

Your Right of Defense Against Unlawful Arrest

“Citizens may resist *unlawful* arrest to the point of taking an arresting officer's life if necessary.” *Plummer v. State*, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: *John Bad Elk v. U.S.*, 177 U.S. 529. The Court stated: “Where the officer is killed in the course of the disorder which naturally accompanies an attempted arrest that is resisted, the law looks with very different eyes upon the transaction, when the officer had the right to make the arrest, from what it does if the officer had no right. What may be murder in the first case might be nothing more than manslaughter in the other, or the facts might show that no offense had been committed.”

“An arrest made with a defective warrant, or one issued without affidavit, or one that fails to allege a crime is within jurisdiction, and one who is being arrested, may resist arrest and break away. If the arresting officer is killed by one who is so resisting, the killing will be no more than an involuntary manslaughter.” *Housh v. People*, 75 111. 491; reaffirmed and quoted in *State v. Leach*, 7 Conn. 452; *State v. Gleason*, 32 Kan. 245; *Ballard v. State*, 43 Ohio 349; *State v. Rousseau*, 241 P. 2d 447; *State v. Spaulding*, 34 Minn. 3621.

EXAMPLE:

CommonLaw Remedy To Beat Traffic Tickets

(GOOGLE– RIGHT TO TRAVEL RULING, U.S.S.C.)

DespiteActions Of Police And Local Courts, Higher Courts Have Ruled ThatAmerican Citizens Have A Right To Travel Without State Permits

byJack McLamb, (from Aid & Abet Newsletter)

Foryears professionals within the criminal justice system have acted onthe belief that traveling by motor vehicle was a privilege that wasgiven to a citizen only after approval by their state government inthe form of a permit or license to drive. In other words, theindividual must be granted the privilege before his use of the statehighways was considered legal.

Legislators,police officers, and court officials are becoming aware that thereare court decisions that disprove the belief that driving is aprivilege and therefore requires government approval in the form of alicense. Presented here are some of these cases:

“Theright of a citizen to travel upon the public highways and tottransport his property thereon in the ordinary course of life andbusiness is a common right which he has under his right to enjoy lifeand liberty, to acquire and possess property, and to pursue happinessand safety. It includes the right in so doing to use the ordinary andusual conveyances of the day; and under the existing modes of travelincludes the right to drive a horse-drawn carriage or wagon thereon,orto operate an automobile thereon, for the usual and ordinarypurposes of life and business. It is not a mere privilege, like theprivilege of moving a house in the street, operating a business standin the street, or transporting persons or property for hire along thestreet, which a city may permit or prohibit at will.” – *Thompson v. Smith*, 155 Va. 367,154 SE579 (1930)

It could not be stated more directly orconclusively that citizens of the states have a common law right tottravel, without approval or restriction (license), and that thisright is protected under the U.S Constitution.