

# A Defense

by Michael Herbert: Keehn

**Disclaimer:** This is not to be considered legal advice, only discussion.

As we begin, be it known that it is the goal of government and the court to trick the defendant into delivering his own personal authority into the hands of the court. Remember this, government is a corporation, that is, it is a *legal-fiction*, which is a dead person. And you, as a living man or woman of the land who bleeds, cannot harm a dead person. “Bleeding” is evidence of “living.” With this established, we continue...

Suppose you are attacked by some government agency. They are requiring you to have a permit or license to engage in a certain activity or action, or they have accused you of violating certain provisions of some act, ordinance, or corporation rule, and you are in disagreement with their assertions or requirements. How do you proceed?

There are those with whom I have spoken, who think I should put a sample letter or document on my web site that provides a clear example of the language and structure to use in communicating with a government agency. Thus far I am unwilling to do this simply because copy and paste is going to get those who do it, snake bit. Copy and paste is probably going to end up in conviction of those who use such a tactic. It will not take a judge long to know that the individual doesn't have a clue of that which he is presenting, and this is probably going to end up in injury to this individual. You must know that of which you speak and be able to make the case. That being said, I will provide some fundamentals.

I begin by saying that, generally, you should not involve an attorney unless you want to lose your case and/or pay considerable sums of money. When you read the responsibilities of an attorney it goes something like this: His first duty is to the court as an officer of the court (not to the client). His second responsibility is to the BAR (British Accreditation Registry or Regency) as a member of the BAR. His third responsibility is to the *public interest*, and that is whatever the court says it is. And when we get to the attorney's responsibility to his client, it is to **protect his rights** during the proceedings. What does that mean when it's translated into English? Simply this... if the attorney has done his job and protected your rights during the proceedings, then once you are convicted and on your way to jail there are no '*appealable issues*' because your rights were protected. If an attorney is dependent upon the assignment of public defender cases to survive were to truly and properly represent and advocate for a client, getting him off, then this attorney has probably had his last public defender case assigned and he starves. Thus, the courts and legal system exercise considerable control over the performance of attorneys serving at the will of the court. That being said, we can continue.

Government agencies will often *drop off* or provide papers for you to sign, especially if you are a business person. They are attempting to get you to enter into a contract with them. Virtually all law is commercial and commercial law may only be applied through contract. That's why they want you to have permits, licenses, agreements, etc., to do virtually anything. In signing any document provided by government, you are handing over control of your life and activities. They do not have control until you give it to them. Don't sign any papers provided by government unless you wish to give them control over your life. And I can not stress this enough.

Yes, they may attack you and try to intimidate you, but if you properly challenge, contest or dispute their authority you will probably find they don't have any. In saying this, it is unlikely that those government agents or employees engaged in applying commercial law upon you will even have a clue themselves that they have no authority. They are quite accustomed to proceeding as though they have the authority, simply because no one challenges them. And when someone does challenge them and that person prevails over government, it is quietly swept under the carpet without explanation so that government employees continue to act as bulldozers, just as they always have. If these government employees were to discover that they are acting without authority, it might begin to affect their job performance. We will discuss more about challenge as this document unfolds.

Government agents or employees will spend some time trying to intimidate you with threats of fines or citations. They can not begin the process of penalizing you until they have issued a citation or in some written statement asserted wrongdoing on your part. You need this citation or statement to begin your case in earnest. In this document the government is going to provide you a list of the code(s) or other laws you are alleged to have violated. On the date you receive this document, begin a log of events beginning with your receipt the initial document, and afterward, enter into your log every event which occurs and is related to this matter. Everything which applies to this case will be recorded in your log. I can not stress this logging activity enough... do it.

The next suggestion is to acquire a copy of the code or law(s) the agency is attempting to enforce. It's quite likely the agency is required to provide you with a copy of the pertinent codes or laws upon your request. Make your request in writing, certified mail, return receipt requested. LOG IT! Log when you made the request, log the certification number, and log when you receive the documents you've requested. If you are rushed into court or other proceedings for which you have not had sufficient time to prepare your case, with your log you can make a case for a delay so that you have sufficient time to prepare. The log is important... use it!

In reading the code you may find there are provisions that exempt you or perhaps the code doesn't even apply to you. In reading the code, you need to remember that '*the code*' is not the law. '*The Statute*' is the law and '*the code*' is the administrating agency's interpretation of '*the law*'. And their interpretation may, or may not be correct. Therefore, follow up a review of the code with a review of the law upon which the code is based. In reviewing the law, keep your mind open to the fact that there may be language within the law which exempts you. If it appears that there is language that exempts you, include it in your 'written' challenge.

Next on our list is to read and develop a full understanding of the Clearfield decision (Clearfield Trust Co. v. United States, Argued February 5, 1943, Decided March 1, 1943, 318 U.S. 363). Not only must you read the Clearfield decision, you must also read the other cases referenced within the Clearfield decision to develop a full understanding of the Clearfield doctrine. Once you read the Clearfield and other referenced decisions, you will see that the supreme court has ruled that when government enters the world of commerce (as in the application of commercial law), it waives its sovereign immunity, becoming no different than a private corporation taking on the character of a mere private person.

Now, what does this mean to you and I? Simply this... I, as a private person, or I as a private corporation, do not have the power or authority to compel you to a specific performance. For example, I can not compel you to build a fence for me. That is, unless I have a contract with you. If I have a lawful contract, then I can compel you to the specific performance of '*fence building*'. I can sue you, take you into court and enforce my contract or commercial agreement I have with you. This is exactly what the Supreme Court is saying in the Clearfield decision. That, if government is going to compel you to a specific performance, then they, like any private corporation or private person, must be the '*holder in due course*' of a contract or commercial agreement, signed by yourself, that requires the specific performance they are attempting to compel. And furthermore, they must be willing to enter this document into evidence before attempting to enforce their demands in court.

Additionally, the contract or commercial agreement must meet the six requirements of a lawful contract. Keep these requirements in mind when dealing with government because any contract they claim to have may not be valid if it does not meet these six requirements.

With this knowledge you can now make a challenge. That is you may now contest or dispute the government's demands for specific performance. In your written response to the government agency and/or agent attacking you, you can list the merits of the Clearfield decision and then make formal demand for a copy of the document being held in due course that requires the specific performance being demanded, so that you may evaluate your contractual obligations. Reminding them that such a document will be signed by you and meets the six requirements of a lawful contract, which you might list in any written communication you might make with them. If they do not have such a contract or commercial agreement, then they are acting without authority

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### **The Law of Contracts\* Requires These Elements Or The Contract Is Void**

1. Offer by person qualified to make the contract.
2. Acceptance by party qualified to make and accept the contract.
3. Bargain or agreement and full disclosure and complete understanding by both parties.
4. Consideration given.
5. Must have the element of time to make the contract lawful.
6. Both parties must be sui juris; that is, of lawful age, usually 21 years old.

*Contracts*, by John Calamari and Joseph Perillo,  
West Publishing Company, St. Paul, Minnesota  
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and are perpetrating a fraud through deception. An action which is unlawful and one that they may wish to abate.

If they are attempting to assess a fine or other penalty, you might also ask them to clearly state the cause and nature of their injury so that you might grant relief. In truth, government is never injured and so they will not be able to state the nature or cause of their injury. Another arrow in your quiver. Or if you prefer, another point in making your case.

In communications, always be polite, yet firm. All communications made by you, must be in writing. Even if a government agent shows up at your house or business and the two of you discuss the action/demand at hand, your understanding of this communication should be committed to writing and a copy sent to the government agency or agent pursuing this matter against you. In doing so, if you have mis-understood what was said to you, it then becomes incumbent upon the government to clarify the understanding (in writing). It also eliminates the "he said, she said, they said", scenario. Government agents will lie to protect themselves, protect their jobs and most especially, to protect their case against you, make no mistake about it. That's why you commit everything, and I mean everything to writing. Any letters, communications or similar events go where???... in your log!

If you wish to take your case a step further, you might consider asserting that government has become criminal in nature. And that you do not wish to do business with any criminal element.

In my mind criminal behavior by government clearly begins with the Banking Relief Act of March 9, 1933, but if history were to be known accurately by myself, criminal behavior probably predates this event. This act contains the language of the "Trading With The Enemy" act of October 6, 1917. But the act of October 6, 1917 contained exclusionary language. One piece of exclusionary language reads approximately as follows: "Credits in any form *except* credits for transactions to be executed wholly within the United States." This was recognition that when you go to the hardware store and buy a lawn mower, a transaction executed wholly within the United States, this is not an enemy transaction and is not subject to the operation of the law. It also said at section (c), "except citizens of the United States." Recognizing that a citizen of the United States is not an enemy of the United States and not subject to the operation of the law. However, the language of the Banking Relief Act of March 9, 1933 amended this exclusionary language and it became "by any person living within the United States or subject to the jurisdiction thereof." With the exclusionary language now omitted and amended in such a way that brought about the inclusion of American citizens in the enabling authority of the Act, government empowered itself to enter their lives from all angles, via commercial law. As such, the American people became no different than any other enemy of the United States, giving the government and specifically the President the authority to enter our commercial lives from any angle. And all law, since that time, has been commercial.

Does passing law that makes the United States citizen indistinguishable from any other enemy of the United States sound criminal to you? It does to me.

This Emergency has, as of today (July 10, 2005), been kept alive for 72 years. Does anyone think that an Emergency has truly existed for that period of time? No, of course not. But this act has given government the un-constitutional authority to take our money and property. In effect it is **Emergencies**, primarily this one but there are three others in progress, that has, in the eyes of government, given them the authority to enter our private and personal lives and regulate us beyond endurance.

Does keeping an **EMERGENCY** alive for 72 years, as a means of virtually unlimited control sound criminal to you? It does to me.

If the **Emergencies**, and especially this one, are terminated we would then return to *lawful civil authority*. As matters now stand the united States of America operates under **War & Emergency Powers Authority**. That is why the red, white and blue flag now flies above the state flag... evidence of occupation under *War & Emergency Powers*. If you watch old movies (before 1933), you might notice that in the town square there were two flag poles, one with the red, white and blue flag of our Republic, and on the other pole, a State flag, flying at the same height as the red, white and blue.

Those of you who have been to court may have noticed a red, white and blue flag with a gold fringe. This is not a flag of the Republic of the united States of America, simply because it is not defined in the laws of our Republic. This flag is defined in Army Regulations and is the flag of the Commander in Chief of all Armed forces under **War & Emergency Powers**.

The Banking Relief act of March 9, 1933 authorized the issuance of *Federal Reserve Notes*, thus abandoning the constitutional requirement that only gold and silver may be used in payment of debt. If Congress ignores the supreme law of the land (the Constitution) and passes Statues that clearly violate the Constitution, then by what authority can government compel American citizens to obey their unlawful statutes? If anything, government has proven that taking control of public education, and controlling the curriculum in such a way that keeps us ignorant, provides the means to perform almost any criminal act.

"Under the new law the money is issued to the banks in return for Government obligations, bills of exchange, drafts, notes, trade acceptances, and banker's acceptances. The money will be worth 100 cents on the dollar, because it is backed by the credit of the Nation. **It will represent a mortgage on all the homes and other property of all the people in the Nation.**" - Congressional record, March 9, 1933, House, Congressman Patman, 73rd Congress, Special Session, Volume 77, part 1, page 83.

As you can see, Congress mortgaged everything you own or will ever own to the international bankers for the issuance of **the money**, what you know as Federal Reserve Notes. It is simply ink on paper. It is what is known as *private commercial paper*. The only value it has is the mortgage of all your property to the new world order bankers. Which leaves them *legal title* to all your

property, leaving you with only *equitable title*. Which allow you *use* of the property (real estate, vehicle, etc.) so long as you pay all the taxes and other fees associated with the *equitable* ownership of such property. Does mortgaging all the property of all the people in America to the international bankers without the permission or consent of the American people sound criminal to you? Sounds criminal to me.

In Senate Document No. 43, Under Contracts Payable in Gold, 1933, we read:

“The ULTIMATE OWNERSHIP OF ***ALL PROPERTY*** IS IN THE STATE, individual *so called* ownership is only by virtue of Government. i.e. Law, amounting to mere user. And ***use*** must be in accordance with law and subordinate to the necessities of the State.” - Senate Document No. 43, Under Contracts Payable in Gold, 1933.

This is a very powerful statement. There is that term “user”, as in the ‘use’ granted by ‘*equitable title*.’ And ***use*** must be “*subordinate to the necessities of the State*.” Does preventing the American people from *legal* ownership of any property sound criminal to you? It does to me. After all, ownership of property is one of several reasons so many Americans fought and died in the Revolutionary War while many others sacrificed everything, dying in rags.

New vehicles come with a manufacturers *Statement of Origin*. You never see it. Dealers register this document with the government, providing the government with ***legal title*** to the vehicle. With government holding the ***legal title*** to the vehicle, then when you purchase the vehicle you are given only ***Equitable title*** which allows you use of the vehicle and makes you responsible to pay all taxes and other fees due, but you are not the legal owner. Ever wonder why your title or registration says “for official use only?” Now you know.

Does this means of preventing you from legal ownership of your car sound criminal to you? It does to me.

You can make a good case of involuntary servitude (slavery) after reading “Transformation of America” by Cathy O’Brien and Mark Phillips. Kathy O’Brien was an involuntary subject of government mind control who was handed over to the government by her pedophile father as a means of avoiding prosecution for molesting Kathy. Kathy has not been able to get her case to court for ***reasons of National Security***.

Does involuntary slavery sounds criminal to you? It does to me.

Then there is the murdering of 80 plus people at Waco, Texas, 22 of which were children. There is also the murder of 14 year old Sam Weaver, son of Randy Weaver. Followed by the murder of Sam’s mother, Vicki Weaver, who was standing in the doorway of her cabin, holding her ten month old infant in her arms. Vicki was un-armed. She had harmed no one. She had threatened no one. She represented a threat to... no one! She was shot in the face with a .308 caliber snipers

rifle by West Point graduate Lon Horiuchi, the bullet ripping away her lower jaw and severing her carotid artery. Her screams lasting for about 15 seconds before she was gone. The government provided Lon Horiuchi with a promotion.

Does the murder of an unarmed American citizen who has harmed no one sound criminal to you?  
Sounds criminal to me.

At <http://mhkeehn.tripod.com/> you may read about the *INSLAW* case. This is a case where the government contracted with INSLAW to have a software package installed in several government offices. The name of the software package was PROMIS. An acronym for *PROsecution Management Information System*. This software package did a number of things, including the ability to track people on a world wide scale. But after installation the government failed to pay the bill, bankrupting INSLAW. The software package was altered by government, and they installed a back door access. With this, the package was distributed to other governments, but with the back door access, our government was privy to the information collected by other governments. A civil suit was filed by INSLAW and stonewalling began. At the time of the article on my web site there were, as I recall without re-reading the article, about 23 people dead in and around this case.

Does software piracy by government and a number of unusual deaths sound criminal to you?  
Sounds criminal to me.

You must make your case during the *Administrative* process. This is what they mean when they say “*you must exhaust your administrative remedies.*” If you don’t present all your evidence and position papers during the *administrative* phase of the action, you are not going to be allowed to bring such documentation or evidence into court. Why? Because that was the purpose of the *administrative process*. And by virtue of not presenting your evidence, papers, position, or arguments (remember law is adversarial) during the *administrative phase*, then you did not exhaust your *administrative remedy*. And the court is probably not going to allow you to introduce anything new. In which case, you lose.

In reality, the government wants to know whether or not they are likely to win this case. If they are not virtually guaranteed a win, they will drop the action against you rather than allow your strategy to become part of the public record by virtue of a court trial. If you should win, then there is the possibility that other sheep will see that the gate is open and they too will escape. Pretty soon it’s a stampede of escaping sheep. From government’s point of view, they can’t allow that. They need the sheep docile and subdued so that they can be easily fleeced.

If the American people were to generally come up to speed on these and a number of other similar incidents, then they might understand that it is **NOT** their duty to rubber stamp the unlawful behavior of government when they sit on a jury. Of course they will have to lie to get on the jury for government does not want an informed citizen sitting in judgement of another citizen which the government is attacking. Generally speaking, government only wants public educated sheep

to sit on a jury who can be instructed to rubber stamp the government's claims of wrong doing, even though government nor anyone else has been harmed.

America... you can turn your situation around overnight if you will only educate yourself on some of these matters and challenge government each and every time it attacks you. Remember that government is the creation of 'we the people' and it serves us, not the other way around.