



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

FILED

NOV 02 1990

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

GORDON W. EPPERLY,
ESTHER K. EPPERLY,
NIELS P. EPPERLY,
BOBBI J. EPPERLY,

P.O. Box 34358
Alaska Judicial District
Juneau Alaska 99803
Telephone: (907) 789-5659

Plaintiffs,

vs,

UNITED STATES (US Congress),
IRS Employee No. 2981806539, and a
number of unknown Employees of U.S.)

c/o Department of Justice
P.O. Box 683
Ben Franklin Station
Washington D.C. 20044

Defendants.

NUMBER: J90-010 CIVIL

Complaint at Law - Trespass and
Trespass on the Case: Violation
of Unalienable and Legal Rights
Under Color of Law

COMPLAINT

COMES NOW INTO COURT Gordon W. Epperly, et. al. in proper person, sui juris, a free white de jure and sovereign Citizens of the Preamble to the United States Constitution, and Plaintiffs in the above captioned case, to bring this Amended Complaint at Law against the above noted defendants, for grievance of trespass, corrections thereof, and damages resulting therefrom. This Amended Complaint is submitted per Court Order of Judge James Von Der Hedt dated October 22, 1990. The defendants; State of Alaska and the City and Borough of Juneau

are now released from the suit. ALL THE BRIEFS, EXHIBITS, AND AFFIDAVITS THAT WERE FILED WITH THE ORIGINAL COMPLAINT ARE HEREBY DECLARED TO BE INCORPORATED INTO AND MADE A PART OF THIS AMENDED COMPLAINT AS THEY MAY APPLY.

I

CHOICE OF LAW AS A MATTER
OF CONSTITUTIONAL AND SUPREME COURT DECISION

This action emanates from conditions known to and protected by the "common law" of "England" in effect in the "State of Maryland" prior to February 27, 1801, at which time the United States took official possession of the ten miles square ceded it by the State of Maryland. The "sovereign status" of this "Plaintiff" in this action precludes any grounds whatsoever for the conversion of this "at law action" into "equity" or "admiralty." To do so is a "criminal act" of which a "Court of Equity" shall not commit saving for indictment or prosecution in matters of the admiralty or maritime jurisdiction. ~~UCC 1-301~~ UCC 1-103:6

Subsequent filings in this "Court of Record" which are not filed AT-LAW are null and void, having no effect, and are denied. The prohibitions against conversion or other trespass upon the common law in a congressional instituted "Article III" and "common law court" of record as is this honorable court are adequately covered by the Constitution, federal law, and appropriate decisions of the United States Supreme Court. The "statutory rules" of "court" covering the "District of Columbia" are inapplicable in this action.

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II

JURISDICTION

The Plaintiff invokes the "Judicial Power" of "Article III" of the U.S. Constitution, Sections 1 and 2; as well as Article IV, Sections 1, 2, and 4, and Articles V and VI of that Constitution; and Articles of Amendment I, IV, V, VII, and IX, and the Judiciary Act of 1 Stat. 77 of the U.S. Statutes at Large, of 1789, P.L. 91-358, 84 Stat. 475, Title I (ss 11-501), 28 USC 1330, 28 USC 1331, 28 USC 1346, and 28 USC 2674. Also invoked are the commensurate sections of the "Constitution of Alaska," its privileges (rights), immunities, and prohibitions.

III

PARTIES

THE PLAINTIFFS are free white de jure "sovereign Citizens" as per Hale v. Henkel, 201 US 43 (see Plaintiffs' "Affidavits of Citizenship") and they are subject to and are entitled to the protection of the "common law" as one of the body politic and "Posterity" of the "Preamble" to the "Constitution of the United States" pursuant to Dred Scott v. Sanford, 60 US (19) How. at 404, 419-420. The Plaintiffs are not "14th Amendment citizens of the United States" as declared by the Slaughter-House Cases, 16 Wall 36, 21 L.Ed. 395, @ 407-409; "THIRTY-NINTH CONGRESS, Sess I. Ch. 31 of April 9, 1866" and 42 USC 1977, 1978 of "1870-71" [see Exhibit 8(a), 8(b), 8(c)].

The Plaintiffs claim their "God-given" "unalienable rights" through birth, and the covenants of the Living God and Abraham, Isaac, and Jacob, and to their seed of which Plaintiffs originates. The Plaintiffs' "rights," being conceived of no man nor man-made body politic, cannot be altered nor abrogated by any but "He" who endowed the Plaintiffs with the same. While these rights far precede any government of men; they are contained in and

guaranteed by the "Magna Charta of 1215," the "Declaration of Rights of 1765" and of "1774," the "Articles of Confederation of 1778," the "Constitution of the United States," and the "Constitution of Alaska." The "Bill of Rights" of the "US Constitution" and "Article I" of the "Alaska Constitution" further amplifies the perpetuity of these rights and the "free white status" of the Plaintiffs.

THE DEFENDANT CONGRESS OF THE UNITED STATES is the "legislative branch" of a "foreign government" known as the "United States." The "United States" is a "foreign" "international" "State" to the several "States" of the "United States of America" and its government operates under the "Law Merchant," "Law of Nations," "Maritime Law," "Admiralty Law" as opposed to the "Common Law" of the several "States" of the "United States of America." The Members of Congress are being sued in their official and/or personal capacity.

THE DEFENDANT IRS EMPLOYEE No. 2981806539 is employed with the Internal Revenue Service at Ogden, Utah. This employee's true name is unknown to the Plaintiffs at this time. Employee No. 2981806539 is being sued in his/her official and/or personal capacity.

THE DEFENDANTS; A NUMBER OF UNKNOWN EMPLOYEES OF THE UNITED STATES, appear to be employed with the U.S. Army Corp. of Engineers and they are being sued in their official and/or personal capacity.

THE 14TH AMENDMENT JURISDICTION OVER PLAINTIFFS "NON-EXISTENT"

The enlargement of powers claimed by the Congress of the United States over the "sovereign Citizens" and of the "States" of the "United States of America" of which they reside in DOES NOT EXIST, for the 14th Amendment to the United States Constitution was never ratified in accordance to Article V of the US Constitution. The 14th Amendment to the US Constitution is also "repugnant" to the "Principles" of the "Declaration of Independence" and thus the "14th Amendment" is "Null" and "Void" as being "repugnant" to the "US Constitution" itself (e.g. Brushaber v. Union Pacific Railroad Co., 240 US 1). The US Congress has no "14th Amendment jurisdiction" over the Plaintiff's property (Arndt v. Griggs, 134 US 316) or person. Plaintiffs have submitted "Briefs" and "Affidavits" on the 14th Amendment into the record of this Court in support of Plaintiff's Complaint.

V

COMPLAINT

Part I (Wetlands)

The Plaintiffs have come into ownership of "US Patented lands" by being an "heir" and/or "assignees" to the holders of the "US Letters of Patent." The "Letters of Patent" describes the Plaintiff's private property as follows:

"Lot 5 (and 6) of the Mendenhall Peninsula Small Tract Unit No. 2, of the land embraced in U.S. Survey No. 3260, situated at the junction of Glacier Highway and Engineers' Cutoff about 11 miles northwest of Juneau, Alaska."

The Plaintiffs recently discovered that several unknown employees of the United States have laid claim of authority over the Plaintiff's private property and have now classified their private property as "Wetlands." Whereas the Plaintiff's private property (supra) lays within

the "inland jurisdiction" of a sovereign State (Alaska); said discribed private property is outside the jurisdiction of the United States (Arndt v. Griggs, 134 US 316) and whereas the Plaintiffs gave the unknown number of defendant United States employees the opportunity to vacate the Plaintiff's private property, and failed to do so [Exhibit 5]; the members of Congress (and unknown number of employees of the United States) have Trespassed and/or have Trespassed upon the Case of the Plaintiffs by violating their inalienable rights to own and use their private property as founded upon the principles of the Declaration of Independence [14th Amendment notwithstanding]. Said defendant's ACT(s) of Trespass also violates the US Constitution in that said Act(s) of classifying the Plaintiff's private property as "Wetlands" (and regulating the property as such) constitutes a "seizure" under Article IV and "confiscation" under Article V of the Bill of Rights. These ACT(s) of Trespass are implemented directly by the United States or through its apparent Agents; the State of Alaska and its Municipal Corporations (e.g. 16 USC 1453(12) and Alaska Statutes Title 46, Chapter 35.) [see Exhibits 3(a), 3(b), 3(c), and 3(d)]. The said defendant's ACT(s) of trespass also violates several provisions of the Alaska Statehood Act as well as provisions within the Plaintiff's "Land Patents." The Plaintiff's Land Patents have been attached as [Exhibits 1(a) and 2(a)].

Furthermore; the delegation of legislative powers of the United States over "Wetlands" [under the purported authority of 16 USC 1453(12)] to the State of Alaska and its municipal corporations violates Article I of the US Constitution (Re Rahrer, 140 US 545, 560, 35 L.Ed. 572, 576; Marshall Field & Co. v. Clark, 143 US 649, 692, 36 L.Ed. 294, 309; Buttfield v. Stranahan, 192 US 470, 496, 48 L.Ed. 525, 535; Butte City Water Co. v. Baker, 196 US 119, 126, 49 L.Ed. 409, 412; I.C.C. v. Goodrich Transit Co., 224 US 194, 214, 56 L.Ed. 729, 737).

The Plaintiffs have on file a supporting "Brief" entitled: "WETLANDS" that supplements the above Complaint.

VI

COMPLAINT

Part II (Federal Income Taxes)

Although the Plaintiffs have filed IRS 1040 tax returns for several years; it has been only recently that the Plaintiffs have discovered that they are not "subject" to the "jurisdiction" of the "United States" and thus they are not subject to the "Revenue codes" of the "United States." It is the allegation of the Plaintiffs that the "IRS Revenue Code" applies only to "14th Amendment Federal (subject) citizens" of the "United States" (e.g. De Lima v. Bidwell, 182 US 176, 179, 21 Sup.Ct. 743, 45 L.Ed. 1041 (1901)) and any references to "citizens" by the Courts in tax matters subsequent to the [purported] ratification of the 14th Amendment to the US Constitution have always been made with reference to those who are citizens of that Amendment. The Plaintiffs status of Citizenship is not founded upon any Amendment to the US Constitution for they have the legal Rights as "Heirs" of the "Posterity" to be Citizens of the United States prior to the [purported] ratification of the 14th Amendment by virtue of being natural born citizens of a sovereign State of the United States of America and therefore the jurisdictional provisions of the 14th Amendment could not apply to the Plaintiffs as a matter of law.

The Plaintiffs have submitted "Affidavits of Citizenship" as well as "Briefs in support" of this "Complaint" which explains the "status" and "immunities" of the "Plaintiffs" as "de jure sovereign Citizens" of the "State" of the "United States of America" of which they were born in. Although the Plaintiffs were under no obligations as "non-taxpayers" to submit "IRS Claim forms;" on March 1, 1989 and May 9, 1989, the Plaintiffs filed

"IRS Claim form(s) 843," with "Affidavits of citizenship" and "'Briefs' in support" of said "Claims" with the Internal Revenue Service for the purpose of exhausting "Administrative Remedies" as required by 28 USC 2675. These "Claims" are for a refund of taxes/penalties/interest that were erroneously/illegally assessed and collected in the amount of \$21,815.74 and in the amount of \$21.21 respectively. On June 6, 1989 and September 20, 1989; the Internal Revenue Service denied the Plaintiffs'/Petitioners' "Claims" [see Exhibit 7a and 7b]. The filing of IRS Claim forms does not alter or change the Plaintiff's status of "non-taxpayer" [see Economy Plumbing and Heating v. US, 470 F.2d 585, 589 (1972)].

Whereas the Plaintiffs are not 14th Amendment "Federal" subject citizens subject to the jurisdiction of the United States and whereas the 16th Amendment has been declared by the Courts to be nothing more than "municipal law" of the United States governing the procedure of collection and assessment of taxes on incomes over its 14th Amendment citizens; the assessment and collection of Taxes by a number of unknown Employees of the Internal Revenue Service upon the Plaintiff's incomes is a Trespass upon their inalienable rights as founded upon the Declaration of Independence. Furthermore; said ACT(s) of assessment and collection of Taxes after the Plaintiffs have notified the IRS and the Secretary of Treasury of Plaintiff's status of citizenship violates the Plaintiff's rights to "due process" under the Article V of the Bill of Rights as said ACT(s) of Trespass is "confiscation" of property for the payment of "questionable debts" (Lane Co. v. Oregon, 7 Wall. 71) that is founded upon the [purported] authority of Section 4 of the 14th Amendment to the US Constitution.

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On or about October 29, 1990; the Plaintiff, Gordon W. Epperly, was in receipt of IRS form 8489 demanding the payment of penalties in the amount of \$500. This document was mailed by IRS Employee No. 298106539 of Ogden, Utah and it is attached to the Complaint as Exhibit 10(a).

The Plaintiffs filed a 1988 IRS 1040 tax form (with various IRS form attachments) with the Internal Revenue Service on or about April 11, 1989. These IRS tax forms were prepared by H&R Block Inc. and as evidenced by the Plaintiff's "Refund Check" [Exhibit 10(b)]; they were properly signed and deposited in the mails of the United States. To the best of knowledge of the Plaintiffs; the Plaintiff's IRS 1040 tax forms were not altered in any way that would constitute a violation of law.

Accompanying the IRS 1040 tax forms was a letter declaring that the Plaintiffs have reserved all Rights and that the IRS 1040 tax forms shall be construed to have been filed "Under Duress" [UCC 1-207]. The Plaintiff's letter is attached to this Complaint as Exhibit 10(c). At the time this letter and the 1988 IRS 1040 tax forms were filed with the IRS; the Plaintiffs had not received their "Denial" of IRS Claim forms for the years of 1981 through 1984 (see Exhibits 7(a) and 7(b)) and therefore the Plaintiffs found the need to protect their Rights from prejudicing their Claims. No attempt was ever made by IRS Employee No. 2981806539 to advise the Plaintiffs as to what that employee relied upon to lay a claim that the Plaintiffs have stated a "frivolous position in law" that constitutes a filing of a "purported income tax return" that authorizes the levy of a sanction.

IRS Employee No. 2981806539 has deliberately obstructed the proceedings of this Court by attempting to "sanction" the Plaintiffs when the Internal Revenue Service (in and through the US Attorney Generals Office) had full knowledge that the Plaintiffs were in the midst of litigation and thus said defendant Employee has violated the Plaintiff's Rights to "Due Process of Law." Said "ACT" by IRS Employee No. 2981806539 to issue IRS Form 8489 when the questions of law that had been submitted to the IRS have not been adjudicated by this Court constitutes a "Trespass" or a "Trespass on the Case" of the Plaintiffs as IRS Form 8489 "sanctions" the Rights of the Plaintiffs to freely exercise their freedom of speech and to petition the government for a redress of Grievance as guaranteed by Article I of the Bill of Rights. It is also noted that the use of IRS Form 8489 after the Plaintiffs have exercised their Rights under UCC 1-207 to preserve their "Claims" that was before the IRS at that time constitutes "confiscation" of Property under "color of law" in violation of Article V of the Bill of Rights.

Furthermore; the issuance of IRS Form 8489 is an obstruction of the proceedings of this Court and thus is a crime under 18 USC 1512(b) [TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT]. The whole purpose and objective of IRS Employee No. 2981806539 to issue IRS Form 8489 was to pronounce "Judgment" and thus discourage the Plaintiffs from having their grievances adjudicated within a Judicial Court of the United States as guaranteed by Article I of the Bill of Rights. Further crimes committed by IRS Employee No. 2981806539 (upon the issuance of IRS Form 8489) may be found at 18 USC 872 (Extortion); 18 USC 912 (False Personation); 18 USC 1017, 1018 (Fraud and False Statements); 18 USC 1341 (Mail Fraud); 18 USC 1717 (Nonmailable letters and writings); and if it is declared by the Court that Plaintiffs are 14th Amendment citizens of the United States then additional crimes may be found at 18 USC 242 (Civil Rights). The Plaintiffs hereby demands that the US Attorney General/US Attorney prosecute IRS Employee No. 2981806539 (Whom ever that may be) for the above alleged Title 18 USC crimes.

VIII

RELIEF DEMANDED

(Part I)

The Plaintiffs hereby demands that the Court issue the following declarations:

- 1) Whereas the 14th Amendment to the US Constitution was never ratified pursuant to the Article V of the US Constitution and

Whereas the 14th Amendment is "repugnant" to the "principles" of the "Declaration of Independence" and therefore it is "repugnant" to the "Constitution of the United States" itself and

Whereas the 14th Amendment to the US Constitution is being used for the purposes of destroying the "inalienable rights" of the Plaintiffs as protected by the "Declaration of Rights" of Oct. 19, 1765 and Oct. 14, 1774; the "Articles of Confederation of 1778;" the "Constitution of the United States" and the "Bill of Rights" therein and

THEREFORE it is the demand of the Plaintiffs that this Court declare the 14th Amendment to the United States Constitution to be "Null" and "Void" for "want of ratification" and for being "repugnant" to the "Constitution of the United States" for the reasons stated herein and within the Plaintiff's "Briefs" and "Exhibits" that support this complaint.

- 2) Declare that the "Inalienable Rights" of the "Plaintiffs" extends to the unlimited "free use and full enjoyment" of their "private property" so long as that use and enjoyment of their private property does not trespass upon the health or safety of the community.
- 3) Declare that the Plaintiffs, GORDON W. EPPERLY; ESTHER K. EPPERLY; NIELS PETER EPPERLY; and BOBBI JEAN EPPERLY are to be recognized by ALL that they are the US Constitution "Preamble" de jure sovereign "Citizens" of the "State" of the "United States of America" to which they were born in and that they ARE NOT "FEDERAL SUBJECT CITIZENS" OF THE US CONSTITUTION 14TH AMENDMENT NOR ARE THEY UNDER THE "JURISDICTION" OF THE "14th AMENDMENT TO THE UNITED STATES."
- 4) Declare that the Plaintiffs, GORDON W. EPPERLY, ESTHER K. EPPERLY, NIELS PETER EPPERLY, and BOBBI JEAN EPPERLY are entitled to a "full refund" of all "Taxes" on incomes that have been assessed and collected from them by the United States as they are not ones subject to the jurisdiction of the United States under the 14th Amendment to the US Constitution.

RELIEF DEMANDED

(Part II)

The Plaintiffs further demands that the following refunds and damages be awarded:

- 1) THE DEFENDANT UNITED STATES to refund the Plaintiffs the taxes that have been "assessed" and "collected" upon their "Non-taxable" incomes for the years of 1981 through 1984 in the amount of twenty-one thousand, eight-hundred and thirty-six dollars and eighty-five cents [\$21,836.85] with interest allowable by law.
- 2) THE DEFENDANT UNITED STATES to pay the Plaintiffs one-million dollars for each of the following violations of their unalienable rights by unknown number of Defendant employees of the United States:

A) AS PROTECTED BY THE CONSTITUTION OF THE UNITED STATES:

- a) ARTICLE IV, SECTION 2, CLAUSE 1, denying the Plaintiffs the privileges and immunities of citizens in the several States
- b) ARTICLE IX and X of the BILL OF RIGHTS, denying the Plaintiffs of their rights to "Due Process of Law," "Liberty," and the "Pursuit of Happiness" by depriving the Plaintiffs of their right to freely hold, own, and use their property (real or otherwise) according to their pleasure under the principles of the Declaration of Independence and the laws of the United States.

- 3) THE DEFENDANT IRS EMPLOYEE No. 2981806539 to pay the Plaintiffs \$10,000 for each of the following violations of their unalienable rights:

A) AS PROTECTED BY THE CONSTITUTION OF THE UNITED STATES

- a) ARTICLE IV, SECTION 2, CLAUSE 1 by attempting to deprive the Plaintiffs under color of law of their rights to all privileges and immunities of citizens of the several States.
- b) ARTICLE I of the BILL OF RIGHTS by "Sanctioning" the Rights of the Plaintiffs to

exercise the freedom of speech and to peacefully petition the Government for redress of grievances via Administrative Remedies or through the Judicial Courts.

- c) ARTICLE V of the BILL OF RIGHTS by attempting to confiscate the property of the Plaintiffs under color of law thus depriving the Plaintiffs of due process of law.
- d) ARTICLES IX and X of the BILL OF RIGHTS denying Plaintiffs of their rights to "Due Process of Law," "Liberty," and the "Pursuit of Happiness" by attempting to deprive the Plaintiffs (under color of law) of their rights to freely hold, own, and use their Property according to their pleasure under the principles of the Declaration of Independence and the laws of the United States.

For a total in the amount of two million sixty one thousand eight hundred and thirty six dollars and eighty five cents (\$2,061,836.85).

X

CONCLUSION

In regards to and in anticipation of any claim by defendants that monetary damages are unknown to the common law for rights violations; it is hereby made reference to Bell et. al. v. Hood et. al., 327 US 344 (1946):

- 1) Where the complaint seeks recovery squarely on the ground of violation of plaintiff's rights under the Fourth and Fifth Amendments, a federal district court has jurisdiction of a suit against agents of the Federal Government to recover damages in excess of \$3,000.00 alleged to have been suffered by the plaintiffs as a result of such violations even though neither the Constitution nor the Congress has provided for the recovery of money damages for such violations and the complaint is so framed as possibly to state a common law action in tort or trespass. Pgs. 680 - 685
- 2) Where a complaint in a federal court is so drawn as to seek recovery directly under the Constitution or laws of the United States, the court must

entertain the suit, except: (a) where the alleged claim appears to be immaterial and made solely for the purpose of obtaining jurisdiction, or (b) where it is wholly insubstantial and frivolous. Pg. 682

- 3) Whether the complaint states a cause of action on which relief could be granted is a question of law which must be decided after, and not before, the court assumes jurisdiction. Pg. 682
- 4) The issue whether federal courts can grant money recovery for damages alleged to have been suffered as a result of federal agents violating the Fourth and Fifth Amendments has sufficient merit to warrant exercise of federal jurisdiction for purposes of adjudicating it. P. 684

Also under Bell v. Hood, supra., it is noted that "For to that extent 'the party who brings a suit is master to decide what law he will rely upon and ... does determine whether he will bring a 'suit arising under' the ... [Constitution or laws] of the United States by his declaration or bill.'" The Fair v. Kohler Die Co., 228 US 22, 25.

It is inconceivable that any court or any Clerk of Court could misconstrue the laws and other authorities surrounding the nature and intent of this action, the type of law demanded, or the process to be used in obtaining justice under this demanded law. The rules and laws are specific - they leave nothing to the judgment to determine. This is so in the federal and State laws to which this action is concerned.

The causes surrounding this action cannot, therefore, be a difficulty in interpreting the law, but deliberate and absolute disregard for the law. The standard statement that "this is not the way we have always done things in this court" is as insane and unfeasible as one sitting on a nail for a number of years because "it is there." It seems that no person will ever consider the fact that what they are doing is possibly illegal and unconstitutional, but places the "custom" of events before the law. This mode of thinking is tantamount to denying the ten commandments, the Holy Bible, the Magna Charta, US Constitution, etc., because, as one federal agent stated: "We don't use them much any more." In other words; his concept is that of the courts: "The law seems to be too old to be effective in this modern world."

The founders of our federal constitution devised the document to survive for "ages" and not for a piddling two centuries. It carries with it God's laws and those laws are eternal. The law demanded by this Plaintiff for relief of his complaint is as old as civilization itself, but no mere mortal or group of mortals have ever devised a law superior to the common law, nor will they ever. To think otherwise is to place one-self above the intelligence of God Almighty. No such creature exists in this world or any other.

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XI

ASSEVERATION

I, Gordon W. Epperly, and the below signatories hereby declares that we are the Plaintiffs in the foregoing Complaint at common law, and that all facts contained therein are true and correct to the best of our knowledge. This asseveration is offered in lieu of the required affidavit (see Staton v. Fought, 486 So.2d. 745).

DATED this 2nd day of November, 1990

Seal



By

Gordon W. Epperly
Gordon W. Epperly - Plaintiff

Seal



By

Esther K. Epperly
Esther K. Epperly - Plaintiff

Seal



By

Niels R. Epperly
Niels R. Epperly - Plaintiff

Seal



By

Bobbi J. Epperly
Bobbi J. Epperly - Plaintiff