

## **DARK SECRETS OF AMERICA'S FOURTH BRANCH OF GOVERNMENT**

The Doctrine of Separation of Powers is a key constitutional cornerstone of the American scheme of governance. It dictates the powers of governance shall be divided into three branches, also known as departments, namely: the executive, the legislative, and the judicial. The purpose was to avoid powers concentrated in the hands of individual offices of governance. The separations were intended to provide "checks and balances" of power with the theoretical/idealistic intent that the people's governments would be less likely to overreach their limited, expressly delegated authorities.

The 18<sup>th</sup> Century French political philosopher, Montesquieu, is credited with first positing the Doctrine of Separation of Powers. His political theories and arguments for them were a major influence on America's founding fathers – in particular as set forth with the publication of his *The Spirit of Laws*.

Review of state and federal constitutions will reveal from the outset the American people intended their governments be organized into three separate branches. To this day this is the only constitutionally authorized scheme for governance pursuant to the will of the people in whom all inherent political power rests. This scheme equally applies at the local government level.

However, it is possible for the people to combine functions intended to be separated into single offices of government. But, this is possible only by the will of the people through their expression in explicit language in their state or federal constitutional instruments. There are instances in state constitutions where the people have elected to create some particular office of government combining one or more powers normally intended to be kept separated. There are no instances at the federal level of such combinations by expression of the people's will in their U.S. Constitution. There are also many instances in state constitutions in which illusions and deceptions are cast by language found in the state constitutional instrument that the people are creating, or intend the legislature to create, state offices which combine powers which otherwise must be kept separate. This happens because crafty lawyers draft amendments to state constitutions and the people go to the voting booths and ratify these constitutional changes with no reasonable awareness of what they are voting for.

Beginning in the latter part of the 19<sup>th</sup> Century, America's legislative bodies got into the business of creating new offices of government which combined powers which the people intended are to be kept separate pursuant to the Doctrine of Separation of Powers. Congress first did this by creating the Interstate Commerce Commission (ICC) in 1887. The states got into the act thereafter.

From there it has all been down hill for the people's Republics as expediency and constitutionally lawless power in the hands of corporate interests gained the upper hand over the people's Rule of Law pursuant to mandated requirements of their constitutional law. The greater is the irony here because there is no constitutional authority for state legislatures or the U.S. Congress to charter corporations in the first place. Now large corporate interests are treated like first class citizens while public officials in the three branches of the people's state and federal governments deal with the people as though they were second class citizens or worse. The people are too ignorant to know they are the exclusive holders of the inherent political power of their nation and the corporations to which they become economically and politically enslaved behave as though they have all the rights of citizens – even the rights of lordship. Yet corporate citizenship is nothing more than a statutorily created legal fiction ratified by America's state and federal courts and is

the practice of constitutional fraud on the only holders of the inherent political power of the nation: the American people.

These offices of government are created by state legislatures and the U.S. Congress always with combined powers constitutionally intended to be kept separated in the three departments of government. The object of these *de facto* legislative violations of fundamental constitutional doctrine so it was argued at the turn of the 20<sup>th</sup> Century was to create "*efficient and scientific government*" by consolidating governing powers into the hands of single executive heads. In so doing, state legislatures and the U.,S. Congress exceed their delegated powers granted them "*in the gift of the people.*"

The result of this sort of legislative fraud is creation of offices which legislate law, administer and enforce the law they create, and then act as judge and jury over defendants whom they presume to have authority over and whom they allege to be in violation of the their particular bodies of administrative laws.

These administrative agency creatures may go by many titular stylings to include, "department," "commission," "bureau," "agency," "board," and the like, but they are all of them known generically as "administrative agencies." Their legislative creators, the state legislatures and the U.S. Congress, enact bodies of law for each of these agency creatures to administer and enforce and each set of such laws is recognized as a separate body of administrative law.

In the 1930s under political and economic crisis conditions induced by the collapse of the banking system , the stock markets, and the bond markets, the U.S. Congress went into a frenzy of agency creation with the Roosevelt administration spearheading the way. A special commission created by President Franklin D. Roosevelt in 1937 to survey the governing chaos which F.D.R. himself was pushing in all haste, declared that federal administrative agencies were "*a headless 'fourth branch' of government, a haphazard collection of irresponsible agencies and uncoordinated powers.*" In the 1952 U.S. Supreme Court case, *Federal Trade Commission v. Rubberoid Co.*, 343 U.S. 470, 487, 72 S. Ct. 800, 810, 96 L. Ed. 1081, Justice Jackson describing the federal agencies at that time declared, "they [had] become a veritable fourth branch of government which has deranged our three-branch legal theories.

State governors and U.S. Presidents as officers of the nations state and federal executive departments have even gotten into the act.

The fact is that from the 1930s onward state and federal courts and the nation's jurisprudence theorists and law professors have struggled and wrestled attempting to explain that which cannot be explained about these public office creatures without admitting outright they are in violation of fundamental constitutional principles of American governance to include being beyond the authority of legislative officers to create in the first place.

At times they have described the powers of these agency creatures as being in the nature of quasi executive, quasi legislative, and quasi judicial.

They have come up with explanations of how these agency creatures can be created and how they get their powers styling these off-the-constitutional-wall theories as the Delegation Doctrine and the Nondelegation Doctrine. Their doctrinal theorizings contradict each other and in some legal presentations and court rulings one finds identical arguments made under the Delegation Doctrine banner that others are making under the

Nondelegation Doctrine. The public records are filled with this continuing political circus. What a pity the public is too blind and stupified to enjoy the spectacle.

The fact is the knowledgeable defendant can successfully challenge that no administrative agency can prove it has subject-matter jurisdiction to charge him with any violations of its laws.

For a meaningful introduction to the constitutionally fraudulent nature and substance of administrative agencies and how to successfully challenge them on the issue of subject-matter jurisdiction whenever the citizen finds them in his face, there is no better single source than the author's 3-volume ***Win your Traffic Court Case***.

Regards,

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