...." (See Exhibit "19" DISTRICT COURT CLARK COUNTY, NEVADA COURT MINUTES January 10, 2014). (emphasis added to original).

That, subsequently, prior to the Attorney General having answered, whether Art. 5, §20, of the Const. of Nev., has

been violated by the Secretary of State, a motion to appoint counsel was submitted; and upon reconsideration being granted, Stephanie Kice (Kice), was appointed counsel. (That, in Washoe County, Daniel Basham and Jonathon Wadsworth also have been appointed counsel).

In Cleburne v. Cleburne Living Center, 473 US 432, 439 (1985), the United States Supreme Court held: The Equal Protection Clause of the Fourteenth Amendment commands that, no state shall "deny to any person within its jurisdiction the equal protection of the laws," which is essentially a direction that all persons similarly situated should be treated alike. Plyler v. Doe, 457 US 202, 216 (1982); F.S. Royster Guano Co. v. Virginia, 253 US 412, 415 (1920).

That, to the extent that Petitioner is/was similarly situated i.e. in objecting to the unconstitutional laws, of the State of Nevada, to which Petitioner also seeks to defeat, and having had before the district court; a motion styled as a motion challenging the jurisdiction of the court ab initio, based upon the notion that the law under which Petitioner was arrested/sentence etc., are void ab initio for violation of constitutional separation of Departments principles; as well as that the Secretary of State has failed to maintain records contrary to his duty under the Const. of Nev., and other violations of the Const. of Nev.

Petitioner, similarly situated as Gaston Danjou, Daniel Basham, and Jonathan Wadsworth, motion should have been converted to a habeas corpus, counsel appointed etc. Petitioner was not!! Cleburne, 473 US at 439; Levingston,

112 Nev. at 482, 916 P.2d at 166.

Therefore, due to the riven amongst the several district court's, of the counties of the State of Nevada, as to application of Nevada law, application of Due Process and the Equal Protection of the law of the United States Supreme Court, the United States Constitution; and Constitution and laws of the State of Nevada, Petitioner being treated differently than other litigants similarly situated; Petitioner was denied the Due Process and Equal Protection of the law. Cleburne, 473 US at 439; Zinermon, 494 U.S. at 125; citing Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 US at 169, Art. 4, § 21, of the Const. of Nev.

(A) Whether there is significant riven within a "single" County District Court(s), warranting that this Court review the Writ, "declare the law" essential to the questions of law, the questions of Subject Matter Jurisdiction raised herein?"

Petitioner states that there is riven within a "single" County District Court(s) of the State of Nevada, as to the application of law, as to defendant's, petitioner's seeking relief as to similar actions filed; raising similar, should it not be identical issues within a "single County District Court jurisdiction, i.e. the Second Jud. Dist. Ct., or the Eighth Jud. Dist. Ct.

For purposes of demonstration as to these issues, grounds, etc., Petitioner utilizes the cases filed in the Second Jud. Dist. Ct., Washoe County herein, and the Eighth Jud. Dist. Ct. for the County of Clark herein.

In the Second Jud. Dist. Ct. the referenced cases sub-

mitted motions, styled as a motion challenging the jurisdiction of the court ab initio, based upon the notion that the law under which they were arrested/sentenced are void ab initio for violating constitutional separation of Department principles of the Const. of Nev.; along with several other provisions of the Const. of Nev. as argued supra.

In Case No. CR00-0833, the district court judge required the district attorney's office to answer the motion, Yet pursuant to NRS 30.130, the district court did not require the attorney general's office to respond, to the allegation against the Secretary of State.

In Case No. CR09-0178, the district court judge did not require the district attorney to answer the allegations of the motion, nor required the attorney general's Office to answer on behalf of the Secretary of State; as concerns the Art. 5, § 20, violation of the Const. of Nev., and dismissed the action on its Order.

The district court judge did not present the defendant the opportunity to develop the facts, present further evidence, to support the claims made, etc., before making its findings, and dismissing the action. Bracy v. Gramley, 520 U.S. 899, 908-909 (1997).

In Case No. CR11-1722, the district court judge converted the motion to a habeas corpus, subsequently denied the habeas petition, based upon procedural grounds. The petitioner has sought relief pursuant to NRCP, Rule 60(b).

In the case of The State of Nevada v. Daniel Basham, the district court judge has appointed counsel to represent

68

Daniel Basham. It is also believed that in the case of The State of Nevada v. Jonathan Wadsworth, the district court judge has appointed counsel to represent Jonathan Wadsworth.

Petitioner states that the above and foregoing demonstrates, substanial riven within the Second Jud. Dist. Ct., as to defendants, whom have filed similar pleadings in the Second Jud. Dist. Ct. This division within the Second Jud. Dist. Ct. as presented, demonstrates a violation of the **Const. of Nev. Art. 4, § 21, no uniformity of law.** There is a lack of fairness, and uniformity of law, as there isn't comity between the district court's.

Thus, the application of law as applied frustrates justice, fairness, etc. Cleburne, 473 US at 439; Levingston 112 Nev. at 482, 916 P.2d at 166, Carnell, 529 US at 533.

Such riven as presented above, deny's the fundamental right to Due Process and Equal Protection of law. Zinerman, 494 U.S. at 125; citing Daniels, 474 U.S. at 331; Carey, 435 U.S. at 259; and Rochin, 342 US at 169, and Peugh, 133 S.Ct. at 2085

Wherefore, the argument(s), questions of law presented herein, are deserving of this Court to resolve the split within the Second Jud. Dist. Ct.

While the Eighth Jud. Dist. Ct. for the most part has denied motions styled as a motion challenging the jurisdiction of the court ab initio, based upon the notion that the law under which they were arrested/sentenced are void ab initio for violating constitutional separation of Departments principles of the Const. of Nev.; along with several other privisons of the Const. of Nev., in Case No. C-11-275616-1, the

district court recognized that the Attorney General is responsible for answering for the Secretary of State pursuant to NRS 30.130.

A riven is created in the Eighth Jud. Dist. Ct. Where one district court judge, adhere's to the requirement of a statute requiring the attorney general's office to answer, the constitutional violation; and subsequently appointing counsel to aid in the representation, in presenting evidence of the constitutional violation. Bracy, 520 U.S. at 908-909.

Wherefore, Petitioner argues that the above and foregoing demonstrates, substantial division within the Eighth Jud. Dist. Ct., similar to, should it not be identical to that of the Second Jud. Dist. Ct.; demonstrating a violation of the **Const. of Nev. Art. 4 § 21, no uniformity of law** within the Eighth Jud. Dist. Ct. Demonstrating a lack of fairness and a lack of uniformity of law. Thus, there isn't comity, that the application of law, or the lack there of frustrate's justice, fairness, etc., Cleburne, 473 US at 439; Levingston, 112 Nev. at 482, 916 P.2d at 166. Vaughn, 3 Tenn. Crim. App. 54, 456 S.W. at 883. Carmell, 529 US at 533.

Such rivens deny's the fundamental right to Due Process and Equal Protection of law. Zinerman, 494 U.S. at 125; citing Daniels, 474 U.S. at 337; Carey, 435 U.S. at 259; and Rochin, 342 US at 169; Vaughn, 3 Tenn. Crim. App. 54, 456 S.W. at 883.

Wherefore, the constitutional questions in the foregoing Writ, are deserving of this Court, to resolve the division within the Eighth Jud. Dist. Ct., to declare the law of the State of Nevada; i.e. whether constitutional mandate's of the Const. of Nev. have been violated?

70

(B). Whether there is significant division within the District Attorney's Office, Warranting resolution, and declaration by this Court, as to whats the law of the State of Nevada, to which citizen's of Nevada are bound.

Petitioner states that there is division within the Clark County District Attorney's Office, as to whether the NRS were "enacted" as the law of the State of Nevada, by the Legis. of Nev.

That, this division has been of such a significant matter, as to cause a denial of fundamental fairness, even a fundamental miscarriage of justice, in that district court's throughout the State of Nevada; have relied upon the misapplication of law to deny pleadings in their respective court's.

Exhibit "15", is a Response from the Clark County District Attorney's Office, prepared by James R. Sweetin (Sweetin), titled State's Response To Defendant's "Caveat," Motion To Dismiss For Lack of Subject Matter Jurisdiction, Errata To Accused Motion To Dismiss For Lack of Subject Matter Jurisdiction/ Motion For Show of Proof, & Petition For Writ of Mandamus.

That, in this Response, Sweetin opines as follows: "The Nevada Supreme Court has interpreted this Constitutional provision to mean an enacting clause must be included in every law 'created by the 'Legislature'' and the laws must express on its face 'the authority by which they were enacted.' (citation omitted). However, while it is well established that the 'laws of Nevada must include an enacting clause', the 'Nevada Revised Statutes do not have the same requirement, as they are 'not laws enacted 'by the Legislature.'''.... " (see Exhibit "15", page 4 lines 27-28, page 5 lines 1-7).

However, subsequently in an Opposition prepared by Lisa Luzaich (Luzaich), of the Clark County District Attorney's Office, titled "States Opposition To Defendants' Accused Motion For Decision On The Merits of Invalid Laws of The State of Nevada Causing The District Court To Be Divested of Subject Matter Jurisdiction Ab Initio." (See Exhibit "16").

Luzaich, via the Opposition, agreed with the argument, claim being made to the district court as argued in the previous pleading, that the NRS "were (adopted), and enacted as law of the State of Nevada, by the Legis. of Nev." (See Exhibit "16" Opposition Filed 11/25/2013, page 6 lines 12-25, (note: emphasis (bolded) in last sentence at lines 21-22)).

The Response Exhibit "15", and the Opposition Exhibit "16", demonstrate a division within the Clark County District Attorney's Office, as pertains to the question of law, i.e. whether or not the NRS were enacted by the Legis. of Nev?

This question of law is of extreem significant importance, due to the fact that, should Sweetin's Response be correct then that the NRS were "not" enacted by the legislature; then the district court's that, dismissed the pleadings filed without providing an opportunity to present evidence Bracy, 520 U.S. at 908-909, and did not fail to provide Due Process, Equal Protection, fairness, uniformity, or substantial justice. Vaughn, 3 Tenn. Crim. App. 456 S.W. at 883.

However, should Luzaich's, Opposition be correct that, the NRS were "adopted and enacted as the law of the State of Nevada", then the district court's of the State of Nevada which dismissed the pleadings, abused their discreation,

denied the application of Due Process, Equal Protection, fairness, uniformity of laws, and substantial justice Vaughn, 456 S.W. at 883, by denying the pleadings without presenting the opportunity to present evidence Bracy, 520 U.S. at 908-909, that the NRS are allegedly the "laws" of the State of Nevada, whereby, the NRS must contain the enacting clause upon their face when published in the NRS books; it must appear directly above the content of body of the law. To be on the face of the law does not and cannot mean the "enacting clause can be buried away in some other volume or some other book or records". State v. Swift, 10 Nev. at 183.

Petitioner contends that the above and foregoing demonstrates substantial division "within the 'Clark County District Attorney's Office', concerning the enactment of the NRS, demonstrating a violation of the Const. of Nev. Art. 4, § 21, no uniformity of law. That, there is a lack of fairness, uniformity of law, there isn't comity within the Clark County District Attorneys Office." That, this division frustrates justice, fairness, etc. Cleburne, 473 U.S. at 439; Levingston, 112 Nev. at 482, 916 P.2d at 166; Vaughn, 456 S.W. at 883, Carnell, 529 U.S. at 533.

Such division denys the fundamental right to Due Process and Equal Protection of law. Zinermon, 494 U.S. at 125; citing Daniels, 474 U.S. at 337; Carey, 435 U.S. at 259; and Rochin, 342 U.S. at 169.

Wherefore, the arguments, questions of law herein are deserving of this Court to review the Writ, to resolve the division within the Clark County District Attorney's Office, to declare whether the NRS where enacted by the Legis. of Nev., and are Constitutionally the "laws of the State of Nevada."

73

VIII. Whether certain NRS in their utilization and/or application, contravene the Constitution of the State of Nevada.

While the Unpublished Disposition of Krig, No. 50976 is not to be regarded as precedent and shall not be cited as legal authority. SCR 123. Yet, it is from this Unpublished Disposition that oppositions, responses, etc. have been written utilizing the language found in Krig, 50976, with impunity, in the district courts.

Petitioner contends that, "should" NRS 220.110 et seq., and NRS 220.170 et seq., be allowed to be utilized or applied as contemplated in Krig, No. 50976, then NRS 220.110 et seq., and NRS 220.170 et seq., must be found to contravene the plain and unambiguous language of the Const. of Nev. Art. 4, §23. And Petitioner contends that this Court should depart from the language as utilized, contemplated in Krig, No. 50976, as concerns NRS 220.110, and NRS. 170. Clem, 119 Nev. at 620, 81 P.3d at 525, to the extent of the repugnancy of NRS 220.110, and NRS 220.170, contravene's the Const. of Nev. Art. 4, §23.

In Krig, No. 50976, this Court opined: "Moreover, NRS 220.110, which sets forth the 'required contents of the Nevada Revised statutes does 'not' mandate that the enacting clauses be 'republished'' in the Nevada Revised Statutes."

This Court in Clean Water Coalition v. The M Resort, LLC, 127 Nev. Adv. Rep. 24, 255 P.3d 247, 253 (2011), citing Goldman v. Bryan, 106 Nev. 30, 37, 787 P.2d 372, 377 (1990), this Court held: (The Nevada Constitution is the "supreme law of the state," which "control[s] over any conflicting statutory provisions."); see also Krig, 65 Nev. at 556, 200 P.2d at 237,

74

73 Am. Jur. 2d "Statutes" § 100, p. 325, cases cited. That, when a conflict is clearly presented, to the judicial mind, the constitution must prevail. State v. Rogers, 10 Nev. at 255-56.

The constitution is the supreme and paramount law. Where there is conflict between an act of the legislature and the Constitution of the state, the **statute must yield to the extent of the repugnancy.** State ex rel. Moon v. State Bd. of Examiners, 104 Idaho 640, 648, 662 P.2d 221, 229 (Idaho 1938); Stump v. Lau, 108 Nev. 826, 844, 839 P.2d 120, 131 (Nev. 1992); Porch, 39 Nev. at 268, 156 P. at 445.

Petitioner states that there is conflict with the Const. of Nev. Art. 4, § 23, and NRS 220.110, NRS 220.110 being an act of the Legis. of Nev. NRS 220.110 is held to "not to require that the enacting be 'republished' in the NRS Statute book publications", while Art. 4, § 23, of the Const. of Nev. "requires, mandates", that "every law shall have the enacting clause upon their face."

Thus, it is unambiguous that the Const. of Nev. Art. 4, § 23, plainly reads: "The enacting clause of 'every law shall be'.... And court's cannot go beyond Art. 4, § 23, of the Const. of Nev. meaning etc. Nevada Mining Ass'n, 117 Nev. at 538, 26 P.3d at 757; Barrios-Lomeli, 114 Nev. at 780, 961 P.2d at 751; and Del Papa, 114 Nev. 388, 956 P.2d at 773-74.

The NRS publication books contain laws of the State of Nevada, therefore, are laws, and as such must contain enacting clause therein Caine, 61 Nev. 416, 131 P.2d at 518; see also State v. Swift, 10 Nev. at 183, private citizen's resort to the NRS Statute publication books to determine what are the statute's

75

of the State of Nevada, as does the court's and public officer's wherefore, the NRS Statute publication books must contain the enacting clause. State v. Swift, supra.

The use of an enacting clause does not merely serve as a "flag" under which "bills" run their course through the legislative machinery. Vaughn & Ragsdale Co. v. State Bd. of Eq., 96 P.2d 420, 424 (Mont. 1939). The enacting clause of a law goes to its substance, and is not merely procedural. Morgan v. Murry, 328 P.2d 644, 654 (1958).

Wherefore, since the NRS have been adopted and enacted as the "law" of the State of Nevada, during the 48th Session of the Legis. of Nev. 1957, January 25, the "only way the NRS can command obiedence upon those to whom are to obey them like Petitioner, is for the laws as published in the NRS statute publication books; to contain the enacting clause upon their face. State v. Swift, 10 Nev. at 183, State v. Rogers, 10 Nev. at 255-56.

Wherefore, NRS 220.110 to the extent that it is held etc., that NRS 220.110 reads, that NRS 220.110 "does not require the 'enacting clause to' be republished?" in the NRS statute publication books, must be found to contravene Art. 4, § 23, of the Const. of Nev. State v. Swift, 10 Nev. at 183. (See Krig, No. 50976).

Likewise, for the reasons argued above, NRS 220.170 et seq., also contravene's the Const. of Nev. Art. 4, § 23, as to its reliance upon other "statutes" that contravene, any of the Art.'s of the Const. of Nev., i.e. Const. of Nev. Art. 5, § 20. No statute controls over the paramount law, the Const. of the State of Nevada.

IX. Whether malfeasance, misfeasance, nonfeasance of Public Officer's, by Public Officer's was committed, constituting act's of criminal fraud, etc., occurred in what's termed "target" year's from 1951, to the present; warranting a review by this Court of the Writ, and all Grounds herein?

Malfeasance is defined as a wrongful or unlawful act; esp. wrongdoing or misconduct by a public official.

Misfeasance is defined as a lawful act performed in a wrongful manner.

Misfeasance in public office is defined as the tort of excessive, malicious, or negligent exercise of statutory powers by a public officer.

Nonfeasance of Public Officer's is defined as the failure to act when a duty to act existed.

(See Black's pages 818; 856; and 905 respectively).

All public officer's of the State of Nevada, have taken, made etc., a sworn oath of office to uphold and protect the Constitution and laws of the United States etc., the Constitution of the State of Nevada. (See Art. 15, §2, of the Const. of Nev.).

The facts, evidence, and exhibit's herein will demonstrate, and or establish that, public officer's of the several Departments of the State of Nevada, i.e. the Legislative, Executive, and Judicial, have committed one (1), and or all of the acts of Malfeasance; Misfeasance; Nonfeasance, and or criminal fraud commencing from 1951, to the present.

That, the acts of Malfeasance, Misfeasance, Nonfeasance and or criminal fraud by Public Officer's, has been detrimental

77

to Petitioner, as Petitioner has "not" been able to determine what the law is of the State of Nevada," to which is to bind Petitioner in all his transactions, giving its construction to Petitioner's agreements, limiting the measure of Petitioner's rights, and Petitioner's mode of redress where Petitioner's rights are invaded." For whoever engages in any transaction the validity or construction of which depends upon statutory provisions," whoever holds or acquires any sort of property, or right, the title or enjoyment of which may be affected by the operation of any law, is bound to take notice, at his peril, what the law is."" And it is not enough for Petitioner to know what the law is after a court of last resort has made an investigation and determined what part of a statute-roll is to stand and what part to fall, but Petitioner" must know in advance of litigation, and govern his conduct accordingly. Swift, 10 Nev. at 182-83:

Past 1957-59; 1960-69; 1970-79; 1980-89; 1990-99; and 2000-2014, Public Officer's of the several Departments of the State of Nevada, as set forth in Art. 3, §1, of the Const. of Nev. i.e. the Legislative, Executive, and Judicial Departments, have committed acts of Malfeasance; Misfeasance; Misfeasance in public office, Nonfeasance of Public Officer's, and or acts of criminal fraud to wit:

Legislature:

By acts of past and or present Legislature's of Nevada by virtue of their power, authority under Art. 4, §1, of the Const. of Nev. that:

(A). The actual year of the enactment of the Nevada

Revised Statutes as being the constitutional law of the State of Nevada cannot lawfully, constitutionally be determined.

Its alleged that the Nevada Revised Statutes is the result of the enactment by the "45th session of the legislature of the State of Nevada." (See App. of Ex. "20" LEGISLATIVE COUNSEL'S PREFACE History and Objectives of the Revision pg. XIII 2001)).

Yet, its also alleged as an act of the legislature: "Accordingly, Nevada Revised Statutes in type written form was submitted to the 48th session of the legislature in the form of a bill providing for its enactment as law of the State of Nevada" "1957. (See App. of Ex. "4").

The NRS not having been lawfully, constitutionally enacted, malfeasance an unlawful or wrongful act has been committed by former Legislature's of Nevada, and that by present Legislature's of Nevada for failing to discover the extreem constitutional error's of their predecessor, or willful cover up.

(B). That, S.B. No. 2 "the revision bill", is not constitutionally valid, in that S.B. No. 2 a.k.a. "the revision bill" was submitted in typewritten form, in the "form of a bill" (See App. of Ex. "4"), See also App. of Ex. "21" SUMMARY == Enact Nevada Revised Statutes as the law of the State of Nevada to supercede all prior laws of a general, public and permanent nature), and as such this typewritten submitted "form of a bill", was not in the mode, style, etc., as required by the Const. of Nev. Art's 4, §17, and 4, §18.

Whereby, App. of Ex. "6" and "7" are fraudulent renderings

of S.B. No. 2 "the revision bill", that, the typewritten form of a bill App. of Ex. "21" cannot be held to be S.B. No. 2.

Thus, acts of Malfeasance; Misfeasance; Misfeasance in public office; Nonfeasance of Public Officer's, and/or acts of criminal fraud have been committed by past member's of the Legis. of Nev.; and present member's of the Legis. of Nev., whom have failed to discover the extreem constitutional error's of their predecessor's, or have chosen to cover-up the constitutional error's of their predecessor's.

(C). Additionally, in an effort to make the submitted form of a bill App. of Ex. "21", to become "officially an Act, bill", i.e. S.B. No. 2; that by Resolution see App. of Ex. "5", the Legis. of Nev. 1957, sought to achieve as follows: "Whereas, The provisions of sec. 8 of chapter 3, Statutes of Nevada 1949, as amended by chapter 385, Statutes of Nevada 1955, provide that the official engrossed copy of a bill may by resolution be used as the enrolled bill; now therefore, be it Resolved by the Senate of the State of Nevada, the Assembly concurring That the official engrossed copy of Senate Bill No. 2 (i.e. App. of Ex. "21"), shall be used as the enrolled bill as provided by law.

However, this Resolution App. of Ex. "5", fails due to the fact that this Resolution App. of Ex. "5", does not have the enacting clause as required by Art. 4, § 23, of the Const. of Nev. see also Nevada Highway Patrol Ass'n, 107 Nev. at 549, 815 P.2d at 609-10, nor is it signed by the governor per Art. 4, § 35, of the Const. of Nev.

Additionally, the utilization of this Resolution App. of

Ex. "S", is contrary to Joint Standing Rules, Rule No. 7 is contrary to the supposition of the Resolution. (See App. of Ex. "22" JOINT STANNING RULES (JSR), Rule No. 7 et seq., RESOLUTIONS).

Thus, acts of Malfeasance, Misfeasance, Misfeasance in public office, Nonfeasance of Public Officer's, and or Criminal fraud has been committed by past member's of the Legislature's of Nevada; whom allowed a Resolution to be utilized contrary to Joint Standing Rules, Rule No. 7 et seq., and the Resolution is contrary to the Const. of Nev. Art. 4, §23, and Art. 4, §35; and present member's of the Legis. of Nev., whom have failed to discover the extreem, plain constitutional error's of their predecessor's, or have chosen to cover-up the extreem plain constitutional error's of their predecessor's.

It's believed by Petitioner that former Legislature's fell into error because of their blind trust in McDonald. It's written "Russ is one of the greast administrators the county has ever had. . . . He has 'acquired the loyalty and trust of hundreds of 'influential people,' they know when he tells them something 'they don't have to' check it out and this helps the county." (See News Clipping App. of Ex. "23" He Runs Your Country Russell McDonald -- Man of Influence Washoe). Other interesting points are contained in the article, especially as concerns McDonald's statute revision commission work etc., and the concerns that were ignored then. (See highlighted section of App. of Ex. "23").

(D). Providing Legislative authority, power to the

statute revision commission, to "perform essential duties and functions appertaining to the Legislative Department of the State of Nevada.

Briefly stated, legislative power is the power of law-making representatives bodies to frame and enact laws, and to amend or repeal them. Galloway, 83 Nev. at 20, 422 P.2d at 242.

Thus, where the commission performed any essential duty or function appertaining to the Legislative Department of the State of Nevada, the commission acted in a legislative capacity, authority and or power, whereby the Legis. of Nev. aborgated their authority, power to the commission contrary to the Const. of Nev. Art. 4, §1, again violating Art. 3, §1, of the Const. of Nev.

That, App. of Ex. "2" reads "Reference is made to chapter 220 of Nevada Revised Statutes for the 'further **duties** and **authority**' of the statute revision commission relating to the preparation of Nevada Revised Statutes, the ... **revision** ... thereof." Revision is a duty of the Legislative Department.

Additionally, App. of Ex. "4" reads: "On July 1, 1963, pursuant to the provisions of chapter 403, Statutes of Nevada 1963, the statute revision commission was abolished, 'and its **powers, duties** and **functions**' were transferred to the legislative cousel of the State of Nevada."

Not a single power, duty, or function given to the commission, comprised of the three supreme court judges relates to, or relates back, or can be directly derived from the basic judicial power and the basic judicial

function. Galloway, 83 Nev. at 22, 422 P.2d at 242-43.

Thus, acts of Malfeasance; Misfeasance; Misfeasance in public office; Nonfeasance of Public Officer's, and or criminal fraud has been committed by past members of the Legis. of Nev., in that these former Legislative memebers authorized, provided power, authority, gave duties and functions of the Legis. of Nev. to the commission comprised of three supreme court judges; which powers, authority, duties and functions given to the commission, in no way relate to the judicial function of a judge, and is not otherwise expressly authorized by the Const. of Nev.

And these same acts as stated above were committed by present member's of the Legis. of Nev., whom have failed to discover the constitutional error's, violations of their predecessor's, or have chosen to cover-up the constitutional error's, violations of their predecessor's.

The extreem error's, constitutional violation's as to the commission, i.e. its creation, authority, power, duties and functions is analogous to that as found in United States v. Cortes, 697 F. Supp. 1305 (S.D. N.Y. 1988), were the Court held: "The United States Sentencing Commission, and the Guide lines it has promulgated, are unconstitutional. The mandatory placement of three federal judges on the Commission violates Article III and threatens to substantially impair the impartiality of the federal judiciary. The President's broad authority to remove the judge-commissioners from the Commission further threatens the imparciality of the judicial branch. This threat to the imparciality of the Judicial

branch, in actuality and 'appearance', impairs the ability of the Federal Judiciary to perform its constitutionally assigned functions. Consequently, the Act violates the separation of powers.'"

Likewise, the Legislative Act placing the three judges of the supreme court on the commission violated Art. 3 §1, Separation of Departments, powers, Art. 6 State Judiciary of the Const. of Nev., and substanially impairs the impartiality of the supreme court judge's, and their predecessor's. The threatened imparciality of the State supreme court Judiciary, or the actual imparciality of the State supreme court Judiciary of the Judicial Department in appearance and actuality, impairs the ability of the State Supreme court Judiciary to perform its constitutionally assigned functions. Consequently, the Act appointing, assigning, etc, the judges to the commission violates the separation of powers. Cortes, 697 F. Supp. at 1313-14, see also In re Application of the President's Commission on Organized Crime Subpoena of Lorenzo Scaduto, 763 F.2d 1191, 1198-99 (11th Cir. 1985).

Judiciary:

That, former Justice's, Judge's of the Sup. Ct. of Nev., Judicial Officer's have committed acts of Malfeasance; Misfeasance; Misfeasance in public office, Nonfeasance of Public Officer's, and of criminal fraud to wit:

Said former Justice's, Judges of the Sup. Ct. of Nev. committed acts which violate the Const. of Nev. Art. 3, §1, and which transcend their duties, functions of Art. 6, §4, of the Const. of Nev.

54 84

(A). As previously articulated supra, Art. 3, §1, of the Const. of Nev.: "The powers of the Government of the State of Nevada shall be divided into three separate departments, -- ..., and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted." (Emphasis supplied). Galloway, 83 Nev. at 19, 422 P.2d at 242.

Its alleged that the Statute Revision Commission was originally created by the Supreme Court in 1951, and became involved in bill drafting as an adjunct to its statute revision work. See App. of Ex. "3", and App. of Ex. "23."

Should this claim be true that, the Statute Revision Commission was "orginally created by the Supreme Court in 1951, and became involved in bill drafting" etc., then those Justice's, Judges of the Sup. Ct. of Nev. violated the plain and unambiguous language of the Const. of Nev. Art. 3, §1.

The Sup. Ct. of Nev. is charged with the exercise of powers appertaining to the Judicial Department, under Art. 6, §4, of the Const. of Nev., wherefore, the Sup. Ct. Justice's, Judges, of 1951, could not exercise any duties, functions, appertaining to either the Legislative or Executive Departments. Art. 3, §1, Const. of Nev.

Creation of the statute revision commission by the Sup. Ct. of Nev., is further prohibited, as the Const. of Nev. does not expressly direct or permitt, the Judicial Department to exercise any, any function of the Legislative Department, i.e. to create the "statute" revision" commission."

The slightest interference with the ability of the Judicial branch to complete its constitutionally-ordained functions must be closely scrutinized. Here, a significant threat to the impartiality of the judiciary is posed by the Sup. Ct. of Nev. creation of the statute revision commission, and the Sup. Ct. of Nev. involvement as Justice's on the Statute Revision Commission. The Judicial Department has limited enforcement powers and significantly relies on the persuasiveness of its decisions in order to ensure their enforcement. The Judicial Departments power to persuade is built, in significant part, on its reputation for integrity. Furthermore, the preservation of the integrity of the judiciary requires that litigants sustain equal faith in the impartiality of judges. The importance of Judicial Departments integrity "is more than just a matter of judges satisfying themselves that the environment in which they work is sufficiently free of interference to enable them to administer the law honorably and efficiently. Litigants and the citizenry in general must also be satisfied Scarluto, 763 F.2d at 1198-99. Judicial participation on the statute revision commission by Sup. Ct. Justice's compromises the impartiality of those judges who will be, were called upon to enforce the statutes they amended, revised, drafted, etc., when on the statute revision commission. Compare: Cortes, 697 F. Supp. at 1313-14.

Furthermore, it cannot be established that the creation of the Statute revision commission by the Sup. Ct. of Nev., and Justice's of the Sup. Ct. of Nev. on the Commission does not disrupt of the" proper functioning of the Judicial Depart-

ment, is justified by any overriding need to promote objectives within the constitutional authority of the Legis. of Nev. Nix v. Administrator of General Services, 433 U.S. 425, 433 (1977), Galloway, 83 Nev. at 20-21, 422 P.2d at 242-43.

Thus, acts of Malfeasance; Misfeasance; Misfeasance in public office; Nonfeasance of Public Officer's, and or criminal fraud have been committed by these former Justice's of the Sup. Ct. of Nev. 1951.

(B). Justice's Badt, Eather, and Merrill, of the Sup. Ct. of Nev. charged under Art. 6, §4, of the Const. of Nev., being on the Commission 1955, violated Art. 3, §1, of the Const. of Nev. The Act of the Legis. of Nev. being unconstitutional in that the Legislative Act, gave power and authority to the commission, comprised of supreme court judges; to exercise duties, functions, appertaining to the exercise of the Legislative Department. Galloway, 83 Nev. at 19, 422 P.2d at 242.

Thus, acts of Malfeasance; Misfeasance; Misfeasance in public office; Nonfeasance of Public Officer's, and or criminal fraud were committed by former Sup. Ct. Justice's Badt, Eather, and Merrill, when said supreme court judges accepted placement on the commission, and performed duties and functions appertaining to the Legis. of Nev. i.e. amending, revising, repealing statutes.

Executive:

That, former public officer of the Secretary of State Office committed an act of Malfeasance; Misfeasance; Misfeasance in public office; Nonfeasance of Public Officer's, and or criminal fraud to wit:

The Signature of then Secretary of State John Koontz (Koontz), appears to be forged on Senate Bill No. 2.

A review of App. of Ex. "8" and "9", are submitted for comparison of the two(2), signatures, which noticeably different as they appear on each document.

(B). That, Senate Bill No. 2 App. of Ex. "8", was received and filed in the Office of the Secretary of State, "prior" to being signed and Approved by then Governor, Charles H. Russell (Russell).

App. of Ex. "8" by virtue of the date of JAN. 23 1957, and the time of 1:10 P.M., indicates when the document was Received And Filed in the Office of the Secretary of State.

However, App. of Ex. "8" by virtue of the date of January 25, 1957, and the time of 10:25 a.m., demonstrates that the document was not approved until two(2), days later; yet the document App. of Ex. "8" had already been "FILED" in the Office of Secretary of State.

Approved bills are not sent to the Secretary of State Office for filing, until approved by the Governor. Art. 4, §35 of the Const. of Nev. See also AGO (3-13-1899) (Point at which a bill becomes valid law.)

(C). The Secretary of State, past and or present has failed to retain, maintain custody, care, and control over the Official Acts of the Legislature of Nevada. Art. 5, §20, Const. of Nev.

The mandatory language of Art. 5, §20, of the Const. of Nev. mandates that the "Secretary of State" shall keep, the Official Acts of the Legislative and Executive Departments. Are-

88

View of App. of Ex.'s "11", reveals that the Secretary of State Office has failed to maintain custody, care, and control of the Official Acts of the Legislature of the State of Nevada.

That, Art. 5, § 20, of the Const. of Nev. has "not" been amended by vote of the citizens of the State of Nevada, to allow the Secretary of State to "no longer" maintain custody, care, and control over the Official Acts of the Legislature of the State of Nevada. Art. 5, § 20, Const. of Nev.

That, to any extent that any public officer, might seek to rely on NRS 225.085, or believe as is written in App. of Ex. "17", i.e. "While Article 5, § 20 of the Nevada Constitution provides that 'the Secretary of State shall keep a true record of the Legislative and Executive Departments of the Government', it does not maintain that the Secretary of State's must indefinitely retain all bills passed by the Legislature."; said statute and supposition contravene's the Const. of Nev. Art. 5, § 20, plain and unambiguous language, and is repugnant to the paramount law of the State of Nevada. State ex rel. Moon, 104 Idaho at 648, 662 P.2d at 229; Stump, 108 Nev. at 844, 839 P.2d at 131; and Porch, 39 Nev. at 268, 156 P. at 445.

District Attorney's Office:

As previously indicated pleadings to challenge the constitutionality of the NRS of 1957, and that of the year of Petitioner's arrest, were submitted in the various counties of the State of Nevada. To Which, respective Chief Deputy District Attorney's (CDDA), and Deputy District Attorney's (DDA), have submitted Opposition's, Responses etc.

However, every manner of disingenuous, skullduggery has

been forth coming in an effort to utilize deceit or collusion with the intent to deceive the court and Petitioner to "not" reach the truth to the claims, issues, made against the constitutionality of the NRS of 1957, and 2002, the year of Petitioner's arrest.

In Berger v. U.S., 295 U.S. 78, 88 (U.S. N.Y. 1935), the Nations High Court opined: ... Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, yet that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. Yet, while he may strike hard blows, he is not at liberty to "strike foul ones." It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Surely this standard applys to State district attorney's as well.

In opposing or responding to challenge's against the NRS of 1957, and the year of Petitioner's arrest 2002, the prosecution with malicious intent, gave to the court a partial account of the laws, and not full, fair, and truthful information as to the facts.

The **first** act of disingenuous, skulduggery of the district attorney's office in Clark County, City of Las Vegas, acting in a

manner of deceit or collusion, is found in App. of Ex. "15" at page 5 lines 5-15. I.e. "... the Nevada Revised Statutes 'do not have the same requirement, as they' are **not** laws enacted by the legislature.'"

The State district court accepted as true that the NRS were not, are not laws enacted by the legislature, as the district court denied the pleading and did not determine whom was, is responsible for the enactment of the NRS.

The **second** act of deceit or collusion was to contend that NRS 220.110, could set forth Statutes content requirement over and above the paramount law of the Const. of Nev. Art. 4, §23; by articulating "Further, the content requirements for the Nevada Revised Statutes, as laid out in NRS 220.110, do not require the enacting clause to be republished in them." The language of the Const. of Nev. Art. 4, §23, is clear and unambiguous, as to every law containing the enacting clause, published, republished! Del Papa, supra.

The third act of deceit or collusion is found in App. of Ex. "16" page 8 lines 7-9, acknowledging the need of the Attorney General's to respond to the claim concerning Art. 5, § 20, as concern's the Secretary of State; and allowing the district court to dismiss the pleading and failing to inform the court that a claim remains unanswered, and its a denial of Due Process and Equal Protection of law to not provide, a litigant the fair opportunity to meet their burden of proof. Levingston, 112 Nev. at 482, 916 P.2d at 1166; Halverson, 124 Nev. at 487, 186 P.3d at 896; Porch, 39 Nev. at 268, 156 P. at 445; and Daniels, 474 US at 331, respectively; see also Bracy, 520 U.S. at 908-09.

A fourth act of deceit or collusion is found in App. of Ex. "15", at page 4 lines 25-28; and page 5 lines 1-15. That, pursuant to Supreme Court Rule (SCR), Rule 123 Citation to unpublished opinions and orders. An unpublished opinion or order of the Nevada Supreme Court **shall not be regarded** as precedent and **shall not** be cited as legal authority. . . .

The language found in App. of Ex. "15", at page 4 lines 25-28; and page 5 lines 1-15, is very hauntingly familiar to the Unpublished Disposition of the Supreme Court of Nevada Lance G. KRIG, Appellant v. The STATE of Nevada, Respondent, No. 50976 (See App. of Ex. "24" Krig v. State, No. 50976. Feb. 2, 2009).

Thus, even though SCR 123 is affixed to Krig v. State, No. 50976 App. of Ex. "24", CDDA's, and DDA's took great liberty to cite from the language of the Unpublished Disposition of Krig, No. 50976, regardless to the rule prohibiting their action. Skulduggery, disingenuousness was utilized by simply utilizing, citing from Krig, No. 50976, as the source of their supposition.

Lastly, that, as Public Officer's CDDA's, as well as DDA's, have taken an oath of office as found in Art. 15 § 2, or have taken an oath similar thereto, yet it is evident by their actions as set forth supra; that, rather than to defend the Const. of Nev. as their oath requires, they've thrown statutes to defend, attack against the Const. of Nev., even though the Const. of Nev. is the paramount law. Clean Water Coalition, 127 Nev. Adv. Rep. 24, 255 P.3d at 253, citing Goldman, 106 Nev. at 37, 787 P.2d at 377.

State District Court:

Trial judges are presumed to know the law and apply it in making their decisions. See Walton v. Arizona, 497 U.S. 639, 653 (1990).

Thus, it should be safe to presume that state district court judges know that the Const. of Nev. is the paramount law of the State of Nevada. Clean Water Coalition, 253 P.3d at 253, Goldman, 106 Nev. at 37, 787 P.2d at 377.

It should also be safe to presume that state district court judges know that, it is the privilege to bring every law to the test of the constitution, and this privilege belongs to the humblest citizen; that a citizen owes no obedience to any legislative act, which transcends the constitutional limits. Levingston, 112 Nev. at 482, 916 P.2d at 166.

That, it should be safe to presume that state district court judges know that, the Due Process Clause requires that a person have the opportunity to "establish 'any fact' which would be 'protection to him.'" Fouquette, 67 Nev. at 514.

That, it should be safe to presume that state district court judges know that, finality, as important as it is, it does not have a higher value than" constitutional guarantees of liberty. That, protection of life and liberty from unconstitutional procedures is greater than is res judicata. That, conventional notions of finality of litigation have no place where life or liberty is at stake and infringement of constitutional rights is alleged. Hurst, 777 P.2d at 1035, and Sanders, 373 U.S. at 8, respectively.

3 93

That, it should be safe to presume that state district court judges know that, "[I]t may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." Coolidge v. New Hampshire, 403 US 443, 454 (1971).

That, it should be safe to presume that state district court judges know that, due process is flexible and calls for such procedural protections as the particular situation demands. Morrissey, 408 U.S. at 481; Burleigh, 98 Nev. at 145, 643 P.2d at 1204.

That, it should be safe to presume that state district court judges know that, [A]side from all else due process means fundamental fairness and substantial justice. Vaughn, 3 Tenn. Crim. App. 54, 456 S.W. at 883.

Allowing CDDA's, DDA's, to miss state facts, miss quote the law, not allow evidence to be produced etc., is a complete failure to uphold at least seven (7), presumed articulated presumptions of law that the State District Court Judges are presumed to know. Walton, 497 U.S. at 653,

Clean Waters Coalition, 253 P.3d at 253, Goldman, 106 Nev. at 37, 787 P.2d at 377; Levingston, 112 Nev. at 482, 916 P.2d at 166; Fouquette, 67 Nev. at 514; Hurst, 777 P.2d at 1035; Sanders, 373 U.S. at 8; Coolidge, 403 US at 454; Morrisey, 408 U.S. at 481; Burleigh, 98 Nev. at 145, 643 P.2d at 1204; and Vaughn, 456 S.W. at 883.

Allowing the CDDA's, DDA's, to violate SCR 123, is not within the realm of presuming to know the law.

Holding litigants to the letter of the law, and allow CDDA's, DDA's, to operate under another standard, is not within the realm of presuming to know the law and applying it in making decisions Walton, 497 U.S. at 653.

Not providing uniformity of law under the Const. of Nev. Art. 4, §21, is not within the realm of presuming to know the law and applying it in making decisions. Walton, 447 U.S. at 653.

Wherefore, Petitioner states that acts of Malfeasance, Misfeasance, Misfeasance in public office, Nonfeasance of Public Officer's, and or acts of criminal fraud, have been committed by Public Official's, Officer's; in violation of their respective oaths of office relative to Art. 15, §2, of the Const. of Nev.

Wherefore, each claim, issue, ground, etc., of Malfeasance, Misfeasance, Misfeasance in public office, Nonfeasance of Public Officer, Official's is ripe for this Court's review; to determine whether the aforesaid acts of Malfeasance, Misfeasance Misfeasance in public office, Nonfeasance of Public Official's, Officer's, and or acts of criminal fraud, have occurred, and whether the occurrence has violated Petitioner's Due Process

and Equal Protection of law rights under the 14th Amendment to the United States Constitution Daniels, supra, and or under Art. 1, §8, of the Const. of Nev. Gibson v. Mason, 5 Nev. 283 (1869); Ormsby County v. Kearney, 37 Nev. 314, 369, 142 Pac. 803 (1914), Fouquette, (67 Nev. at 514, see also Vipperman v. State, 96 Nev. 592, 614 P.2d 532 (1980), Casio v. State, 106 Nev. 327, 793 P.2d 836 (1990).

In process of these issues, grounds, Petitioner does respectfully request that this Court review App. of Ex.'s "25"; "26"; "27"; "28"; and "29", as to Petitioner's exercise of due diligence to meet the burden as set forth in Halverson, supra.

However, when acts of skulduggery are committed and or occur, to hinder Petitioner in the discovery of the truth then further acts are committed to deny Petitioner, the Due Process and Equal Protection of the law. Daniels, supra

That, App. of Ex. "25", is a copy of a letter mailed on 8.12.2014, to Governor, Brian Sandoval; Attorney General, Catherine Cortez-Masto; and Secretary of State Ross Miller, as concerns S.B. No. 2 etc.

That, App. of Ex. "26", is a missive mailed on 8.26.2014, to the Secretary of State Office Carson City and Las Vegas, the Legislative Counsel Bureau, and the Nevada Archives. This is a copy of the missive sent.

That, App. of Ex. "27", is a copy of a missive mailed on 09.09.2014, to the Office of the Secretary of State

That, App. of Ex. "28", is a missive from the State of Nevada Legislative Counsel Bureau dated September 24, 2014, informing addressee that Legislative Counsel Bureau does not have legal control or custody of S.B. 2, or Senate

96

Concurrent Resolution No. 1 ....

Petitioner would have this Court to note that previous request for documentation has, specifically come from the Legislative Counsel Bureau, that when requesting official certified copies of legislation, an agency or entity whom is to be in control of the document; suggests to contact other agency or agencies for the requested information. Which is the catch-22 scenario, another method of denying Due Process and the Equal Protection of the law. Daniels, supra.

That, App. of Ex. "29", is a missive from the Office of the Secretary of State, dated October 3, 2014, which again informed that the documents requested are not available from the Office of the Secretary of State.

That, App. of Ex. "30", is a missive from the Office of the Attorney General, dated August 12, 2014, stating their lack of legal jurisdiction over expressed concerns, and directing that assistance be sought via another agency. (NOTE: that the Attorney General's Office takes a similar oath of office to Art. 15 §2, of the Const. of Nev.).

That, App. of Ex. "31", is a document of the LEGISLATIVE COUNSEL'S PREFACE page XV (2001), which significantly reads: "Nevada Revised Statutes' is the law of Nevada. The Nevada revised statutes speak for themselves; ..."

Wherefore, under Petitioner's circumstance of being incarcerated, Petitioner has exercised exstensive due diligence to meet Petitioner's burden of, establishing that the NRS of the State of Nevada are unconstitutional, and or unconstitutionally in acted in 1957, therefor unconstitutional for the year 2002

97

The Declaration of Independence of July 4, 1776, in part reads as follows: We hold these truths to be self-evident, that all* men are created equal", that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed, That whenever any form of Government becomes destructive of these ends, it is the right of the People to alter or to abolish it, and to institute new Government ... when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide New Guards for their future Security. Such ... is now the necessity which constrains them to alter their former system of Government.

The Declaration of Indepence is a standard by which this Court stand, in reviewing Petitioner's Writ, to determine whether abuses, usurpations have occurred warranting that the NRS of 1957, and the year of 2002, need to be thrown off; and for this Court to provide that "New Guards", laws for the State of Nevada are needed for the State's future Security.

An unconstitutional act is not law, it confers no rights; it imposes no duties, it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed. Lightenburger v. Gordon, 89 Nev. 226, 228, 510 P.2d 865, 867 (Nev. 1973).

98

X. Review by this Court "NEEDS TO BE CONDUCTED as important Constitutional questions of law, and Subject Matter Jurisdiction", require clarification and because "Public Policy interests", militate in favor of resolving these questions.

However loquacious, or verbose the foregoing Writ may appear to legal scholars, this Writ compose a plethora of constitutional questions, and questions of Subject Matter Jurisdiction; which questions of Subject Matter Jurisdiction can be raised at any time. Landreth, 251 P.3d at 166, McMurty, 122 P.3d at 241; Tiger, 900 P.2d at 412, and Am. Fire & Gas Co., 341 U.S. at 17-18.

Additionally, should the laws, acts, etc., as to the constitutional questions, have transcended constitutional limits as Petitioner contends, then Petitioner owes no obedience to any legislative act, that has transcended constitutional limits.

Again, while the Writ does set forth appropriate, significant reasons forth this Court to invoke its power, jurisdiction, pursuant to the provisions of the Const. of Nev. Art. 6, §4, jurisdiction to review the foregoing Writ; it is also strongly urged upon this Court that judicial economy, and sound judicial administration militate for reviewing this Writ. Compare: Redeker v. Dist. Ct., 122 Nev. 164, 167, 127 P.3d 520, 522 (2006). Additionally, this Court may exercise its discretion to grant relief where an important issue of law requires clarification. Id. Such is the case as concerns the questions of law, and questions

99

99

of Subject Matter Jurisdiction that concerns this Writ. State of Nevada v. Justice Court, 112 Nev. 803, 805, n.3, 919 P.2d 401, 402 n.3 (1996).

Again, in Sanders, 373 U.S. at 8, the High Court has held: "Conventional notions of finality of litigation have no place where life or liberty is at stake and **infringement of constitutional rights** is alleged...."

While the decision in Sanders, supra, was conveyed in the context of Writ of habeas corpus post-conviction, the application is certainly applicable to the Original Writ, due to the significant constitutional rights, questions presented herein. The constitutional questions presented herein due constitute infringement of constitutional rights, and without question Petitioner's life and liberty are at stake, i.e. whether continued restraint of Petitioner is lawful. Sanders, 378 U.S. at 8

In Price v. Johnston, 334 U.S. 266, 291 (1948), the United States Supreme Court held: that successive petitions should be permitted "if for some justifiable reason [the petitioner] was **previously unable to assert the rights or was unaware of the significance of relevant facts....**"

While this is not technically under the terms etc., of a successive petition, Petitioner states that, there are significant justifiable reasons as to why this Court; needs to of necessity to review the Writ now before this Court. Additionally, Petitioner was unable to assert the rights herein etc., that would have been relief to him.

Levingston, 112 Nev. at 482, 916 P.2d at 166; and Petitioner was unaware of the significance of these significant relevant constutional questions, questions of Subject Matter Jurisdiction. Price, 334 U.S. at 291.

Here the ends of justice will be served by permitting the determination of the constitutional questions, questions of Subject Matter Jurisdiction be reviewed and resolved in this Writ.

The foregoing Writ presents Federal and State allegations of constitutional questions, and or violations, and since this Court is controlling authority on questions of Nevada law Commission v. Bosch, 387 U.S. 456, 465 (1967); Erie R. Co. v. Tompkin, 304 US 64, 79-81 (1967), judicial economy and sound judicial administration militate for the resolution of this Writ, as well as Public Policy interests are in strong favor of resolving this Writ. Redeker, 122 Nev. at 167, 127 P.3d at 522; see also State of Nevada v. Justice Court, 112 Nev. at 805 n.3, 919 P.2d at 402 n.3.

With this Court being the final arbiter of Nevada law, declining to address the issue, would lead to "uncertainty creating a considerable hardship", for Petitioner because the question of whether Petitioner owes obiedence to the laws of the State of Nevada will remain unresolved. Levingston, 112 Nev. at 482, 916 P.2d at 166.

Without benefit of this Court's ruling, in determining whether constitutional limits have been transcended," would effectively be playing "Russian Roulette", as long standing constitutional rights might have been transcended and violated.

CONCLUSION

Petitioner's Writ raises several substantial objections, constitutional questions, as to the constitutionality of acts of the Legislature of Nevada, which unconstitutional legislative acts as set forth do affect the rights of Petitioner; which additionally question's whether the district court was divested of Subject Matter Jurisdiction ab initio? That, Petitioner does have "**substantial interest in defeating the unconstitutional acts**, as to do so renders the NRS of 1957, unconstitutional, and **void**, which subsequently renders the NRS of 2002, the year of Petitioner's arrest unconstitutional, void, whereby the district court was divested of Subject Matter Jurisdiction ab initio.

Additionally, Petitioner's Writ sets forth that a diversity of acts, decisions, have been rendered by the district court's in the several counties of the State of Nevada, as to deny Petitioner Due Process and Equal Protection of law under the Federal and State Constitution's; by treating Petitioner differently under the law as to similarly situated litigants, thus denying uniformity of law under the Const. of Nev.

"Facts are stubborn things; and whatever may be wishes, or inclinations, or the dictates of passions to alter them, they cannot alter the state of the facts, or the evidence which supports the facts." This Court must decide the constitutional questions, raised in this Writ based on the law and not on any prejudices — to determine whether constitutional limits have been transcended, violated, etc., violating Petitioner's rights.

52 102

In this country, the "people" are sovereign and government is limited, not all-powerful.

The fact that the Const. of Nev. is more than 100 years old, does not mean however, that now, in the twenty-first century, it is only an interesting historical artifact, fit for museums and dusty shelves. It is, instead, a vitally important and vibrant document.

The Const. of Nev. sets out principles upon which government in the State of Nevada is to operate, at its inception as well as today. The document lays out the framework and procedure of Nevada's Departments of government, and sets out the limits within which the government of the respective Departments "must conduct" themselves.

The principle of limited government holds that no government is all-powerful, that a government may do only those things that the people have given it the power to do.

The concept of limited government can be expressed another way: Government **must obey the law**. Stated this way, the principle is often called constitutionalism - that is, that government **must be conducted according to constitutional principles**. The concept of limited government is also described as the **rule of law**, which holds that government and its officers are always subject to - never above - the law.

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many ... may justly be pronounced the very definition of tyranny.

Those who fight for justice must peacefully refuse to obey unjust (invalid, unconstitutional), laws, this tactic requires tremendous poise and courage. To accept passively an unjust system is to cooperate with that system; thereby the oppressed become as evil as the oppressor.

Apathy and complacency towards invalid and unconstitutional legislative, judicial acts, laws, must end in the GREAT State of Nevada.

Our system is not so unenlightened as to require that in attaching present consequences to 1951, 1953, 1955, and 1957, legislative occurrences, a judge must ignore all of the insight that men learned in the law and observent of human behavior have acquired concerning the essentials of tolerable functions of the Departments of government in the State of Nevada during the past 58 years.

As you, the Justice's of this Court take part in review of this Writ, it is hoped that this Court will remember that Petitioner is entitled to the most competent and informed decision that you as Justice's of this Court can render; that the review will be one of the best pieces of appellate review, rendered on behalf of and for the citizen's of the State of Nevada, and for the State of Nevada, whether fundamental unfairness, unconstitutional legislative acts occurred transcending constitutional limits as argued by Petitioner in this Writ.

Failure to provide review of the foregoing Writ would be as foul a stain upon this State, the Const. of Nev.,

104 104

as the execution of the Quakers or witches anciently; the extermination order against the Mormons (The Church of Jesus Christ of Latter-day Saints); to allow America to return to rule under England; to allow slavery to return to America.

Wherefore, Petitioner prays that this Court pursuant to the provisions of the Const. of Nev. Art. 6, §4, will address the constitutional questions, and the issues raised herein that rise to constitutional dimensions; employing a balancing test where Due Process and public confidence in the functioning of the government of the State of Nevada is of importance, grave concern!-

Perhaps the best indication that Nevada's system of government will not fall, after a decision on the constitutional questions, issues presented herein in accordance to the Nevada Constitution; is that faith in government will be fully restored!! Citizen's will know that the rule of law stands governing in the State of Nevada, and not a government of men.

In any event, "Judges are not to consider the political or economic impact that might ensue from upholding the Constitution as written. They are to uphold it no matter what may result, as that ancient maxim of law states: 'Though the heavens may fall, let justice be done.'"[6]

6. That, the circumstances of this Writ does reveal urgency and strong necessity. Compare: Jeep Corp. v. District Court, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982). That, review of this Writ must be taken keeping in mind the (JUDICIAL CANNONS) CANNON 2, Rule 2-2.2(1), (2), (4); Rule 2-2.4(A), (B); the COMMENTARY, and Rule 2-2.6.

Wherefore, based upon the above and foregoing constitutional questions presented herein, and issues presented herein, Petitioner prays that this Court will render full, fair, and adequate review to the foregoing Writ.

Respectfully submitted:

Dated this 28 day of July 2015

Erick M. Brown

PETITIONER PRO SE

The foregoing Writ has been prepared by Legal Assistant/Paralegal, Curtis L. Downing, I.D. #18675.

Curtis L. Downing

That the documentation i.e. Appendix of Exhibit's presented in support of the foregoing Writ, have been obtained in large part through the dedication, due diligence and unexhaustive work of Inmate Advocate Gary W. Walters, I.D. No.

////

////

////

CERTIFICATE OF SERVICE BY MAILING

I, Erick Brown, hereby certify, pursuant to NRCP 5(b), that on this 28 day of July, 2015, I mailed a true and correct copy of the foregoing, "Original Petition For Writ of Habeas Corpus"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

District Attorney
County of Clark
200 Lewis Ave
Las Vegas NV 89155

Attorney General
State of Nevada
100 North Carson ST
Carson City NV 89701

CC:FILE

DATED: this 28 day of July, 2015.

Erick M. Brown
92713
IN PROPRIA PERSONA

ERICK M. BROWN
IN FORMA PAUPERIS