Federal Law on Substances

The Federal Controlled Substance Act and Non-Registered Persons

The statute most often used to build and fill our many federal prisons is Statute §841 of the Controlled Substance Act (CSA). §841 is found in our US Codes at Title 21-Food and Drug, beginning with the sentence:

> Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally – (1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance. [Note: the substances and penalties are then listed].

Do you wonder what "except as authorized" means and what is "this subchapter?" This first phrase is left out of grand jury indictments and may not be mentioned in court. "This subchapter" is the first 67 statutes of the CSA. Our Congress is suggesting you read them all to understand the limits of §841. They also imply the drugs are legal for some "persons" and illegal for other "persons."

> **Person**: an individual or an organization. An individual man, woman or child, or as a general rule, a **corporation**. - Ballantine's Law Dictionary

Justice Oliver Wendell Holmes of Our Supreme Court pointed out:

> Words having universal scope, such as... "every person who shall monopolize," etc. will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch. - *American Banana Co. v United Fruit Co.*, 213 U.S. 347

With an understanding of Statutes 841 and 821 of "this subchapter", We can begin to see how this administrative scheme works. Statute 821 calls for Rules and Regulations to implement the Act:

> The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to the registration and control of regulated persons and of regulated transactions.

Our Department of Justice, an administrative agency, is headed by our Attorney General. Can our Attorney General bring forward as many rules or regulations as he likes, relating to the registration and control of regulated persons? What about unregistered or unregulated persons (individuals who have not waived rights, through contract of registration for benefit)?

Two more words in §821 are "regulation" and its synonym "rule". They are also known as administrative rule, administrative regulation and implementing regulation.

> **Regulations**: issued by various governmental departments to carry out the intent of the law. Agencies issue regulations to guide the activity of those regulated by the agency… – Black's Law Dictionary

> **Rule**: includes each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy. – Black's Law Dictionary

Our Supreme Court in *US v Mersky* declared the importance of administrative regulations:

> Once promulgated, an administrative regulation called for by an act of Congress has the force of law…, neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the Construction of the other. - 361 U.S. 431

The delegated powers from We the People are drafted into laws and passed as Acts of Congress (Legislative Branch). The laws are sent to the Executive Branch for implementation by the designated administrative agency. This agency drafts the actual administrative rules and regulations. The regulation is then listed in our Code of Federal Regulations (**CFR**).

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The Statute §841, used by our Department of Justice to arrest persons manufacturing, distributing or dispensing substances, has been implemented by agency regulation. It appears in Title 21 **CFR** at Part 5. 21 **CFR** – "Food And Drugs" opens with Chapter 1, captioned "Food And Drug Administration, Department Of Health And Human Services". Part 5 of Chapter 1 is captioned: " Delegations Of Authority And Organization".

Following this heading is the 76-page regulation, which is intended to implement, carry out or interpret the Statute §841. If so inclined we encourage you to look it up and read it for yourself. We can tell you that it is strictly for registrants, those receiving benefit from our Food and Drug Administration. You will not find anything here pertaining to non-registrants, and there is no delegation of authority to the DEA (or any other agency) for the enforcement of penalties for non-registrants. This is strictly an administrative matter for registrants.

The administrative statute and its implementing regulation comprise an **Administrative Code of Regulation** for registrants within the agency. In the case of the CSA, "persons" registered might be Merck, Pfizer, or Bayer.

Our Federal Courts and Department of Justice are operating under **color of law**[1]- and systematically denying We The People of our right to the **due process of law**[2].

Common Law[3] crime requires a victim, with injuries or damages. **Administrative Law**, a form of contract law for Executive Branch agencies and its registrants, does not require a victim but can call for criminal penalties for registrants.

The following is from a motion that was presented last year to a Federal District Court in U.S. v. Landa. The judge refused to rule, telling Attorney Allison Margolin to "take that to the Ninth Circuit". The Ninth Circuit Court of Appeals refused to hear it, returning the issue to District Court. This case involves prison time for a defendant, and the judge will not rule! Since then other defendants have filed the same motion. This concerns Our most basic right: Our unalienable right to **due process**.

> **The precedent upon which the federal government's ability to govern interstate commerce, Wickard v. Filburn, is premised upon the fact that the plaintiff in that case registered in a federal program; because defendant never took advantage of a federal program, … the Wickard basis of jurisdiction is inapplicable here.**

The wheat program is still in effect for farmers who choose to cooperate for benefit under the program. Social Security is still in effect for persons who choose to cooperate for benefit under Social Security. If you sign up for SSI monthly subsidies, are you regulated regarding monthly income from other sources? Can a farmer grow all the wheat he likes? Our Supreme Court hit the nail on the head in Wickard:

> It is of the essence of regulation that it lays a restraining hand on the self-interest of the regulated and that advantages from the regulation commonly fall to others. - Wickard, p. 129

The "others" were farmers who did not sign up for the wheat program. Were "others" prosecuted like Filburn to pay a fine ($117) for violating program rules? No, the agency was without jurisdiction over non-registrants. Though these "others" benefited from higher prices, they were not subject to penalties, as they did not waive rights through contract.

The **only** authority the Feds have to claim jurisdiction over marijuana plants is the *Wickard* case. Our Supreme Court cites *Wickard* as the determining authority for drugs or substances. This falsely applied authority is all that our government has!

Though simple, the concept is difficult to grasp at first, because the implications are so profound. It is outside the box of our schooling that Our Government owns us and controls us. In Our Republic, the People, created Our Government, to which We delegated only certain limited powers to serve for the benefit of the People. We still

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[1] **Color of law**: the appearance, without the substance, of a legal right. – Blacks Law Dictionary

[2] **Due Process of law**: to have the right of controverting, by proof, every material fact... **If any question of fact or liability be conclusively presumed against him, this is not due process of law.** – Blacks Law Dictionary

[3] **Common Law**: as distinguished from Legislated Law, it derives its authority solely from the usages and customs of immemorial antiquity. - Blacks Law Dictionary

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retain Our unalienable rights. Delegated powers do not supercede Our God-given rights, unless We waive rights through contract.

For almost 200 years the Feds were without jurisdiction over a substance called marijuana, as their attempt at regulating marijuana failed when it was ruled unconstitutional. Then in 1970 under Nixon, Congress made use of commerce holdings in *Wickard* to legislate our Controlled Substance Act (CSA). The Feds suddenly claimed jurisdiction, again, over marijuana plants and other "controlled" substances!

The CSA is an **Administrative Code of Regulation** for registrants within the agency. This would include pharmaceutical corporations, registered for benefit, such as Merck, Pfizer, Bayer, etc. This is the argument of the several motions that have yet to be ruled on.

Why are non-registrants arrested by the agency D.E.A. for alleged violations of the CSA? Is this a violation of Our most basic right, due process of law? Our Civil Rights statutes call for prison time for "whoever" deprives any person of any rights under color of law or fraud.

There is no need to change our laws. Why would We want to change our laws? Our laws are intact! Our Common Law and Common Law Rights are upheld in the codes. When not corrupted, Our administrative process works! What's the problem? Our lack of understanding or denial of administrative law, color of law and due process of law. Shouldn't We rather uphold the enforcement of Our Law and expose this fraud perpetrated under color of law. This fraud calls for criminal penalties for the violators, at 18 USC § 242!

United States Code
Title 18--Crimes and Criminal Procedure
Chapter 13 - **Civil Rights**
Statute 242. Deprivation of rights under color of law

Whoever, under **color of any law**, statute, ordinance, regulation, or custom, willfully subjects any person in any State … to the **deprivation of any rights**, … secured or protected by the Constitution or laws of the United States, … shall be fined under this title or imprisoned not more than one year, or both; and… if such acts include the use, … or threatened use of a dangerous weapon, … shall be fined … or imprisoned not more than ten years, or both; and if death results from the acts committed … or if such acts include kidnapping …, shall be fined … or imprisoned for any term of years or for life, or both, or may be sentenced to death.

The complete holdings in *Wickard* have been presented in several active cases. Our Department of Justice, an Executive Branch agency, has failed to challenge and Our Courts have refused to rule on this issue of jurisdiction of agencies. Why? You be the judge.

Is it time We the People accept the truth that Our government officials are involved in criminal activity, under color of law? Should We take responsibility for holding criminals accountable to Our rule of law? Does Our silence condone this criminal activity? If We the People, through fear of the truth, remain silent, are We then effectively supporting the violation of Our rights by Our own government?

If We do not declare and expose this fraud, can We the People expect to stop the criminal violation of Our Rights and end the stream of defendants going to prison? Our declaration is: **Tell others**, **spread the truth**, **challenge agency jurisdiction**, and **demand** Our **right to due process**.

We must remember always that **accusation is not proof,** and that conviction depends upon evidence and **due process of law.**
We will not walk in **fear**, one of another. We will not be driven by **fear** into an age of unreason, if we dig deep in our history and our doctrine, and remember that we are not descended from **fearful** men, not from men who **feared** to write, to speak, to associate, and to defend causes that were for the moment unpopular. – Edward R. Murrow

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