

# ***REBUTTED FALSE ARGUMENTS ABOUT THE COMMON LAW***



(Pagan civic temple to “worship” false gods. The “bible” of the church is “[franchise codes](#)” ([Form #05.030](#)) because they abuse legislation to create the “god”/privilege and the [inequality \(Form #05.033\)](#), and compel servitude and worship. In Britain, judges are called “your worship”. Pleadings are called “prayers”. The judge’s bench is the “altar”. Attorneys are deacons of the church. Human sacrifices of private property are conducted at the altar. The hearing is the worship service. The jury are the twelve disciples of the pagan god. The judge is the priest who leads the worship service of himself and his employer.)

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“Humble obedience to [the Constitution](#) [law written by the only true sovereign THE PEOPLE] by public servants is the paramount ‘compelling state interest’.”  
[SEDM]

“... if you are led by the Spirit, you are [not under the law \[STATUTES\]](#).”  
[[Gal. 5:18](#), Bible, NKJV]

“But the fruit of the Spirit is love, joy, peace, longsuffering, kindness, goodness, faithfulness, gentleness, self-control. Against such there is [no law \[no STATUTES\]](#).”  
[[Gal. 5:22-23](#), Bible, NKJV]

“Do not walk in the [statutes of your fathers](#) [the heathens], nor observe [their \[STATUTORY but not COMMON LAW\] judgments](#), nor defile yourselves with [their \[pagan government\] idols](#). I am the LORD your God: Walk in [obey] [My statutes](#), keep My judgments, and do them; hallow My Sabbaths, and they will be a sign between Me and you, that you may know that I am the LORD your God.”  
[[Ezekiel 20:10-20](#), Bible, NKJV]

“To the law and to the testimony! If they do not speak according to this word, it is because there is no light [from God] in [them \[the JUDGES, Litigation Tool #01.009\]](#)”  
[[Isaiah 8:20](#), Bible, NKJV]

## DEDICATION

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities [within juries] and officials [and [CIVIL STATUTES, Form #05.037](#)] and to establish them as legal principles to be applied by the courts [using the COMMON LAW rather than [CIVIL STATUTES, Form #05.037](#)]. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote [of a JURY OR an ELECTOR]; they depend on the outcome of no elections."

[West Virginia Bd. of Ed. v. Barnett, 319 U.S. 624, 638 (1943); SOURCE: [https://scholar.google.com/scholar\\_case?case=8030119134463419441](https://scholar.google.com/scholar_case?case=8030119134463419441)]

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"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."

[John Adams; The Works of John Adams, ed. CF Adams, Boston: Little Brown Co., 1851,4:13]

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**"There is no common law of the United States, in the sense of a national customary law, distinct from the common law of England as adopted by the several States each for itself, applied as its local law, and subject to such alteration as may be provided by its own statutes."** "There is, however, one clear exception to the statement that there is no national common law. The interpretation of the Constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history." [124 U.S. 478](#). [United States v. Wong Kim Ark, 169 U.S. 649 (1898)]

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"Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism who should labour to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, "where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice?" And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

[Farewell Address, George Washington; See also [George Washington's Farewell Address Presented by Ben Sasse, Minute 24](#)]

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## CHAPTER II., CIVIL PERSON.

**The state is represented in the person of its chief magistrate, who is at the same time a member of it. Thus the king or president possesses two kinds of rights, a university of rights as a corporation [PUBLIC rights], and individual rights [PRIVATE rights] as a man. As the former become more and more confounded with the latter, so government advances towards some form of monarchy. A bishop also is a sole corporation, but the man holding the office has also his individual rights. The word person neither according to its accurate meaning nor in law is identical with man. A man may possess at the same time different classes of rights.** On the other hand, two or more men may form only one legal person, and have one estate, as partners or corporators. Upon this difference of rights between the person and the man, the individual and the partner, corporator, tenant in common, and joint tenant, depends the whole law of these several classes. The same person has perfect power of alienation, of forming contracts, of disposing by last will and testament of his individual estate, but not of the corporate, nor of his own share in it, unless such power be expressed or implied in the contract by which the university of rights and duties is created. **The same distinction divides all public from private property, and distinguishes the cases in which the corporation or civil person may sue from those in which the individual alone can be the party; - although there are instances in which the injury complained of may, in reference to the difference of character, be such as to authorize the suit to be instituted either by the civil person or the individual, or by both. Thus, violence to the person may be punished either as a wrong to the state or to the individual.**

[The Theory of the Common Law, James M. Walker, 1852, pp. 17-20]

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EDITORIAL: Note that the effect of attaching MORE and MORE rights to the civil status of “person”, according to this author, is that we converge on a “monarchy”. We fought a revolution to get rid of KINGS, to win the right to SELF-GOVERN, and to be served from BELOW rather than be governed from ABOVE. Below is what the ONLY King for Christians said on this subject, and it was the basis for the Protestant revolution:

*“You know that the rulers of the Gentiles [unbelievers] lord it over them [govern from ABOVE as pagan idols], and those who are great exercise authority over them [supernatural powers that are the object of idol worship]. Yet it shall not be so among you; but whoever desires to become great among you, let him be your servant [serve the sovereign people from BELOW rather than rule from above]. And whoever desires to be first among you, let him be your slave—just as the Son of Man did not come to be served, but to serve, and to give His life a ransom for many.”*  
[[Matt. 20:25-28](#), Bible, NKJV]

The ONLY King that Christians can have is KING JESUS! See:

1. *Boston Tea Party 2008*, Pastor Garrett Learn  
<https://www.youtube.com/embed/9351KGbkDrc>
2. *Jesus is my ONLY King and Lawgiver and Civil Ruler*, SEDM  
<https://sedm.org/jesus-king-of-all-kings-thats-my-king/>
3. *The One True King*, SEDM  
<https://sedm.org/the-one-true-king/>
4. *Christ the King*, SEDM  
<https://sedm.org/christ-the-king/>
5. *Sovereign over ALL*, SEDM  
<https://sedm.org/sovereign-over-all/>
6. *What is “Statism”?*, SEDM  
<https://sedm.org/what-is-statism-robery-godfrey/>
7. *The Fiction of the Religiously Neutral State*, SEDM  
<https://sedm.org/the-fiction-of-the-religiously-neutral-sate-offsite-link-christopher-ferrara/>
8. *American Idol: How the State Attempts to Replace God*, SEDM  
<https://sedm.org/american-idol-how-the-state-attempts-to-replace-god-jason-rink/>
9. *Biblical Foundations of Christian Libertarianism*, SEDM  
<https://sedm.org/the-biblical-foundations-of-christian-libertarianism-dr-norman-horn/>
10. *U.S. Citizens and the New World Order*, SEDM  
<https://sedm.org/u-s-citizens-and-the-new-world-order/>
11. *Was Jesus a Socialist?*, SEDM  
<https://sedm.org/was-jesus-a-socialist-render-unto-caesar-lawrence-reed/>
12. *God’s Preachers: Enemies (foreigners and strangers) of a Godless State*, Pastor John Weaver  
<https://sedm.org/gods-preachers-enemies-foreigners-and-strangers-of-a-godless-state-pastor-john-weaver/>
13. *What Does the Sovereignty of God Mean?*, SEDM  
<https://sedm.org/what-does-the-sovereignty-of-god-mean-ligon-duncan/>
14. *Counterfeit Gods*, SEDM  
<https://sedm.org/counterfeit-gods/>

The result is that the ONLY biblical approach Christians can take in a secular society that rejects God, and especially one that persecutes Christians is to be a nonresident, a transient foreigner, and have a domicile in the Kingdom of Heaven on Earth so that they can’t be subject to the civil statutory franchise “codes” that make government into God. See [Form #05.002](#). This is consistent with Philippians 3:20. This is how Christians satisfy the biblical requirement to be sanctified, separate, and “IN the world but not OF the world”. That approach is documented in:

<i>Non-Resident Non-Person Position</i> , Form #05.020 <a href="https://sedm.org/Forms/05-MemLaw/NonresidentNonPersonPosition.pdf">https://sedm.org/Forms/05-MemLaw/NonresidentNonPersonPosition.pdf</a>
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[A Plea for Justice \[Form #05.050\]](#)

*A Psalm of Asaph.*

*God stands in the congregation of the mighty;  
He judges among the gods.*

How long will you judge unjustly [Litigation Tool #01.009],  
And show partiality to the wicked? Selah  
Defend the poor and fatherless;  
Do justice [Form #05.050] to the afflicted and needy.  
Deliver the poor and needy;  
Free them from the hand of the wicked.  
They do not know, nor do they understand;  
They walk about in darkness;  
All the foundations of the earth are unstable.  
I said, "You are gods,  
And all of you are children of the Most High.  
But you shall die like men,  
And fall like one of the princes."  
Arise, O God, judge the earth;  
For You shall inherit all nations.  
[Psalm 82:1-8, Bible, NKJV]

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### The Messiah's Triumph and Kingdom

Why do the nations rage,  
And the people plot a vain thing?  
The kings of the earth set themselves,  
And the rulers take counsel together,  
Against the LORD and against His Anointed, saying,  
"Let us break Their bonds in pieces [anarchy under [God's laws, Litigation Tool #13.001](#)]  
And cast away Their cords from us."  
He who sits in the heavens shall laugh;  
The Lord shall hold them in derision.  
Then He shall speak to them in His wrath,  
And distress them in His deep displeasure:  
"Yet I have set My King [Jesus]  
On My holy hill of Zion."  
"I will declare the decree:  
The LORD has said to Me,  
'You are My Son,  
Today I have begotten You.  
Ask of Me, and I will give You  
The nations for Your inheritance,  
And the ends of the earth for Your possession.  
You shall break them with a rod of iron;  
You shall dash them to pieces like a potter's vessel.  
Now therefore, be wise, O kings;  
Be instructed, you judges of the earth.  
Serve the LORD with fear,  
And rejoice with trembling.  
Kiss the Son, lest He be angry,  
And you perish in the way,  
When His wrath is kindled but a little.  
Blessed are all those who put their trust in Him.  
[Psalm 2:1-12, Bible, NKJV]

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# 1 Introduction

There is much misunderstanding in the freedom community about the implications of the term “common law”. Perhaps the main source of the misunderstanding is a failure to disclose the context and definition of the term as it is used on our website. This memorandum will provide a definition for the purpose of our site, rebut common false arguments about the application of the common law, and direct the reader to resources useful in USING the common law as we define it on our site within a court setting.

## 2 The Common Law is implemented by States, not the Federal Government<sup>1</sup>

It is clear that prior to the Revolutionary War the **common law** was in force in all of the colonies. Each colony, subject to certain restrictions and limitations, determined its own system of local or municipal law. Each adopted so much of the **common law** of England as it deemed suited to the wants and necessities of its people. "The colonists who established the English colonies in this country undoubtedly brought with them the common and statute laws of England, as they stood at the time of their emigration, so far as they were applicable to the situation and local circumstances [\*117] of the colony." [U.S. v. Reid, 12 How. 361, 13 L.Ed. 1023](#). "Our ancestors brought with them its general principles, and claimed it as their birthright, but they brought with them and adopted only that portion which was applicable to their situation." [\*\*591] *Van Ness v. Pacard*, 2 Peters 137-144. As is said [In re Barry, 42 F. 113](#), in speaking of the **common law**, "it came to them, and was appropriated by them, and became an integral portion of the laws of the [\*\*\*7] particular states, before the United States government had an existence." The congress of 1774 unanimously resolved that the colonies "are entitled to the **common law** of England." Journal of Congress, Declaration of Rights of the Colonies; Act 14, 1774, pp. 27-31. Story says that the uniform doctrine ever since the settlement of the colonies, and the uniform principle which has been conformed to in practice, has been that the **common law** is our birthright and inheritance, "and that our ancestors brought hither with them, upon their emigration, all of it which was applicable to their situation." 1 Story, Const., section 157; 1 Kent, Comm. 471, and notes. In [Town of Pawlet v. Clark, 9 Cranch 292](#), it is said, "We take it to be a clear principle that the **common law** in force at the emigration of our ancestors is deemed the birthright of the colonies, unless so far as it is inapplicable to their situation, or repugnant to their other rights and privileges." In [U.S. v. Worrall, 2 Dall. 384](#), Fed.Rep.Cas. No. 16, 766. "There is no doubt that the **common law** is the basis of the laws of those states which were originally colonies of England, or carved out of such [\*\*\*8] colonies. It was imported by the colonists, and established, so far as it was applicable to their institutions and circumstances." [Norris v. Harris, 15 Cal. 226, at 227-252](#). In Cooley, Const. Lim. pp. 34-37, it is said:

*"From the first the colonists in America claimed the benefit and protection of the **common law**. In some particulars, however, the **common law**, as then existing in [\*118] England, was not suited to their conditions and circumstances in the new country, and these particulars they omitted as it was put in practice by them. They also claimed the benefit of such statutes as from time to time had been enacted in modification of this body of rules. \* \* \* The evidence of the **common law** consisted in part of the declaratory statutes we have mentioned, in part of the commentaries of such men learned in the law as had been accepted as authority, but mainly in the decisions of the courts applying the laws to actual controversies. While colonization continued--that is to say, until the war of the Revolution actually commenced--these decisions were authority in the colonies, and the changes made in the **common law** up to the same period were operative in America [\*\*\*9] also, if suited to the condition of things here. The opening of the war of the Revolution is the point of time at which the continuous stream of the **common law** became divided, and that portion which has been adopted in America flowed on by itself, no longer subject to changes from across the ocean, but liable still to be gradually modified through changes in the modes of thought and of business among the people, as well as through statutory enactments."*

The **common law**, then, existed in this country prior to the Declaration of Independence, but it was not a national **common law**. It was the local law of each colony. They had not yet formed a new nation. Now, when, if at all, did this **common law** which had become the heritage of the colonies cease to be applicable to the colonies severally, or when did it take on its national character? Surely, not by the Act of Independence, which made the colonies "free and independent states." The mere fact of the emerging of the colonies from their colonial condition into that of independent states did not ingraft the **common law**, which [\*119] had been severally adopted by the colonies, into a general system of national law. It is said that when [\*\*\*10] they became independent they were governed by the **common law** of England, so far as they had tacitly adopted it as suited to their condition, by the statutes of England amendatory of the **common law**, and by the colonial statutes. Judge Cooley says that the **common law** of England, and the statutes amendatory of it, "constituted the American **common law**, and by this, in great part, are rights adjudged and wrongs redressed in the American states to this day." Cooley, Const. Lim. p. 37. Here the learned author clearly recognizes that the **common law** he speaks of as being adopted in this country is the **common law** as adopted by the separate colonies, and not a **common law** of general national application. As is said [In re Barry, 42 F. 113](#): "Although the people brought with them, on their emigration to this country,

<sup>1</sup> Adapted from: *Gatton v. Chicago, R. I. & P. R. Co.*, 95 Iowa 112 (1895).

the essential principles of the **common law**, and embodied them in their institutions, yet this was not done by them in a national capacity (at that time no such character or capacity was contemplated), but as distinct communities, independent of each other." The situation in this respect was not changed by the articles of confederation. As is well said by Prof. Fiske [\*\*\*11] in his work on the Critical Period in American History (page 97):

*"The articles simply defined the relation of the states to the confederation, as they had already shaped themselves. Indeed, the articles, though not fully ratified till 1781, had been known to congress and to the people, ever since 1776, as their expected constitution, and political action had been shaped in general in accordance with the theory on which they had been drawn up."*

As yet we discover no reason for saying that there was any national **common law** prior to the adoption of the **constitution** of the United States. The apparent necessity of taking from the states, and granting to the general [\*120] government, the power to regulate commerce, was an early, if not the first, reason for calling a constitutional convention. Indeed, this power was vested in congress, only after a struggle in the convention, and by virtue of a concession made on the part of the New England states, whereby [\*592] consent was given to an extension of the foreign slave trade for twenty years. Fiske, 263, 264. The Southern states feared that "the New Englanders would get all the carrying trade into their own hands, and then charge [\*\*\*12] ruinous freights for carrying rice, indigo, and tobacco to the North and to Europe." Fiske, 263. It would seem that all such fears must have been groundless, if the principles of the **common law** as to carriers--that they should charge only reasonable rates for their services--were to be adopted and established as a national system of jurisprudence, as appellant claims was in fact done. It is a historical fact that the ratification of the **constitution** had only been accomplished when the very question now before us--as to whether there is a **common law** of the United States--was the subject of serious consideration in the legislative assemblies, and of judicial inquiry in the courts. On January 11, 1800, the general assembly of the State of Virginia adopted an instruction to their representatives in the United States senate. That document reads:

*"The general assembly of Virginia would consider themselves unfaithful to the trust reposed in them, were they to remain silent whilst a doctrine has been publicly advanced, novel in its principle and tremendous in its consequences,--that the **common law** of England is in force under the government of the United States. It is not, at this time, proposed [\*\*\*13] to expose at large the monstrous pretensions resulting from the adoption of the principle. It ought never, however, to be forgotten, and can never be too often repeated, that it opens a new tribunal for the trial of crimes, never contemplated [\*121] by the federal compact. It opens a new code of sanguinary criminal law, both obsolete and unknown, and either wholly rejected, or essentially modified in almost all its parts, by state institutions. It arrests or supersedes state jurisdictions, and innovates upon state laws. It subjects the citizen to punishment according to the judiciary will, when he is left in ignorance of what this law enjoins as a duty, or prohibits as a crime. It assumes a range of jurisdiction for the federal courts which defines limitation or definition."*

They then instruct their senators:

*"to oppose the passing of any law founded on or recognizing the principle lately advanced, that the **common law** of England is in force under the government of the United States; excepting from such opposition such particular parts of the **common law** as may have a sanction from the **constitution**, so far as they are necessarily comprehended in the technical phrases which express [\*\*\*14] the provisions delegated to the government, and excepting also such other parts thereof as may be adopted by congress as necessary and proper for carrying into execution the powers expressly delegated." Duponceau Jur. page 225.*

The Virginia instructions were no doubt caused by the consideration of this question in 1798 in the case of U.S. v. Worrall, 2 Dall. 384, Fed. Rep. Cas. No. 16,766. That was an indictment for an attempt to bribe a commissioner of the revenue of the United States. In that case the court says the question is "whether the courts of the United States can punish a man for any act before it is declared by a law of the United States to be criminal." It is there said:

*"It is attempted, however, to supply the silence of the **constitution** and statutes of the Union by resorting to the **common law** for a definition and punishment of the offense which has been committed. But in my opinion the United States, as a federal government, have no **common law**, and consequently no indictment can be maintained in these [\*122] courts for offenses merely at the **common law**. If, indeed, the United States can be supposed, for a moment, to have a **common law**, it must, I [\*\*\*15] presume, be that of England, and yet it is impossible to trace when or how the system was adopted or introduced. \* \* \* He who should travel through the different states will soon discover that the whole of the **common law** has been nowhere introduced,--some states have rejected what others have adopted,--and that there is, in short, a great and essential diversity in the subjects to which the **common law** is applied, as well as in the extent of its application. The **common law**, therefore, of one state, is not the **common law** of another. But the **common law** of England is the law of each state, so far as each state has adopted it. \* \* \* But the question recurs, when and how have the courts of the United States acquired **common-law** jurisdiction in criminal cases? The United States must possess the **common law** themselves, before they can communicate it to their judicial agents. Now, the United States did not bring it with them from England, the **constitution** does not create it, and no act of congress has assumed it. Besides, what is the **common law** to which we are referred? Is it the **common law** entire, as it exists in England, or modified as it exists in some of the states; and of the various modifications, [\*\*\*16] which are we to select?" In U. S. v. Hudson, 7 Cranch 32, 3 L.Ed. 259.*

Justice Johnson, in discussing the question of the **common-law** jurisdiction of the federal courts, says:

"Although this question is brought up now, for the first time, to be decided by this court, we consider it as having been long since settled in public opinion. In no other case for many years has the jurisdiction been asserted, and the general acquiescence of legal men shows the prevalence of opinion in favor of the negative." *U.S. v. Coolidge, 1 Wheat. 415, 4 L.Ed. 124.*

Peter S. Duponceau, provost of the law academy of Philadelphia, was an early and eminent [\*123] advocate of the theory that the **common law** was adopted as a federal system. In his work on Jurisdiction, he says:

"I am well aware that this doctrine of the nationality of the **common law** will meet with many opponents. There is a spirit of hostility abroad against this system, which cannot [\*\*593] escape the eye of the most superficial observer. It began in Virginia in the year 1799 or 1800, in consequence of an opposition to the alien and sedition acts. A committee of the legislative body made a report against [\*\*\*7], those laws, which was accepted by the house, in which it was broadly laid down that the **common law** is not the law of the United States. Not long afterwards the flame caught in Pennsylvania, and it was for some time believed that the legislature would abolish the **common law** altogether. Violent pamphlets were published to instigate them to that measure. The whole, however, ended in a law for determining all suits by arbitration in the first instance, at the will of either party, and another prohibiting the reading and quoting in courts of justice of British authorities of a date posterior to the Revolution. \* \* \* It was not long before this inimical disposition towards the **common law** made its way into the state of Ohio. In the year 1819 a learned and elaborate work was published in that state, in which it was endeavored to prove, not only that the **common law** was not the law of the United States, but that it had no authority in any of the states that had been formed out of the old Northwestern Territory. \* \* \* In other states, attacks upon the **common law**, more or less direct, have appeared from time to time." Duponceau Jur. pages 102, 103.

In this same work, and in support of his contention [\*\*\*18] that the **constitution** adopted the **common law** of England as a national system of law, the author says:

"But why need I go into such a wide argument to prove what I consider a self-evident principle? We live in the midst of the **common law**; we [\*124] inhale it at every breath, imbibe it at every pore; we meet it when we walk, and when we stay at home; it is interwoven with the very idiom that we speak; and we cannot learn another system of laws without learning at the same time another language. We cannot think of right or wrong, but through the medium of ideas that we have derived from the **common law**."

This may all be true, as applied to the existence of the **common law** as the local law of the states; but, in and of itself, it does not tend to establish the claim that we have a **common law** of the United States, national in its character and application. The doctrine that by the adoption of the **constitution** the people had accepted and established the heretofore existing **common law** as a rule of national action, and of general application, was not only in the early history of our nation, originally combated, but was denied by the courts in the cases in which it was then discussed, as [\*\*\*19] we have attempted to show. We have treated at some length of the historical phase of this question, as, to our minds, the subsequent discussion of the question will thereby be the better understood.

Subsequent to this historical backdrop, the U.S. Supreme Court declare that there is no federal common law, and that the common law applicable within a state originates only in the state tribunals:

"Except [\*\*\*27] in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State. And whether the law of the State shall be declared by its Legislature in a statute or by its highest court in a decision is not a matter of federal concern. There is no federal general common law. Congress has no power to declare substantive rules of common law applicable in a State whether they be local in their nature or "general," be they commercial law or a part of the law of torts. And no clause in the Constitution purports to confer such a power upon the federal courts. As stated by Mr. Justice Field when protesting in *Baltimore & Ohio R. Co. v. Baugh*, 149 U.S. 368, 401, against ignoring the Ohio common law of fellow servant liability:

"I am aware that what has been termed the general law of the country -- which is often little less than what the judge advancing the doctrine thinks at the time should be the general law on a particular subject -- has been often advanced in judicial opinions of this court to control a conflicting law of a State. I admit that learned judges have fallen into the habit of repeating this [\*\*\*28] doctrine as a convenient mode of brushing aside the law of a State in conflict with their views. And I confess that, moved and governed by the authority of the great names of those judges, I have, myself, in many instances, unhesitatingly and confidently, but I think now erroneously, repeated the same doctrine. But, notwithstanding the great names which may be cited in favor of the doctrine, and notwithstanding the frequency with which the doctrine has been reiterated, there stands, as a perpetual protest against its repetition, HN2 the Constitution of the United States, which recognizes and preserves the autonomy and independence of the States -- independence in their legislative and independence [\*79] in their judicial departments. Supervision over [\*\*\*1195] either the legislative or the judicial action of the States is in no case permissible except as [\*\*823] to matters by the Constitution specifically authorized or delegated to the United States. Any interference with either, except as thus permitted, is an invasion of the authority of the State and, to that extent, a denial [\*\*\*29] of its independence."

[*Erie R.R. v. Tompkins*, 304 U.S. 64 (1938)]

### 3 Rights which may be vindicated according to the common law MUST originate in either the constitution or in civil statutes<sup>2</sup>

In a civil context, courts may not INVENT new rights to enforce under the common law. Those rights must already exist either under the Constitution of the venue or the civil statutes of the venue. They can come from no other source. In the case of the constitution, those rights are PRIVATE in nature and attach to human beings. In the case of statutes, those rights are PUBLIC in nature and are privileges that always come with obligations. If you want to avoid obligations, then avoid statutory rights and privileges.

Many patriots falsely think they can INVENT some new right to claim in a common law court. They are mistaken. In most cases, they must identify an EXISTING PRIVATE right from the constitution of the venue they are in. To get a remedy, they must demonstrate standing to sue by developing evidence of a quantifiable injury to that right, and prove that the defendant was the direct and proximate cause of that injury.

The **constitution** of the United States provides "that judicial power shall extend to all cases in law and equity, arising under this **constitution**; the laws of the United States, and treaties made, or which shall be made, under their authority: \* \* \* to all cases of admiralty and maritime jurisdiction." Article 3, section 2. It is contended that the above provision is a clear recognition of the existence of the several systems of law, equity, and admiralty, and that by this constitutional provision the systems are not created, but their existence is simply recognized, and the extent of federal jurisdiction in regard thereto fixed. Now, it is to be observed that, as to admiralty and maritime jurisdiction, the language used is without restriction or limitation. It is, "the federal power shall extend \* \* \* to all cases of admiralty and maritime jurisdiction." It is not provided that the judicial power shall extend to all cases of law and equity jurisdiction, without limitation. But the provision is that it "shall extend to all cases in law or equity, arising under this **constitution**, the laws of the United States," etc. So it will be seen that, as to admiralty, jurisdiction extends "to all cases of admiralty and maritime jurisdiction," while, as to law and equity, the judicial power is extended to all cases which arise under the **constitution**, the laws of the United States, and treaties. In the latter case there is a fixed limitation as to the extent of judicial power. The particular cases to which such power is extended are expressly pointed out. If the provision was that the judicial power should extend to all cases of law and equity jurisdiction, or its equivalent, its meaning would obviously be different. So, then, the jurisdiction thus conferred by the **constitution** as to cases in "law and equity" is limited by what follows as to cases arising under the **constitution**, etc. In other words, it seems to us that to give the words "in law and equity," as used in the **constitution**, the meaning contended for, is to ignore the meaning and effect of the qualifying words which follow them. Reading the entire sentence, it is reasonably clear that the words "in law and equity" are not used to describe a system or systems of jurisprudence then or theretofore in existence. The jurisdiction is as to cases in law or equity "arising under" the **constitution**, laws, and treaties. We are then to look to the **constitution**, the laws of the United States, and to its treaties, to determine what rights are given. The rights conferred by this provision do not arise by reason of a constitutional recognition of the **common-law** system, but are conferred, as to cases at law or in equity, by the **constitution** itself, the laws of the United States, or by its treaties. If not embraced within these, they cannot be said to be given. Now, a supposed right is sought to be enforced at law or in equity, but such right, if it exists at all, must arise--that is, exist or be given--by the **constitution** or laws of the United States, or its treaties. The **constitution** and laws of the United States, fix, establish, and give certain rights. In the attempt to assert or defend such rights, "cases" arise. In some of them the **remedy** applicable would be furnished by an application of the rules of the **common law**; in others, by principles of equity. So there are cases "at law or in equity," so far as the proper method of procedure or **remedy** is concerned; but as to the rights given, upon which such cases are based, they are to be found by a resort to the **constitution**, laws of the United States, and its treaties. Jurisdiction, then, is not conferred by any express or implied recognition or adoption of the **common law**; but when it attaches under the **constitution**, laws, or treaties of the United States, the remedies afforded for the enforcement of the rights thus granted are to be in accordance with the course of the **common law**. In brief, the position we take is that the provision of the **constitution** of the United States under consideration is to be interpreted as providing that rights are conferred by the **constitution**, laws of the United States, and its treaties, while the remedies for the securing of these rights are to be at **common law**, or according to the principles of equity, as the case may be. It is said in *Robinson v. Campbell*, 3 Wheat. 212, 4 L.Ed. 372: "By the laws of the United States, the circuit courts have cognizance of all suits of a civil nature, at **common law** and in equity, in cases which fall within the limits prescribed by these laws. \* \* \* The court therefore thinks that, to effectuate the purpose of the legislature, the *remedies* in the courts of the United States are to be at **common law**, or in equity,--not according to the practice of state courts, but according to the principles of **common law** and equity, as distinguished and defined in that

<sup>2</sup> Adapted from: *Gatton v. Chicago, R.I. & P.R. Co.*, 95 Iowa 112 (1895).

country from which we derive our knowledge of those principles." In Irvine v. Marshall, 20 HOW 558, 15 L.Ed. 994, it is said: "With regard to the fourth objection,--want of jurisdiction in the courts of the United States, in the absence of express statutory provisions, to recognize and enforce a resulting trust, \* \* \* --it is a sufficient response to say that the jurisdiction of the courts of the United States is properly commensurate with every *right and duty* created, declared, or necessarily implied, by and under the **constitution** and laws of the United States. Those courts are created courts of **common law** and equity, and under whichsoever of these classes of jurisprudence such rights or duties may fall, or be appropriately ranged, they are to be taken cognizance of and adjudicated according to the settled and known principles of that division to which they belong. By the language of the **constitution**, it is expressly declared that the judicial power of the United States shall extend to all cases in law and equity arising under the **constitution**, the laws of the United States, and treaties made under their authority. By the statute which organized the judiciary of the United States, it is provided that the circuit courts shall have jurisdiction of suits of a civil nature at **common law** or in equity. In the interpretations of these clauses of the **constitution** and the statute, this court has repeatedly ruled that by 'cases at **common law**' are to be understood suits in which legal rights are to be ascertained and determined, in contradistinction to those where equitable rights alone are recognized, and equitable remedies administered. \* \* \* Can these courts, consistently with their duty, refuse to exert those powers and that jurisdiction for the protection of rights *arising* under the **constitution** and laws, in the acceptance in which both have been interpreted and sanctioned?" These cases, we think, support our conclusion that rights are to be given by the **constitution**, the laws of the United States, or its treaties, but remedies for such rights are to be pursued in accordance with the course of the **common law**. If we are right in this view, it follows that the **constitution** does not confer upon the courts of the United States full **common law** jurisdiction, in a national sense.

## 4 Definition of "common law"

The following subsections contain several definitions of "common law" found on the internet and elsewhere. This will frame our later discussion

### 4.1 How the "Common Law" is defined by the "Common Law" Itself

ACTUAL PROOF FROM THE "COMMON LAW" ITSELF!

*State v. Qusted: THE COMMON LAW IS DEFINED AS "[T]HE BODY OF LAW DERIVED FROM JUDICIAL DECISIONS, RATHER THAN FROM STATUTES OR CONSTITUTIONS, CASELAW. Black's Law Dictionary 334 (10th ed.2014)." (in the 7th paragraph of Justice Johnson's "Dissent", at about 75% through the text HERE:  
[State of Kansas v. Joshua Qusted, 352 P.3d. 553 (2015); SOURCE:  
[https://scholar.google.com/scholar\\_case?case=4145277851828805289](https://scholar.google.com/scholar_case?case=4145277851828805289)]*

MORE ACTUAL PROOF FROM THE "COMMON LAW" ITSELF:

*State v. Hyde: THE COMMON LAW IS DEFINED AS "[T]HE BODY OF LAW DERIVED FROM JUDICIAL DECISIONS, RATHER THAN FROM STATUTES OR CONSTITUTIONS. Black's Law Dictionary 293 (8th ed. 2004)." (in the 7th paragraph, at about 75% through the text HERE.  
[State of North Carolina v. Mason White Hyde, No. COA15-1260; SOURCE:  
[https://scholar.google.com/scholar\\_case?case=7712646074919813387](https://scholar.google.com/scholar_case?case=7712646074919813387)]*

### 4.2 Black's Law Dictionary

Black's Law Dictionary defines the common law as follows:

**Common law.** As distinguished from statutory law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this sense, particularly the ancient unwritten law of England. In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The "common law" is all the statutory and case law background of England and the American colonies before the American revolution. *People v. Rehman*, 253 C.A.2d. 119, 61 Cal.Rptr. 65, 85. It consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. *Bishop v. U.S., D.C.Tex.*, 334 F.Supp. 415, 418.

*Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State."*

*In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs.*

*For federal common law, see that title.*

*As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and sometimes also to "equitable" or to "criminal."  
[Black's Law Dictionary, Sixth Edition, p. 276]*

So the chief characteristics of the common law are:

1. It is created by the courts RATHER than the legislature.
2. It is opposite to and mutually exclusive to statutory law.
3. It is related solely to the protection of private rights that are not subject to government control.
4. It existed before the Constitution was enacted and ratified.
5. It derives from the common law of England.

### 4.3 Lexis+ Definition

We typed in the following phrase in Lexis+ search. Lexis+ is a premium online legal research tool used by upper-echelon judges, lawyers and attorneys:

*"What is the definition of common law of England?"*

Below was the answer:

*The term "common law" means both the common law of England as opposed to statute or written law, and the statutes passed before the emigration of the first settlers of America.*



**Johnson v. Union Pac. Coal Co.**

*Utah Supreme Court | May 28, 1904/28 Utah 46*

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*Unlike statutory law, whose authority rests upon an express declaration by a legislative body, the common law consists of those principles and forms which grow out of the customs and habits of a people, enshrined in law by virtue of judicial decisions. The term "common law" denotes a body of judge-made law developed originally in England. The term "common law crime" means a crime that was punishable under the common law, rather than by force of statute.*



**People v. Williams**

*California Supreme Court | Aug 26, 2013/57 Cal. 4th 776*

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*Unlike statutory law, whose authority rests upon an express declaration by a legislative body, the common law consists of those principles and forms which grow out of the customs and habits of a people, enshrined in law by virtue of judicial decisions. The term "common law" denotes a body of judge-made law developed originally in England. The term "common law crime" means a crime that was punishable under the common law, rather than by force of statute.*



**People v. Williams**

*California Supreme Court | Aug 26, 2013/57 Cal. 4th 776*

Show Fewer Answers

## 4.4 U.S. Supreme Court

The following ruling by the U.S. Supreme Court helps explain WHY the common has to be fashioned by the courts rather than the legislature, by relating it to the enforcement of constitutional rights against government actors.

*The design of the Fourteenth Amendment has proved significant also in maintaining the traditional separation of powers 524\*524 between Congress and the Judiciary. The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those prohibitions. The Bingham draft, some thought, departed from that tradition by vesting in Congress primary power to interpret and elaborate on the meaning of the new Amendment through legislation. Under it, "Congress, and not the courts, was to judge whether or not any of the privileges or immunities were not secured to citizens in the several States." Flack, supra, at 64. While this separation-of-powers aspect did not occasion the widespread resistance which was caused by the proposal's threat to the federal balance, it nonetheless attracted the attention of various Members. See Cong. Globe, 39th Cong., 1st Sess., at 1064 (statement of Rep. Hale) (noting that Bill of Rights, unlike the Bingham proposal, "provide[s] safeguards to be enforced by the courts, and not to be exercised by the Legislature"); id., at App. 133 (statement of Rep. Rogers) (prior to Bingham proposal it "was left entirely for the courts . . . to enforce the privileges and immunities of the citizens"). As enacted, the Fourteenth Amendment confers substantive rights against the States which, like the provisions of the Bill of Rights, are self-executing. Cf. South Carolina v. Katzenbach, 383 U.S., at 325 (discussing Fifteenth Amendment). The power to interpret the Constitution in a case or controversy remains in the Judiciary. [City of Boerne v. Flores, 521 U.S. 507 (1997)]*

By "self-executing prohibitions", they mean that the rights recognized by the Bill of Rights DO NOT NEED implementing enactments or statutes to make them directly enforceable in a federal court. Rather, they can be used as a direct basis for standing and injury without citing any specific statutory enactment of the legislature whatsoever.

## 4.5 The Constitution of the United States of America, Analysis and Interpretation, Congressional Research Service

Another useful resource for determining the context for "common law" in the context of the Constitution is:

*The Constitution of the United States of America, Analysis and Interpretation*, U.S. Government Printing Office, 2004  
<https://famguardian.org/PublishedAuthors/Govt/CRS/USConstAnnotated.pdf>

There are 189 hits on the term "common law" in the above document. They even use the phrase "CONSTITUTIONAL common law". This implies that "common law" can involve WRITTEN LAW, because the CONSTITUTION is written law:

*"And <sup>HN13</sup> the Constitution itself is in every real sense a law -- the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. "We the people of the United States," it says, "do ordain and establish this Constitution . . ." Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly -- "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; . . . shall be the supreme Law of the Land; . . ." <sup>HN14</sup> The supremacy of [<sup>\*\*\*\*97</sup>] the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior statute [<sup>\*297</sup>] whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, Adkins v. Children's Hospital, 261 U.S. 525, 544; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. Schechter v. United States, 295 U.S. 495, 549-550. [Carter v. Carter Coal Co., 298 U.S. 238 (1936)]*

Below are some selected excerpts about "common law" derived from the above:

### 1. Historical Note on the Formation of the Constitution, p. XIII

*In June 1774, the Virginia and Massachusetts assemblies independently proposed an intercolonial meeting of delegates from the several colonies to restore union and harmony between Great Britain and her American Colonies. Pursuant to these calls there met in Philadelphia in September of that year the first Continental Congress, composed of delegates from 12 colonies. On October 14, 1774, the assembly adopted what has become to be known as the Declaration and Resolves of the First Continental Congress. In*

that instrument, addressed to his Majesty and to the people of Great Britain, there was embodied a statement of rights and principles, many of which were later to be incorporated in the Declaration of Independence and the Federal Constitution. [1]

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**FOOTNOTES:**

[1] The colonists, for example, claimed the right "to life, liberty, and property", "the rights, liberties, and immunities of free and natural-born subjects within the realm of England"; the right to participate in legislative councils; "the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of [the common law of England]"; "the immunities and privileges granted and confirmed to them by royal charters, or secured by their several codes of provincial laws"; "a right peaceably to assemble, consider of their grievances, and petition the king." They further declared that the keeping of a standing army in the colonies in time of peace without the consent of the colony in which the army was kept was "against law"; that it was "indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other"; that certain acts of Parliament in contravention of the foregoing principles were "infringement and violations of the rights of the colonists." Text in C. Tansill (ed.), *Documents Illustrative of the Formation of the Union of the American States*, H. Doc. No. 358, 69th Congress, 1st sess. (1927) , 1. See also H. Commager (ed.), *Documents of American History* (New York; 8th ed. 1964), 82.

2. Seventh Amendment, p. 27

AMENDMENT [VII.]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

3. Judicial Enforcement, p. 65

Previously, informed understandings of the principles have underlain judicial construction of particular clauses or guided formulation of constitutional common law. That is, the nondelegation doctrine was from the beginning suffused with a separation-of-powers premise, 10 and the effective demise of the doctrine as a judicially-enforceable construct reflects the Court's inability to give any meaningful content to it. 11

4. Congressional Regulation of Production and Industrial Relations: Antidepression Legislation, p. 198

The relation of employer and employee is a local relation. At common law, it is one of the domestic relations.

5. The Standards Applied

Express Preemption. Of course, it is possible for Congress to write preemptive language that clearly and cleanly prescribes or does not prescribe displacement of state laws in an area. 1102

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1102 Not only congressional enactments can preempt. Agency regulations, when Congress has expressly or implied empowered these bodies to preempt, are "the supreme law of the land" under the supremacy clause and can displace state law. E.g., *Smiley v. Citibank*, 517 U.S. 735 (1996); *City of New York v. FCC*, 486 U.S. 57, 63-64 (1988); *Louisiana Public Service Comm'n v. FCC*, 476 U.S. 355 (1986); *Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691 (1984); *Fidelity Federal Savings & Loan Ass'n v. de la Cuesta*, 458 U.S. 141 (1982). Federal common law, i.e., law promulgated by the courts respecting uniquely federal interests and absent explicit statutory directive by Congress, can also displace state law. See *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988) (Supreme Court promulgated common-law rule creating government-contractor defense in tort liability suits, despite Congress having considered and failed to enact bills doing precisely this); *Westfall v. Erwin*, 484 U.S. 292 (1988) (civil liability of federal officials for actions taken in the course of their duty). Finally, ordinances of local governments are subject to preemption under the same standards as state law. *Hillsborough County v. Automated Medical Laboratories*, 471 U.S. 707 (1985).

6. The Standard Applied, p. 265

The Court continued to struggle with application of express preemption language to state common-law tort actions in *Geier v. American Honda Motor Co.* 1117 The National Traffic and Motor Vehicle Safety Act contained both a preemption clause, prohibiting states from applying "any safety standard" different from an applicable federal standard, and a "saving clause," providing that "compliance with" a federal safety standard "does not exempt any person from any liability under common law." The Court determined that the express preemption clause was inapplicable. However, despite the saving clause, the Court ruled that a common law tort action seeking damages for failure to equip a car with an airbag was preempted because its application would frustrate the purpose of a Federal Motor Vehicle Safety Standard that had allowed manufacturers to choose from among a variety of "passive restraint" systems for the applicable model year. 1118

1 7. Nature and Scope of the Right Secured, p. 316

2 *Nature and Scope of the Right Secured* The leading case bearing on the nature of the rights which Congress is authorized to secure  
3 is that of *Wheaton v. Peters*. Wheaton charged Peters with having infringed his copyright on the twelve volumes of "Wheaton's  
4 Reports," wherein are reported the decisions of the United States Supreme Court for the years from 1816 to 1827 inclusive. Peters'  
5 defense turned on the proposition that inasmuch as Wheaton had not complied with all of the requirements of the act of Congress,  
6 his alleged copyright was void. Wheaton, while denying this assertion of fact, further contended that the statute was only intended to  
7 secure him in his pre-existent rights at common law. These at least, he claimed, the Court should protect. A divided Court held in  
8 favor of Peters on the legal question. It denied, in the first place, that there was any principle of the common law that protected an  
9 author in the sole right to continue to publish a work once published. It denied, in the second place, that there is any principle of  
10 law, common or otherwise, which pervades the Union except such as are embodied in the Constitution and the acts of Congress.  
11 Nor, in the third place, it held, did the word "securing" in the Constitution recognize the alleged common law principle Wheaton  
12 invoked.

13 8. Status of Judicial Decisions, p. 389

14 *Dealing with Gelpcke and adherent decisions*, Chief Justice Taft said: "These cases were not writs of error to the Supreme Court of  
15 a State. They were appeals or writs of error to federal courts where recovery was sought upon municipal or county bonds or some  
16 other form of contracts, the validity of which had been sustained by decisions of the Supreme Court of a State prior to their  
17 execution, and had been denied by the same court after their issue or making. In such cases the federal courts exercising  
18 jurisdiction between citizens of different States held themselves free to decide what the state law was, and to enforce it as laid down  
19 by the state Supreme Court before the contracts were made rather than in later decisions. They did not base this conclusion on  
20 Article I, § 10, of the Federal Constitution, but on the state law as they determined it, which, in diverse citizenship cases, under the  
21 third Article of the Federal Constitution they were empowered to do. *Burgess v. Seligman*, 107 U.S. 20 (1883)." 1954 While  
22 doubtless this was an available explanation in 1924, the decision in 1938 in *Erie Railroad Co. v. Tompkins*, 1955 so cut down the  
23 power of the federal courts to decide diversity of citizenship cases according to their own notions of "general principles of  
24 common law" as to raise the question whether the Court will not be required eventually to put Gelpcke and its companions and  
25 descendants squarely on the obligation of contracts clause or else abandon them.

26 9. Public Grants that are Not "Contracts", p. 392

27 *On the same ground of public agency*, neither appointment nor election to public office creates a contract in the sense of Article I, §  
28 10, whether as to tenure, or salary, or duties, all of which remain, so far as the Constitution of the United States is concerned,  
29 subject to legislative modification or outright repeal. 1973 Indeed, there can be no such thing in this country as property in office,  
30 although the common law sustained a different view sometimes reflected in early cases. 1974 When, however, services have once  
31 been rendered, there arises an implied contract that they shall be compensated at the rate in force at the time they were rendered.  
32 1975 Also, an express contract between the State and an individual for the performance of specific services falls within the  
33 protection of the Constitution. Thus, a contract made by the governor pursuant to a statute authorizing the appointment of a  
34 commissioner to conduct, over a period of years, a geological, mineralogical, and agricultural survey of the State, for which a  
35 definite sum had been authorized, was held to have been impaired by repeal of the statute. 1976 But a resolution of a local board of  
36 education reducing teachers' salaries for the school year 1933-1934, pursuant to an act of the legislature authorizing such action,  
37 was held not to impair the contract of a teacher who, having served three years, was by earlier legislation exempt from having his  
38 salary reduced except for inefficiency or misconduct. 1977

39 10. Martial Law and Constitutional Limitations, p. 478

40 *Martial Law and Constitutional Limitations*

41 Two theories of martial law are reflected in decisions of the Supreme Court. The first, which stems from the *Petition of Right*, 1628,  
42 provides that the common law knows no such thing as martial law; 200 that is to say, martial law is not established by official  
43 authority of any sort, but arises from the nature of things, being the law of paramount necessity, leaving the civil courts to be the  
44 final judges of necessity. 201

45 **4.6 Cornell University**

46 *Common Law*

47 Common law is law that is derived from judicial decisions instead of from statutes. American courts originally fashioned common  
48 law rules based on English common law until the American legal system was sufficiently mature to create common law rules either  
49 from direct precedent or by analogy to comparable areas of decided law. In the 2019 Supreme Court case of *Gamble v. United*  
50 *States*, Justice Thomas issued a concurring opinion discussing common law and, in particular, the role of stare decises in a common  
51 law system. Though most common law is found at the state level, there is a limited body of federal common law--that is, rules  
52 created and applied by federal courts absent any controlling federal statute. In the 2020 Supreme Court opinion *Rodriguez v.*  
53 *FDIC*, a unanimous Court quoted an earlier decision to explain that federal "common lawmaking must be 'necessary to protect  
54 uniquely federal interests'" in striking down a federal common law rule addressing the distribution of corporate tax refunds.

At the state level, legislatures often subsequently [codify](#) common law rules from the courts of their state, either to give the rule the permanence afforded by a statute, to modify it somehow (by either expanding or restricting the scope of the common law rule, for example) or to replace the outcome entirely with legislation. An example that gained national attention was the 2018 California Supreme Court decision in [Dynamex Operations West, Inc. v. Superior Court](#), which articulated a three-part test for determining whether California workers were independent contractors or employees for purposes of California labor law. The California Legislature responded by creating a new section of the Labor Code, [2750.3](#), which codified and expanded on the Dynamex holding and went into effect on January 1, 2020. (Note that, like many statutes responding to a common law rule, California Labor Code Section 2750.3 specifically mentions the Dynamex holding.)  
[Cornell University; [https://www.law.cornell.edu/wex/common\\_law](https://www.law.cornell.edu/wex/common_law)]

## 4.7 Wikipedia

### Common Law

In [law](#), **common law** (also known as judicial **precedent** or judge-made law, or [case law](#)) is the body of law created by judges and similar quasi-judicial [tribunals](#) by virtue of being stated in written opinions.<sup>[1][2][3][4][5][6]</sup> The defining characteristic of “common law” is that it arises as [precedent](#). In cases where the parties disagree on what the law is, a common law court looks to past precedential decisions of relevant courts, and synthesizes the principles of those past cases as applicable to the current facts. If a similar dispute has been resolved in the past, the court is usually bound to follow the reasoning used in the prior decision (a principle known as [stare decisis](#)). If, however, the court finds that the current dispute is fundamentally distinct from all previous cases (called a “[matter of first impression](#)”), and [legislative statutes](#) are either silent or ambiguous on the question, judges have the authority and duty to resolve the issue (one party or the other has to win, and on disagreements of law, judges make that decision).<sup>[7]</sup> The court states an [opinion](#) that gives reasons for the decision, and those reasons agglomerate with past decisions as [precedent](#) to bind future judges and litigants. Common law, as the body of law made by judges,<sup>[3][8]</sup> stands in contrast to and on equal footing with [statutes](#) which are adopted through the legislative process, and [regulations](#) which are promulgated by the [executive branch](#) (the interactions among these different sources of law are explained [later](#) in this article). [Stare decisis](#), the principle that cases should be decided according to consistent principled rules so that similar facts will yield similar results, lies at the heart of all common law systems.<sup>[9]</sup>

The common law—so named because it was “common” to all the king’s courts across England—originated in the practices of the courts of the English kings in the centuries following the [Norman Conquest](#) in 1066.<sup>[10]</sup> The [British Empire](#) later spread the English legal system to its far flung colonies, many of which retain the common law system today. These “common law systems” are [legal systems](#) that give great weight to judicial precedent, and to the style of reasoning inherited from the [English](#) legal system.<sup>[11][12][13][14]</sup>  
[Wikipedia; [https://en.wikipedia.org/wiki/Common\\_law](https://en.wikipedia.org/wiki/Common_law)]

### FOOTNOTES:

1. Garner, Bryan A. (2001) [1995]. [A Dictionary of Modern Legal Usage](#) (2nd, revised ed.). New York: [Oxford University Press](#). p. 177. In modern usage, common law is contrasted with a number of other terms. First, in denoting the body of judge-made law based on that developed in England... [P]erhaps most commonly within Anglo-American jurisdictions, common law is contrasted with statutory law ...

2. ^ [Jump up to:](#) <sup>a</sup> <sup>b</sup> <sup>c</sup> <sup>d</sup> <sup>e</sup> Black’s Law Dictionary – Common law (10th ed.). 2014. p. 334. 1. The body of law derived from judicial decisions, rather than from statutes or constitutions; [synonym] CASE LAW [contrast to] STATUTORY LAW. [Black’s Law Dictionary](#) is the most-used legal dictionary used among legal professionals in the U.S.“[U.S. Legal Dictionaries](#)”. library.law.yale.edu.

3. ^ [Jump up to:](#) <sup>a</sup> <sup>b</sup> <sup>c</sup> <sup>d</sup> <sup>e</sup> “The common law is not a brooding omnipresence in the sky, but the articulate voice of some sovereign or quasi sovereign that can be identified,” Southern Pacific Company v. Jensen, 244 U.S. 205, 222 (1917) (Oliver Wendell Holmes, dissenting). By the early 20th century, legal professionals had come to reject any idea of a higher or natural law, or a law above the law. The law arises through the act of a sovereign, whether that sovereign speaks through a legislature, executive, or judicial officer.

4. ^ [Jump up to:](#) <sup>a</sup> <sup>b</sup> Lloyd Duhaime. “[Common Law Legal Definition](#)”. duhaime.org. Archived from [the original](#) on 24 May 2012. Retrieved 17 March 2012. Judge-declared law. ...

5. ^ [Jump up to:](#) <sup>a</sup> <sup>b</sup> Washington Probate, “Estate Planning & Probate Glossary”, Washington (State) Probate, [s.v. “common” Archived](#) 25 May 2017 at [Archive-It](#), 8 December 2008.; retrieved 7 November 2009.”1. A law based on a prior court decision”

6. ^ For additional cites giving this definition, see [the section on the connotations of the term “common law.”](#) below.

7. ^ Marbury v. Madison, [5 U.S. 137](#) (1803) (“It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.”)

8. ^ Jump up to:<sup>a b c d e f g h i j k l</sup> Carpenter, Charles E. (1917). "Court Decisions and the Common Law". *Columbia Law Review*. **17** (7): 593–607. doi:<sup>a b c d e f g h i j k l</sup>[10.2307/1112172](https://doi.org/10.2307/1112172). JSTOR <sup>a b c d e f g h i j k l</sup>[1112172](https://www.jstor.org/stable/1112172). (common law court "decisions are themselves law, or rather the rules which the courts lay down in making the decisions constitute law.")

9. ^ Karl Llewellyn, *The Common Law Tradition: Deciding Appeals* at 77–87, Little, Brown, Boston MA (1960)

10. ^ Jump up to:<sup>a b c d e</sup> [Langbein, Lerner & Smith \(2009\)](#), p. 4.

11. ^ Jump up to:<sup>a b</sup> Black's Law Dictionary – Common law (10th ed.). 2014. p. 334. 2. The body of law based on the English legal system, as distinct from a civil-law system; the general Anglo-American system of legal concepts, together with the techniques of applying them, that form the basis of the law in jurisdictions where the system applies...

12. ^ Jump up to:<sup>a b</sup> Garner, Bryan A. (2001). *A Dictionary of Modern Legal Usage* (2nd, revised ed.). New York: [Oxford University Press](#). "common law" is contrasted by comparative jurists to civil law.

13. ^ Washington Probate, "Estate Planning & Probate Glossary", Washington (State) Probate, [s.v. "common law" Archived 5 May 2017 at Archive-It](#), 8 December 2008; retrieved on 7 November 2009. "2. The system of law originated and developed in England and based on prior court decisions, on the doctrines implicit in those decisions, and on customs and usages rather than codified written law. Contrast: CIVIL LAW."

14. ^ Charles Arnold-Baker, *The Companion to British History*, s.v. "English Law" (London: Longcross Denholm Press, 2008), 484.

## 4.8 Encyclopedia Britannica

### *Common Law*

*Common law*, also called **Anglo-American law**, the body of customary law, based upon judicial decisions and embodied in reports of decided cases, that has been administered by the common-law courts of [England](#) since the [Middle Ages](#). From it has evolved the type of legal system now found also in the [United States](#) and in most of the member states of the [Commonwealth](#) (formerly the British Commonwealth of Nations). In this sense common law stands in contrast to the legal system derived from [civil law](#), now widespread in continental Europe and elsewhere. In another, narrower, sense, common law is contrasted to the rules applied in [English](#) and American courts of [equity](#) and also to statute law. A standing expository difficulty is that, whereas the United Kingdom is a [unitary state](#) in [international law](#), it [comprises](#) three major (and other minor) legal systems, those of England and [Wales](#), [Scotland](#), and [Northern Ireland](#). Historically, the common-law system in England (applied to Wales since 1536) has directly influenced that in Ireland but only partially influenced the distinct legal system in Scotland, which is therefore, except as regards international matters, not covered in this article. Beginning in 1973 the legal systems in the United Kingdom experienced [integration](#) into the system of [European Union](#) (EU) law, which had direct effects upon the domestic law of its [constituent](#) states—the majority of which had domestic systems that were influenced by the civil-law tradition and that [cultivated](#) a more purposive technique of legislative interpretation than was customary in the English common law. However, the United Kingdom exited the EU in 2020. The regime of [human rights](#) represented by the [European Convention on Human Rights](#) (1950) has exercised a similar influence in the United Kingdom since the passage by [Parliament](#) of the [Human Rights Act 1998](#). [Encyclopedia Britannic; <https://www.britannica.com/topic/common-law>]

## 4.9 Legal Dictionary

### *Common Law meaning*

Common law is a term used to refer to law that is developed through decisions of the court, rather than by relying solely on statutes or regulations. Also known as "case law," or "case precedent," common law provides a contextual background for many legal concepts. Common laws vary depending on the [jurisdiction](#), but in general, the ruling of a judge is often used as a basis for deciding future similar cases. To explore this concept, consider the following common law definition.

### *Definition of Common Law*

#### **Noun**

Laws that are based on court or tribunal decisions, which govern future decisions on similar cases.

#### **Origin**

1300-1350 Middle English

[Legal Dictionary; <https://legaldictionary.net/common-law/>]

## 4.10 U.S. Legal

### Common Law Law and Legal Definition

Common law is the system of deciding cases that originated in England and which was latter [sic.] adopted in the U.S.. Common law is based on precedent (legal principles developed in earlier case law) instead of statutory laws. It is the traditional law of an area or region created by judges when deciding individual disputes or cases. Common law changes over time.

The U.S. is a common law country. In all states except Louisiana, which is based on Napoleonic code, the common law of England was adopted as the general law of the state, or varied by statute. Today almost all common law has been enacted into statutes with modern variations by all the states. Broad areas of the law, such as property, contracts and torts are traditionally part of the common law. Because these areas of the law are mostly within the jurisdiction of the states, state courts are the main source of common law. The area of federal common law is primarily limited to federal issues that have not been addressed by a statute.

[U.S. Legal; <https://definitions.uslegal.com/c/common-law/>]

## 4.11 Merriam Webster Dictionary

common-law [adjective](#)

com-mon-law / \ 'kū-mən-,lō \

Definition of common-law

(Entry 1 of 2)

1: of, relating to, or based on the common law

2: relating to or based on a common-law marriage

common law

[noun](#)

Definition of common law (Entry 2 of 2)

: the body of law developed in England primarily from judicial decisions based on custom and precedent, unwritten in statute or code, and constituting the basis of the English legal system and of the system in all of the U.S. except Louisiana

Examples of common-law in a Sentence

**Recent Examples on the Web: Noun** This was a pointed rejection of English common law, which barred felony defendants from hiring counsel to represent them.— *Alex Pareene*, The New Republic, "Neal Katyal and the Depravity of Big Law," 8 Dec. 2020 Statutes, common law, and public policies can restrict access to information in public records.— *Mary Spicuzza*, Milwaukee Journal Sentinel, "Milwaukee Health Department says staff are being targeted by death threats, 'doxxing'," 20 Nov. 2020

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'common-law.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. [Send us feedback](#).

[Merriam Webster Dictionary; <https://www.merriam-webster.com/dictionary/common-law/>]

## 4.12 Wiktionary

Noun[[edit](#)]

**common law** (uncountable)

(law) Law developed by [judges](#), [courts](#), and agency adjudicatory tribunals, through their decisions and opinions (also called [case law](#)) (as opposed to [statutes](#) promulgated by legislatures, and regulations promulgated by the executive branch).

(law) Legal system mainly in England and its former colonies with a heavy emphasis on judge-made law, [doctrines](#) deduced by [casuistry](#) rather than from general principles, and law distributed among judicial decisions rather than codified statutes (as opposed to [civil law](#)).

([law](#), [historical](#)) Body of law and procedure administered in certain courts (known as law courts) in England and its former colonies characterized by a rigid system of [writs](#), with a limited set of remedies (as opposed to [equity](#) or [admiralty](#)).

([law](#), Scots law, Roman-Dutch law) Law of general application throughout a country, province, or state as opposed to law having only a special or local application

#### Synonyms[[edit](#)]

[case law](#), [decisional law](#), [judge-made law](#), [precedential law](#)

#### Antonyms[[edit](#)]

[statute](#)

[equity](#), [admiralty](#)

[civil law](#), [Roman law](#), [ius commune](#), [canon law](#), [ecclesiastical law](#)

#### Derived terms[[edit](#)]

[common-law marriage](#)

[Wiktionary; [https://en.wiktionary.org/wiki/common\\_law](https://en.wiktionary.org/wiki/common_law)]

### 4.13 North Carolina Pedia

Common Law

by John V. Orth, 2006

Common Law is the system of legal rules developed over the centuries by English judges in their decisions on cases. Being familiar to the early settlers of North Carolina, the common law was naturally applied during the [colonial period](#); a [statute of 1715](#) required it. After [American independence](#), legislation was passed making the common law the rule in the state unless specifically altered; the North Carolina [Supreme Court](#) has consistently defined the "common law" referred to in this statute as that which was in force in England on 4 July 1776. This interpretation remains valid in the state. Undoubtedly, the best source for eighteenth-century common law is [Sir William Blackstone](#)'s four-volume [Commentaries on the Laws of England](#), first published between 1765 and 1769.

#### Additional Resources:

The Common Law in Colonial America: Volume II: The Middle Colonies, by William E. Nelson. View libraries carrying this book: [https://www.worldcat.org/title/common-law-in-colonial-america-volume-2-the-middle-colonies-and-the-carolinas-1660-1730/oclc/931036317&referer=brief\\_results](https://www.worldcat.org/title/common-law-in-colonial-america-volume-2-the-middle-colonies-and-the-carolinas-1660-1730/oclc/931036317&referer=brief_results).

Common Law, NCGA: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_4/GS\\_4-1.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_4/GS_4-1.html)

[North Carolina Pedia; <https://www.ncpedia.org/common-law>]

### 4.14 Pastor Brook Stockton, a Pastor with a PhD in Theology and 40 years in ministry<sup>3</sup>

If we disconnect the Bible from the common law, there is no common law, only case law.

We cannot understand the history and progress of law apart from the gospel's influence on England and the courts -- courts which are now corrupt because they too, in their arrogance, have disassociated the Bible from adjudication . . . moreover, in establishment this country, if my memory serves me right, the founding fathers quoted the Bible a few times to support their ideas regarding the establishment of this Republic. I think Deuteronomy was quoted once or twice.

"Thus the church polity [form of government] of New England begat like principles in the state. The pew and the pulpit had been educated to self-government. They were accustomed "TO CONSIDER." The highest glory of the American Revolution, said John Quincy Adams, was this: it connected, in one indissoluble bond, the principles of civil government with the principles of Christianity."

[John Wingate Thornton, /The Pulpit of the American Revolution/ (Boston: Gould And Lincoln, 1860), p. xxix]

<sup>3</sup> Source: Retired Pastor Brook Stockton, PhD; <https://nikeinsights.famguardian.org>.

1       *"Following an extensive survey of American political literature from 1760 to 1805, political scientist Donald S. Lutz reported that*  
2       *the Bible was cited more frequently than any European writer or even any European school of thought, such as Enlightenment*  
3       *liberalism or republicanism"*  
4       *[Oxford Press: OUPblog]*

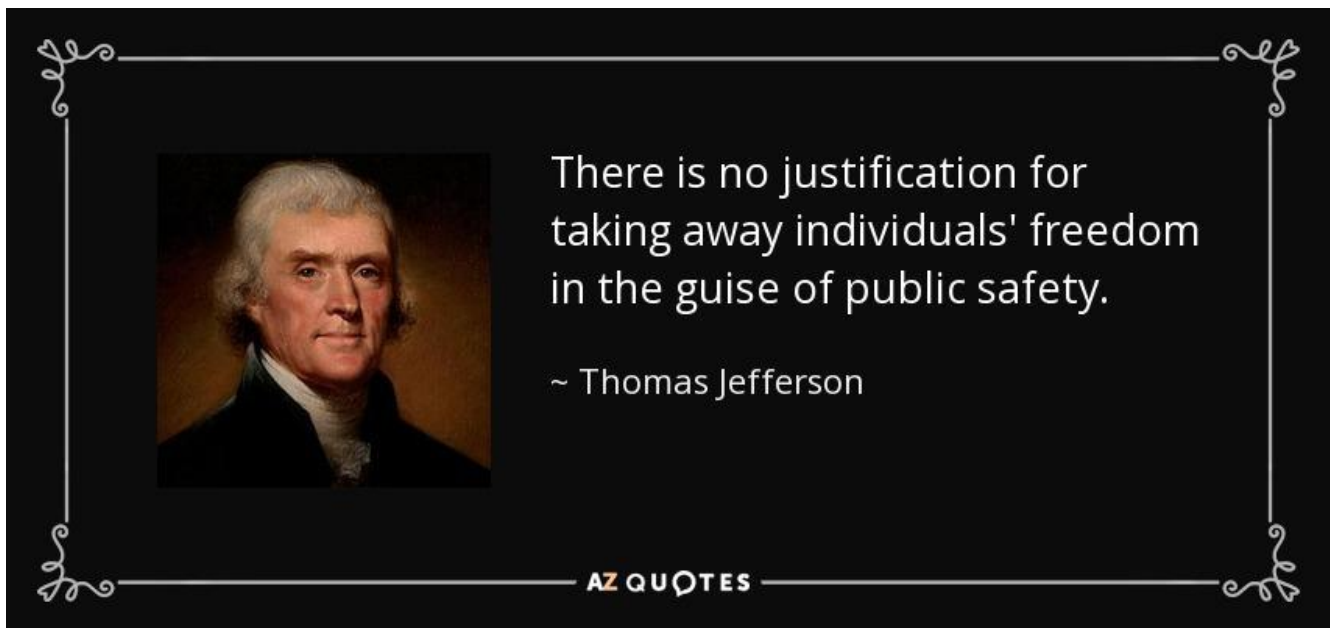
5       England-Scotland is the land of Reformation where at one time the Ten Commandments were the only law people knew  
6       and practiced. Lose this, and we lose the foundation of case law in England.

7       Consider the Bible as the basis of all law, especially the common law. If the Ten Commandments are not the basis of the  
8       common law of England, then your critic may be correct that there is no written document supporting the claim that the  
9       common law exists.

10      Remember, one of your favorite quotes:

11               *"To the law and to the testimony! If they do not speak according to this word, /it is/ because there is no light in them"*  
12               *[Isaiah 8:20, Bible, NKJV]*

## 13    5    OUR definition of "common law" for the purposes of Our website



16      We publish our definition of "common law" on our Disclaimer, which you can read at:

[SEDM Disclaimer](https://sedm.org/disclaimer.htm), Section 4.7: Common Law  
<https://sedm.org/disclaimer.htm>

17      Below the following line is that definition:

### 18      \_\_\_\_\_

### 19    SEDM Disclaimer

### 20    Section 4: Meaning of Words

### 21    4.7 Common Law

**Common Law:** The term "common law" means procedures and policies used in constitutional courts in the JUDICIAL branch to provide protection for absolutely owned, constitutionally protected PRIVATE RIGHTS and PRIVATE PROPERTY of a human being who has accepted no franchises or privileges and therefore who is not subject to civil statutes, not domiciled in the forum, and who reserves all rights. These procedures may not be exercised in "legislative franchise courts" in the LEGISLATIVE or EXECUTIVE Branch which manage and adjudicate disputes over federal property, franchises, privileges, and "benefits". In the words of the U.S. Supreme Court, these organic rights are "self-executing" and not government created or owned. They may therefore NOT be limited, restrained, taxed, or regulated by statute:

*The design of the Fourteenth Amendment has proved significant also in maintaining the traditional separation of powers 524\*524 between Congress and the Judiciary. **The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those prohibitions.** The Bingham draft, some thought, departed from that tradition by vesting in Congress primary power to interpret and elaborate on the meaning of the new Amendment through legislation. Under it, "Congress, and not the courts, was to judge whether or not any of the privileges or immunities were not secured to citizens in the several States." Flack, supra, at 64. While this separation-of-powers aspect did not occasion the widespread resistance which was caused by the proposal's threat to the federal balance, it nonetheless attracted the attention of various Members. See Cong. Globe, 39th Cong., 1st Sess., at 1064 (statement of Rep. Hale) (noting that Bill of Rights, unlike the Bingham proposal, **"provide[s] safeguards to be enforced by the courts, and not to be exercised by the Legislature"**); id., at App. 133 (statement of Rep. Rogers) (prior to Bingham proposal it "was left entirely for the courts . . . to enforce the privileges and immunities of the citizens"). As enacted, the Fourteenth Amendment confers substantive rights against the States which, like the provisions of the Bill of Rights, are self-executing. Cf. *South Carolina v. Katzenbach*, 383 U. S., at 325 (discussing Fifteenth Amendment). The power to interpret the Constitution in a case or controversy remains in the Judiciary. [City of Boerne v. Flores, 521 U.S. 507 (1997)]*

It is the duty of all CONSTITUTIONAL courts in the JUDICIAL branch to provide remedy for the protection of such rights when violated, even if there is no statute authorizing a remedy. This is a consequence of the oath that all judges IN CONSTITUTIONAL COURTS take to "support and defend the constitution against all enemies, foreign and domestic", whether state or federal. Franchise judges in the LEGISLATIVE or EXECUTIVE branch don't have to take this oath and often ACTIVELY INTERFERE with any attempt by private litigants to invoke or enforce constitutional rights. That sort of behavior would be TREASON in a CONSTITUTIONAL court. Franchise courts act in essence as binding arbitration boards for people in temporary possession, custody, or control of absolutely owned government property which is dispensed with legal strings attached called "franchises". These courts preside by the CONSENT of those who accept the property or "benefit" that the franchise court is charged with managing, such as "licenses", "permits", or government "benefits". Examples of "legislative franchise courts" include:

1. Traffic court.
2. Family court.
3. Tax Court (see 26 U.S.C. §7441).

For a detailed exposition of exactly how government franchises and franchise courts operate, see:

*Government Instituted Slavery Using Franchises*, Form #05.030  
<https://sedm.org/Forms/FormIndex.htm>

Rights are property and protecting and enforcing them is an action to protect PRIVATE property in the case of CONSTITUTIONAL rights recognized but not created by the Bill of Rights. In providing judicial remedy absent statutes, the courts in effect are DEFINING the common law, because statutes CANNOT define or limit such rights:

*"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "*  
*[In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]*

*"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities [within juries] and officials [and CIVIL STATUTES, Form #05.037] and to establish them as legal principles to be applied by the courts [using the COMMON LAW rather than CIVIL STATUTES, Form #05.037]. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote [of a JURY OR an ELECTOR]; they depend on the outcome of no elections."*  
*[West Virginia Bd. of Ed. v. Barnett, 319 U.S. 624, 638 (1943); SOURCE:*  
[https://scholar.google.com/scholar\\_case?case=8030119134463419441](https://scholar.google.com/scholar_case?case=8030119134463419441)*]*

Based on the above, anything licensed, taxed, requiring a "permit", denied (the essence of ownership is the right to exclude and control the use of), or regulated by civil statute or which may be voted on by a jury or an elector or which is created or enforced by statute is NOT a CONSTITUTIONAL or a PRIVATE right and is not the proper subject of the common law. Further, anyone who tries to convince you that there IS no such thing as the common law in the context of CONSTITUTIONAL rights, or that common law proceedings can and do involve STATUTORY remedies is engaging in a conspiracy to DESTROY all of your private rights and private property. This is proven in:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037  
<https://sedm.org/Forms/FormIndex.htm>

A failure or refusal by a judge in the judicial department to provide CONSTITUTIONAL remedy for absolutely owned PRIVATE property or PRIVATE rights is therefore, in fact and in deed:

1. An attempt to accomplish the OPPOSITE purpose for why government was created, which was to protect PRIVATE property and PRIVATE rights.
2. An attempt to denigrate, demoralize, oppress, and enslave (Thirteenth Amendment) litigants before them who are litigating against any government for a violation of those rights.
3. An attempt to maliciously abuse legal process to institute peonage and slavery in violation of 18 U.S.C. §1589.
4. A selective REPEAL of a portion of the CONSTITUTIONAL common law.
5. A selective REPEAL of the portion of the Bill of Rights that forms the STANDING of the party to sue in court.
6. A violation of the judicial oath to support and defend the Constitution against all enemies, foreign and domestic.
7. Treason punishable by death under 18 U.S.C. §2381.
8. A violation of the Separation of Powers Doctrine, because by SELECTIVELY REPEALING a portion of the constitution or constitutional common law, they in effect are acting in a "legislative capacity" as a member of the Legislative or Executive Branch, not as judges.<sup>4</sup>
9. Destroying ANY and ALL possibility of freedom or liberty itself, according to the man who DESIGNED the three-branch system of Republic Government and Separation of Powers:

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner."

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression [sound familiar?].

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."

[. . .]

In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions."

[The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758;  
SOURCE: [http://famguardian.org/Publications/SpiritOfLaws/sol\\_11.htm](http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm)]

Further, Congress can only regulate or tax PRIVILEGES or PUBLIC rights that it created by statute, not PRIVATE rights recognized but not created by the Constitution.

Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress [PUBLIC RIGHTS] and other [PRIVATE] rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right [a "privilege" or "public right" in this case, such as a "trade or business"], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that

<sup>4</sup> See: Government Conspiracy to Destroy the Separation of Powers, Form #05.023; <https://sedm.org/Forms/FormIndex.htm>.

1 *right. FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power*  
2 *to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of*  
3 *congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the*  
4 *Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather,*  
5 *such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves*  
6 *for Art. III courts.*

7 [*Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 102 S.Ct. 2858 (1983)]

8 For more details on the CIVIL (not CRIMINAL, but CIVIL) power to tax or regulate only public rights (public property)  
9 that Congress created by statute and therefore ABSOLUTELY OWNS and CONTROLS as property, see:

*Hierarchy of Sovereignty: The Power to Create is the Power to Tax*, Family Guardian Fellowship  
<https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>

10 The basic rules of the common law are documented in the following exemplary books published near the turn of the  
11 Twentieth Century and many others, and thus are WRITTEN. These rules have not been REPEALED, but rather fallen out  
12 of use because of censorship by covetous Pharisee lawyers trying to convert ALL property to government property so they  
13 could STEAL it and harvest it for their personal benefit<sup>5</sup>:

- 14 1. *Handbook of Common Law Pleading*, Benjamin Shipman (48 MB)-  
15 [http://famguardian.org/Publications/CommonLawPractice/Hand\\_book\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Hand_book_of_Common_law_Pleading.pdf)
- 16 2. *Handbook of Common Law Pleading*, Joseph Koeffler (4.8 MB).  
17 [http://famguardian.org/Publications/CommonLawPractice/CL\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/CL_Pleading.pdf)
- 18 3. *Principles of Common Law Pleading*, John McKelvey (3.5 MB)  
19 [http://famguardian.org/Publications/CommonLawPractice/Principles\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Principles_of_Common_law_Pleading.pdf)
- 20 4. *Pleadings and Practice in Actions At Common Law*, Martin Burks (90.3 MB)  
21 [http://famguardian.org/Publications/CommonLawPractice/Pleading\\_and\\_Practice\\_in\\_Actions\\_at\\_Comm.pdf](http://famguardian.org/Publications/CommonLawPractice/Pleading_and_Practice_in_Actions_at_Comm.pdf)

22 In addition to the above generally accepted rules, those owning the PRIVATE property protected by the common law may  
23 ADD to these rules with their own set of rules that form the conditions of the temporary use, benefit, or control of the  
24 property so granted and protected to the person SUBJECT to those rules. We call these the Grant Rules.

25 Grant Rules are CIVIL rules implemented as a contract or agreement between the GRANTOR and the GRANTEE for  
26 temporarily using, controlling, or benefitting from that property. They cannot and do not be implemented with CRIMINAL  
27 statutes. Only CIVIL statutes and franchises. They are enforced against those who consent to those RULES by temporarily  
28 accepting or exercising custody, benefit, or control over the property in question. These rules behave, in essence, as a  
29 franchise or an excise. The OBLIGATIONS against the GRANTOR associated with the use of the granted property are the  
30 "consideration" provided by the GRANTOR and the consideration they receive in return are the temporary "RIGHTS" they  
31 exercise over the granted property. All franchises are based on "grants" of property with legal strings or conditions  
32 attached and ANYONE can grant or participate in such a franchise or use such a franchise AGAINST a government to  
33 defend themselves against GOVERNMENT unlawfully offering or enforcing THEIR franchises:

34 *"The State in such cases exercises no greater right than an individual may exercise over the use of his own property when leased or*  
35 *loaned to others. The conditions upon which the privilege shall be enjoyed being stated or implied in the legislation authorizing its*  
36 *grant, no right is, of course, impaired by their enforcement. The recipient of the privilege, in effect, stipulates to comply with the*  
37 *conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the*  
38 *compensation for it."*

39 [*Munn v. Illinois*, 94 U.S. 113 (1876)]

40 An example of the use of such rules by the government against the private rights and private property is found below:

41 *"We have repeatedly held that the Federal Government may impose appropriate conditions on the use of federal property or*  
42 *privileges [franchises, Form #05.030] and may require that state instrumentalities comply with conditions [obligations, Form*  
43 *#12.040] that are reasonably related to the federal interest in particular national projects or programs. See, e. g., Ivanhoe*  
44 *Irrigation Dist. v. McCracken*, 357 U.S. 275, 294 -296 (1958); *Oklahoma v. Civil Service Comm'n*, 330 U.S. 127, 142 -144 (1947);  
45 *United States v. San Francisco*, 310 U.S. 16 (1940); cf. *National League of Cities v. Usery*, 426 U.S. 833, 853 (1976); *Fry v. United*  
46 *States*, 421 U.S. 542 (1975). A requirement that States, like all other users, pay a portion of the costs of the benefits [Form #05.040]  
47 *they enjoy from federal programs is surely permissible [meaning CONSTITUTIONAL] since it is closely related to the [435 U.S.*

<sup>5</sup> See: *Who Were the Pharisees and Saducees?*, Form #05.047; <https://sedm.org/Forms/FormIndex.htm>.

1 444, 462] federal interest in recovering costs from those who benefit and since it effects no greater interference with state  
2 sovereignty than do the restrictions which this Court has approved.”  
3 [Massachusetts v. United States, 435 U.S. 444 (1978);  
4 [https://scholar.google.com/scholar\\_case?case=16842193024599209893](https://scholar.google.com/scholar_case?case=16842193024599209893)]

5 Under the concept of equal protection and equal treatment, WE TOO have an EQUAL right, recognized above by the U.S.  
6 Supreme Court in Munn v. Illinois, to attach conditions to the use or benefit or control of our property by any and all others,  
7 INCLUDING governments. To suggest otherwise is to impute or enforce superior or supernatural powers to a government  
8 and institute a civil religion in violation of the First Amendment. ALL ARE EQUAL in a free society. You are equal to  
9 the government, as President Obama implied in his First Inauguration Speech, as we prove below:

Foundations of Freedom Course, Form #12.021, Video 1: Introduction  
<https://www.youtube.com/watch?v=ikf7CcT2I8I>

10 If you are not equal to the government and cannot use YOUR absolutely owned PRIVATE property to control THEM, then  
11 they can't use THEIR property to control you through civil franchises or statutes either. For more on the abuse of  
12 franchises by government to oppress people they are supposed to be helping, and how to use them to DEFEND yourself  
13 against such abuses, see:

- 14 1. Government Franchises Course, Form #12.012  
15 <https://sedm.org/Forms/FormIndex.htm>
- 16 2. Government Instituted Slavery Using Franchises, Form #05.030  
17 <https://sedm.org/Forms/FormIndex.htm>

18 Anyone who asserts that the GOVERNMENT is the only one who can absolutely own property or that government  
19 SHARES ownership or control of ALL property is indirectly advocating all of the following:

- 20 1. A violation of the main reason for creating government, which is the protection of PRIVATE rights and PRIVATE  
21 property.
- 22 2. The establishment of a state sponsored religion in violation of the First Amendment, because the government can use  
23 their control over ALL property to control ANYTHING and ANYONE. See:

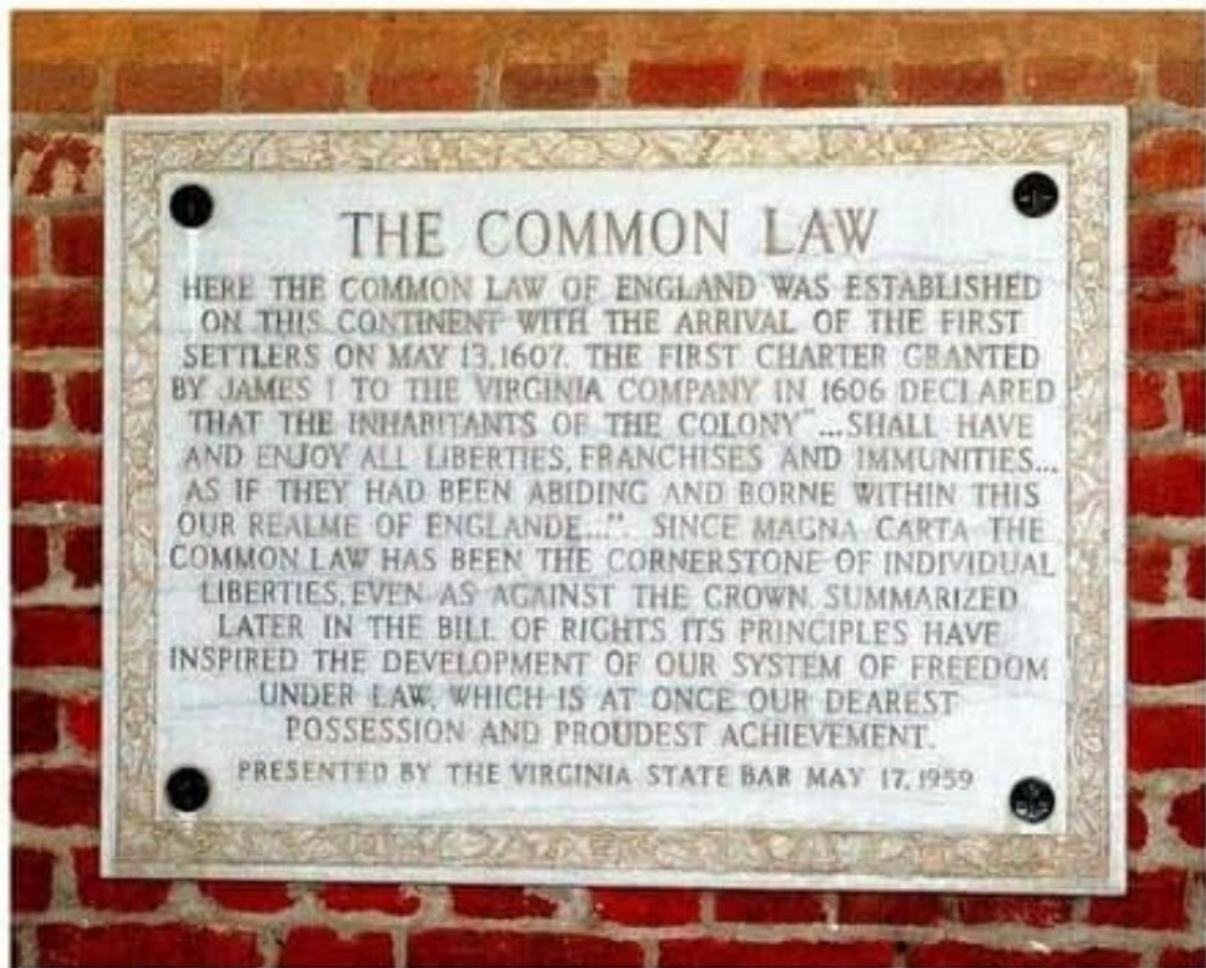
Socialism: The New American Civil Religion, Form #05.016  
<https://sedm.org/Forms/FormIndex.htm>

- 24 3. A violation of the Thirteenth Amendment, because there is no way to avoid the rules associated with buying or using  
25 ANY TYPE OF PROPERTY.
- 26 4. The establishment of socialism, which is government ownership or at least control over ALL property:

27 “**Socialism** *n* (1839) **1**: any of various economic and political theories advocating collective or governmental ownership and  
28 administration of the means of production and distribution of goods **2 a**: a system of society or group living in which there is no  
29 private property **b**: a system or condition of society in which the means of production are owned and controlled by the state **3**: a  
30 stage of society in Marxist theory transitional between capitalism and communism and distinguished by unequal distribution of  
31 goods and pay according to work done.”

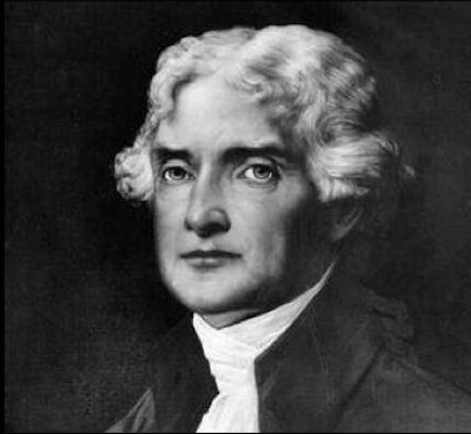
32 [Webster's Ninth New Collegiate Dictionary, 1983, ISBN 0-87779-510-X, page 1118; SOURCE:  
33 <https://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q05.010.pdf>]

## 6 Why the Common Law Had to be Invented



*The Common Law Plaque at Jamestown Memorial Church  
Historic Jamestown Island*

The Pilgrim settlers at Jamestown came to escape religious persecution. Most of that persecution came from the STATE or GOVERNMENT. It was implemented using statutes that compelled Christians at the time to either do something God forbids or NOT do something he commands within His holy law in the Bible. The need to ESCAPE this kind of persecution is what got “separation between church and state” into our jurisprudence.



"All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution."

**Thomas Jefferson, 1814**



"The German Church and the People are practically the same body. Therefore there could be no issue between Church and State."

**Adolf Hitler, 1934**

# SEPARATION OF CHURCH AND STATE

Pro and con.  
www.defalthed.com

1

2 That is why they called themselves "Protestants": Because they protested STATISM, meaning idolatry towards  
3 governments or civil rulers and/or government ownership or control over PRIVATE property:

4 *Statism: concentration of economic controls and planning in the hands of a highly centralized government often extending to*  
5 *government ownership of industry.*

6 [Merriam Webster Dictionary: Statism; Downloaded 12/22/2020, <https://www.merriam-webster.com/dictionary/statism>]

7 Below is our humorous take on this binary choice the Pilgrim settlers faced:



Since the GOVERNMENT persecution of religious practice against the fleeing Pilgrims was implemented with statutory civil law, our jurisprudence adopted the notion that civil statutory jurisdiction depended on VOLUNTARY choice of civil domicile. Those who didn't want the "benefits", "privileges", or "protections" of the statutory civil law such as the Pilgrims persecuted by it could withdraw their civil domicile and use ONLY the Bill of Rights and the Constitution for their protection from a CIVIL perspective. This is thoroughly documented in:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002  
<https://sedm.org/Forms/FormIndex.htm>

In American Jurisprudence, there are only two types of rights:

1. Private rights: Possessed by human beings in exercising their natural rights under natural law.
2. Public rights: Possessed by government actors serving in public offices. Sometimes called "privileges".

For a fascinating discussion of the origin of PRIVATE property and PRIVATE rights tied to the settlement of America by the Pilgrims, see:

America's Socialist Origins, Prager University  
<https://sedm.org/americas-socialist-origins/>

The idea of PRIVATE property and PRIVATE rights is so important that the founders tied the idea of OWNERSHIP OF PRIVATE PROPERTY to “the pursuit of happiness”, and therefore “happiness” itself. In the [Declaration of Independence](#) the word “Happiness” in the phrase “Life, Liberty, and pursuit of Happiness”:

*“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed..”*  
*[Declaration of Independence]*

The [Fourteenth Amendment, Section 1](#) uses similar language as the Declaration of Independence:

*“nor shall any State deprive any person of life, liberty, or property, without due process of law;”*

The U.S. Supreme Court has interpreted this phrase “life, liberty, or PROPERTY” to mean:

*“The provision [[Fourteenth Amendment, Section 1](#)], it is to be observed, places property under the same protection as life and liberty. Except by due process of law, no State can deprive any person of either. The provision has been supposed to secure to every individual the essential conditions for the pursuit of happiness; and for that reason has not been heretofore, and should never be, construed in any narrow or restricted sense.”*  
*[Munn v. Illinois, 94 U.S. 113 (1876)]*

Any government that interferes or intends to interfere with the protection of PRIVATE rights and PRIVATE property, therefore, has the EXPRESS and/or IMPLIED goal of MALICIOUSLY making you:

## **UNHAPPY!**

Those rights that are “exclusively private” are beyond the control or regulation by organized government:

*When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. "A body politic," as aptly defined in the preamble of the Constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusively private, Thorpe v. R. & B. Railroad Co., 27 Vt. 143; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and 125\*125 has found expression in the maxim sic utere tuo ut alienum non laedas. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in the License Cases, 5 How. 583, "are nothing more or less than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things." Under these powers the government regulates the conduct of its citizens one towards another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good. In their exercise it has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, &c., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold. To this day, statutes are to be found in many of the States upon some or all these subjects; and we think it has never yet been successfully contended that such legislation came within any of the constitutional prohibitions against interference with private property. With the Fifth Amendment in force, Congress, in 1820, conferred power upon the city of Washington "to regulate . . . the rates of wharfage at private wharves, . . . the sweeping of chimneys, and to fix the rates of fees therefor, . . . and the weight and quality of bread," 3 Stat. 587, sect. 7; and, in 1848, "to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commission of auctioneers," 9 id. 224, sect. 2.*  
*[Munn v. Illinois, 94 U.S. 113 (1876),*  
*SOURCE: [http://scholar.google.com/scholar\\_case?case=6419197193322400931](http://scholar.google.com/scholar_case?case=6419197193322400931)]*

The main purpose of establishing civil government is primarily the protection of PRIVATE rights.

*“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable [PRIVATE] Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these [PRIVATE] rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,”*  
*[Declaration of Independence]*

A government that neither RECOGNIZES private rights nor protects them, is not only a bad government, but a de facto government devoid of all authority to govern. The “vain government” they are talking about below is actually a “de facto government” that refuses to do the ONLY job for which it was created: recognizing and protecting PRIVATE rights:

1       *"The rights of individuals and the justice due to them, are as dear and precious as those of states. Indeed the latter are founded*  
2 *upon the former; **and the great end and object of them must be to secure and support the rights of individuals, or else vain is***  
3 ***government.**"*  
4 *[Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed 440 (1793)]*

5       The first step in protecting PRIVATE rights is to keep them from being converted into PUBLIC rights or PUBLIC property  
6 without the consent of the owner. The Fifth Amendment takings clause is what does this and that involuntary conversion is  
7 called "eminent domain". The purpose of "due process of law", in fact, is to protect ONLY private rights from involuntary  
8 conversion to public rights by corrupt government actors.

9       ***Due process of law.** Law in its regular course of administration through courts of justice. Due process of law in each particular*  
10 *case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such*  
11 *safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question*  
12 *belongs. **A course of legal proceedings according to those rules and principles which have been established in our systems of***  
13 ***jurisprudence for the enforcement and protection of private rights.***  
14 *[Black's Law Dictionary, Sixth Edition, p. 500]*

15       The purpose of the common law is therefore to:

- 16       1. Prevent the government from regulating or controlling EXCLUSIVELY PRIVATE RIGHTS. The first step in this  
17 process is to ensure that government civil law is only enforced against public officers on official business, and not  
18 against people in the PRIVATE lives. See:

*Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037*  
<http://sedm.org/Forms/FormIndex.htm>

- 19       2. Place all judicial decisions that might affect private rights in the hands of ONLY PRIVATE people.  
20       3. Prevent government judges from deciding cases in which they have a conflict of interest, because the case might  
21 directly or indirectly benefit the government financially. Allowing otherwise would be to allow a man or "person" to  
22 be a judge in his own case. Judges may be in a separate branch of government, but they are still part of the same legal  
23 "person" as defendant in a case brought against the government. Hence, they have a conflict of interest. The only way  
24 to prevent this kind of conflict of interest is to convene a DISINTERESTED jury of third parties who are PEERS of the  
25 Plaintiff and to not involve the judge at all. This prevents violations of 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C.  
26 §455 in the case of federal judges.  
27       4. Guarantee the Sovereign People, "We the People", the right to govern their PRIVATE affairs without state  
28 interference.

29       It ought to be obvious to the reader that any attempt by a judge to interfere with invoking or enforcing the common law is  
30 an attempt to:

- 31       1. Unconstitutionally interfere with the exercise of private rights.  
32       2. Exercise the equivalent of "eminent domain" through their WILLFUL OMISSION in protecting private rights.  
33       3. Accomplish a purpose OPPOSITE to the purpose for which all government is created, which is the protection of  
34 PRIVATE rights.  
35       4. Criminally obstruct justice.  
36       5. STEAL from the litigant.  
37       6. Kidnap the identity of the litigant and move it to federal territory not protected by the Constitution.  
38       7. Compel the litigant to contract with the government, because all civil statutory law is an implementation of a  
39 VOLUNTARY "social compact"/contract.

40       *When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by*  
41 *his relations to others, he might retain. "A body politic," as aptly defined in the preamble of the Constitution of*  
42 *Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole*  
43 *people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people*  
44 *to control rights which are purely and exclusively private, Thorpe v. R. & B. Railroad Co., 27 Vt. 143; but it does authorize*  
45 *the establishment of laws requiring each citizen [NOT "all people", but those who are the subject of the compact called*  
46 *"citizens"] to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very*  
47 *essence of government, and has found expression in the maxim sic utere tuo ut alienum non laedas. From this source come*  
48 *the police powers, which, as was said by Mr. Chief Justice Taney in the License Cases, 5 How. 583, "are nothing more or less*  
49 *than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things."*  
50 *[Munn v. Illinois, 94 U.S. 113 (1876),*  
51 *SOURCE: [http://scholar.google.com/scholar\\_case?case=6419197193322400931/](http://scholar.google.com/scholar_case?case=6419197193322400931/)*

8. Elect the litigant into a public office by associating them with a specific statutory franchise status against their will. All franchise statuses are public offices in the government.
9. Impose the obligations of a public office upon the litigant without their consent, thus imposing involuntary servitude in violation of the Thirteenth Amendment.

The above conclusions are consistent with the following ruling by the early U.S. Supreme Court:

“Whether the Legislature of any of the States can revise and correct by law, a decision of any of its Courts of Justice, although not prohibited by the Constitution of the State, is a question of very great importance, and not necessary NOW to be determined; because the resolution or law in question does not go so far. I cannot subscribe to the omnipotence of a State \*388 Legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the Constitution, or fundamental law, of the State. The people of the United States erected their Constitutions, or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty; and to protect their persons and property from violence. The purposes for which men enter into society will determine the nature and terms of the social compact; and as they are the foundation of the legislative power, they will decide what are the proper objects of it: The nature, and ends of legislative power will limit the exercise of it. This fundamental principle flows from the very nature of our free Republican governments, that no man should be compelled to do what the laws do not require; nor to refrain from acts which the laws permit. There are acts which the Federal, or State, Legislature cannot do, without exceeding their authority. There are certain vital principles in our free Republican governments, which will determine and over-rule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof the government was established. An ACT of the Legislature (for I cannot call it a law) contrary to the great first principles of the social compact, cannot be considered a rightful exercise of legislative authority. The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power, on which it is founded. A few instances will suffice to explain what I mean. A law that punished a citizen for an innocent action, or, in other words, for an act, which, when done, was in violation of no existing law; a law that destroys, or impairs, the lawful private contracts of citizens; a law that makes a man a Judge in his own cause; or a law that takes property from A, and gives it to B: It is against all reason and justice, for a people to entrust a Legislature with SUCH powers; and, therefore, it cannot be presumed that they have done it. The genius, the nature, and the spirit, of our State Governments, amount to a prohibition of such acts of legislation; and the general principles of law and reason forbid them. The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but they cannot change innocence into guilt; or punish innocence as a crime; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, Legislature possesses such powers, if they had not been expressly restrained; would, \*389 in my opinion, be a political heresy, altogether inadmissible in our free republican governments.”

[Calder v. Bull, 3 U.S. 386, (1798)]

## 7 History of our system of civil statutory law<sup>6</sup>

Our system of civil statutory law was inherited from the Roman statutory law, which was called “jus civile”.

### Chapter II: The Civil and the Common Law

**29. In the original civil law, jus civile, was exclusively for Roman citizens; it was not applied in controversies between foreigners.** But as the number of foreigners increased in Rome it became necessary to find some law for deciding disputes among them. For this the Roman courts hit upon a very singular expedient. Observing that all the surrounding peoples with whom they were acquainted had certain principles of law in common, they took those common principles as rules of decision for such cases, and to the body of law thus obtained they gave the name of Jus gentium. The point on which the jus gentium differed most noticeably from the Jus civile was its simplicity and disregard of forms. All archaic law is full of forms, ceremonies and what to a modern mind seem useless and absurd technicalities. This was true of the [civil] law of old Rome. In many cases a sale, for instance, could be made only by the observance of a certain elaborate set of forms known as mancipation; if any one of these was omitted the transaction was void. **And doubtless the laws of the surrounding peoples had each its own peculiar requirements. But in all of them the consent of the parties to transfer the ownership for a price was required.** The Roman courts therefore in constructing their system of Jus gentium fixed upon this common characteristic and disregarded the local forms, so that a sale became the simplest affair possible.

30. After the conquest of Greece, the Greek philosophy made its way to Rome, and stoicism in particular obtained a great vogue among the lawyers. With it came the conception of natural law (Jus naturale) or the law of nature (jus naturae); to live according to nature was the main tenet of the stoic morality. The idea was of some simple principle or principles from which, if they could be discovered, a complete, systematic and equitable set of rules of conduct could be deduced, and the unfortunate departure from which by mankind generally was the source of the confusion and injustice that prevailed in human affairs. To bring their own law into conformity with the law of nature became the aim of the Roman jurists, and the praetor's edict and the responses were the instruments which they used to accomplish this. Simplicity and universality they regarded as marks of natural law, and since these were exactly the qualities which belonged to the jus gentium, it was no more than natural that the two should to a considerable extent be identified. The result was that under the name of natural law principles largely the same as those which the Roman courts had for a long time been administering between foreigners permeated and transformed the whole Roman law.

<sup>6</sup> Source: *Why Domicile and Becoming a “Taxpayer” Require Your Consent*, Form #05.002, Section 11.2; <https://sedm.org/Forms/FormIndex.htm>.

The way in which this was at first done was by recognizing two kinds of rights, rights by the civil law and rights by natural law, and practically subordinating the former to the latter. Thus if Caius was the owner of a thing by the civil law and Titius by natural law, the courts would not indeed deny up and down the right of Caius. They admitted that he was owner; but they would not permit him to exercise his legal right to the prejudice of Titius, to whom on the other hand they accorded the practical benefits of ownership; and so by taking away the legal owner's remedies they practically nullified his right. Afterwards the two kinds of laws were more completely consolidated, the older civil law giving way to the law of nature when the two conflicted. This double system of rights in the Roman law is of importance to the student of the English law, because a very similar dualism arose and still exists in the latter, whose origin is no doubt traceable in part to the influence of Roman ideas. [An Elementary Treatise on the Common Law for the Use of Students, Henry T. Terry, The Maruzen-Kabushiki-Kaisha, 1906, pp. 18-20]

Roman law recognized only TWO classes of persons: statutory “citizens” and “foreigners”. Only those who consented to become statutory “citizens” could become the lawful subject of the jus civile, which was the statutory civil law. Those who were not statutory “citizens” under the Roman Law, which today means those with NO civil domicile within the territory of the author and grantor of the civil law, were regarded as:

1. “foreigners”.
2. Not subject to the jus civile or statutory Roman Law.
3. Subject only to the common law, which was called jus gentium.

Note also that the above treatise characterizes TWO classes of rights: Civil rights and Natural rights. Today, these rights are called PUBLIC rights and PRIVATE rights by the courts in order to distinguish them. Public rights, in turn, are granted only to statutory “citizens” who consented to become citizens under the civil statutory law. The civil statutory law, or jus civile, therefore functions in essence as a franchise contract or compact that creates and grants ONLY public rights. Those who do not join the social compact by consenting to become statutory “citizens” therefore are relegated to being protected by natural law and common law, which is much more just and equitable.

Note the emphasis in the above upon the concept that everything exchanged must be paid for:

“And doubtless the laws of the surrounding peoples had each its own peculiar requirements. But in all of them the consent of the parties to transfer the ownership for a price was required.”

The concept we emphasize in the above cite is that the PUBLIC rights attached to the status of “citizen” under the Roman jus civile or statutory law constituted property that could not be STOLEN from those who did not consent to become “citizens” or to accept the “benefits” or “privileges” of statutory citizenship. Such a THEFT by government of otherwise PRIVATE or NATURAL rights would amount to an unconstitutional eminent domain by the government by converting PRIVATE rights into PUBLIC rights without the consent of the owner and without compensation.

## 8 Public v. Private

The following table summarizes the differences between public and private from a legal perspective. Understanding these differences is crucial to recognizing the difference between a franchise (public) court and a common law (private) court:

**Table 1: Public v. Private**

#	Description	Public	Private
1	<b>Aim</b>	Protect the public interest	Protect private interest
2	<b>Audience</b>	Collective	Individual human beings
3	<b>Relation protected</b>	Individuals in relation to state	Private humans between each other
4	<b>Regulates</b>	Harmonious relation between citizens and state	Activities between two or more private entities in a just and equitable manner
5	<b>Nature of sanctions for violation</b>	More severe	Judicially ordered payment of damages, restitution, returning enrichment, specific performance
6	<b>Type of court violations are heard in</b>	Legislative franchise courts Constitution Article I	Common law courts Constitution Article III
7	<b>Example court</b>	Family Court Traffic Court Tax Court	State superior court Federal Article III courts

#	Description	Public	Private
8	Protection provided by	Civil Statutes (for those working for government ONLY) Criminal Statutes	Constitution (against government actors) Common law
9	How parties on one side switch to the other	Contract with private human	1. Accept a government property, grant, benefit, privilege, or franchise. 2. Buy stock in a federal corporation 3. Use a “franchise mark”, meaning an SSN or TIN. 4. Leave land protected by the Constitution (travel abroad) 5. Change domicile to federal territory
10	Statutes and Supreme Court Doctrines which provide protections	Public Rights Doctrine Full Payment Rule Foreign Sovereign Immunities Act (FSIA)	Bill of Rights State Action Doctrine Prior Restraint Doctrine Unconstitutional Conditions Doctrine Overbreadth Doctrine

For more on the subject of Public v. Private, see:

1. [Sovereignty and Freedom Page](https://famguardian.org/Subjects/Freedom/Freedom.htm#RIGHTS), Section 6: Private and Natural Rights and Natural Law, Family Guardian Fellowship
2. [Separation Between Public and Private Course](https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf), Form #12.025
3. History of the Tension between public and private  
[https://famguardian.org/Subjects/PropertyPrivacy/Property/PublicVPrivate/History%20of%20the%20Public Private%20Distinction.pdf](https://famguardian.org/Subjects/PropertyPrivacy/Property/PublicVPrivate/History%20of%20the%20Public%20Private%20Distinction.pdf)
4. Public
  - 4.1. [Why Statutory Civil Law is Law for Government and Not Private Persons](https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf), Form #05.037
  - 4.2. [Government Instituted Slavery Using Franchises](https://sedm.org/Forms/05-MemLaw/Franchises.pdf), Form #05.030
5. Private
  - 5.1. [Famous Quotes About Rights and Liberty](https://sedm.org/Forms/08-PolicyDocs/FamousQuotes.pdf), Form #08.001
  - 5.2. [Enumeration of Inalienable Rights](https://sedm.org/Forms/10-Emancipation/EnumRights.pdf), Form #10.002
  - 5.3. [Unalienable Rights Course](https://sedm.org/LibertyU/UnalienableRights.pdf), Form #12.038

## **9 Where does the power to “define” statutory civil statuses and assign civil obligations to the definition come from?<sup>7</sup>**

The power to “define” civil statutory terms and civil statuses such as “person” and “individual” and “taxpayer” and to assign civil statutory obligations against them derives ONLY from the government’s authority to “make needful rules respecting the Territory and other property of the United States” under Article 4, Section 3, Clause 2 of the Constitution:

*United States Constitution*

*Article 4, Section 3*

*The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.*

<sup>7</sup> Source: [Policy Document: IRS Fraud and Deception About the Statutory Word “Person”](https://sedm.org/Forms/FormIndex.htm), Form #08.023, Section 2; <https://sedm.org/Forms/FormIndex.htm>.

"The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the territory or other property belonging to the United States. This power applies as well to territory belonging to the United States within the States, as beyond them. It comprehends all the public domain, wherever it may be. The argument is, that 510\*510 the power to make "ALL needful rules and regulations" "is a power of legislation," "a full legislative power;" "that it includes all subjects of legislation in the territory," and is without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress may then regulate or prohibit slavery upon the public domain within the new States, and such a prohibition would permanently affect the capacity of a slave, whose master might carry him to it. And why not? Because no power has been conferred on Congress. This is a conclusion universally admitted. But the power to "make rules and regulations respecting the territory" is not restrained by State lines, nor are there any constitutional prohibitions upon its exercise in the domain of the United States within the States; and whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and are not dependent on the situs of "the territory.""

[Dred Scott v. Sandford, 60 U.S. 393 (1857); [https://scholar.google.com/scholar\\_case?case=3231372247892780026](https://scholar.google.com/scholar_case?case=3231372247892780026)]

The essence of ownership is the power to absolutely and exclusively control a thing, whether it be property or a civil status or those who exercise said status. Therefore, ownership and control are synonymous:

*Ownership. Collection of rights to use and enjoy property, including right to transmit it to others. Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473, 33 A.2d. 665, 673. The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law.*

The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.

Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited, or when the use is restricted. Calif. Civil Code, §§678-680.

*There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by statute. Calif. Civil Code, §655.*

*In connection with burglary, "ownership" means any possession which is rightful as against the burglar.*

*See also Equitable ownership; Exclusive ownership; Hold; Incident of ownership; Interest; Interval ownership; Ostensible ownership; Owner; Possession; Title.*  
[Black's Law Dictionary, Sixth Edition, p. 1106]

Congress cannot civilly regulate or control PRIVATE property that doesn't belong to it or which it does not at least have a provable qualified or shared interest in which is lawfully and demonstrably acquired. If they violate this, they are STEALING that property. Rights are property. Anything that conveys rights is property. Civil statutory statutes convey rights against the government or its agents and are property:

"The reason why States are "bodies politic and corporate" is simple: just as a corporation is an entity that can act only through its agents, "[t]he State is a political corporate body, can act only through agents, and can command only by laws." Poindexter v. Greenhow, supra, 114 U.S., at 288, 5 S.Ct. at 912-913. See also Black's Law Dictionary 159 (5th ed. 1979) ("[B]ody politic or corporate": "A social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good"). As a "body politic and corporate," a State falls squarely within the Dictionary Act's definition of a "person."  
[Will v. Michigan Dept. of State Police, 491 U.S. 58, 109 S.Ct. 2304 (U.S.Mich.,1989)]

Notice the above doesn't say "covenants with each HUMAN or MAN or WOMAN" but with each "citizen". The STATUTORY "citizen" is an officer and agent of the government. In statutes at least, it is a fiction and creature of law, not a physical thing. In the Constitution, it is SUPPOSED to be a physical thing also, as admitted below, but when the STATUTORY and CONSTITUTIONAL contexts are equivocated together, a usurpation and non-consensual conversion from PRIVATE to PUBLIC occurs as pointed out below by the U.S. Supreme Court.

"Under our own systems of polity, the term 'citizen', implying the same or similar relations to the government and to society which appertain to the term, 'subject' in England, is familiar to all. Under either system, the term used is designed to apply to man in his individual character and to his natural capacities -- to a being or agent [of government, also called a PUBLIC OFFICER!] possessing social and political rights and sustaining social, political, and moral obligations. It is in this acceptation only, therefore, that the term 'citizen', in the article of the Constitution, can be received and understood. When distributing the judicial power, that article extends it to controversies between 'citizens' of different states. This must mean the natural physical beings

composing those separate communities, and can by no violence of interpretation be made to signify artificial, incorporeal, theoretical, and invisible creations. A corporation, therefore, being not a natural person, but a mere creature of the mind, invisible and intangible, cannot be a citizen of a state, or of the United States, and cannot fall within the terms or the power of the above mentioned article, and can therefore neither plead nor be impleaded in the courts of the United States."  
[Rundle v. Delaware & Raritan Canal Company, 55 U.S. 80, 99 (1852) from dissenting opinion by Justice Daniel]

Consistent with the above, the U.S. Code identifies JURORS as public officers:

[TITLE 18](#) > [PART I](#) > [CHAPTER 11](#) > § 201  
[§ 201. Bribery of public officials and witnesses](#)

(a) For the purpose of this section—

(1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, **or a juror**;

One may not serve within the government WITHOUT becoming an agent or officer of the government. Likewise, all actions, and especially ENFORCEMENT actions of government must be UPON its own agents and officers per the above case. To suggest otherwise is to encourage unconstitutional THEFT and SLAVERY:

"[t]he State is a political corporate body, can act only through agents, and can command only by laws." [Poindexter v. Greenhow](#), supra, 114 U.S., at 288, 5 S.Ct. at 912-913.

The term "command" above certainly implies the ability to CIVILLY ENFORCE using civil statutes. These civil statutes, IF they can be enforced and if they involve a penalty or taking of property of any kind for non-compliance, MUST involve the ability to "command" or they cannot BE a "command". We talk about this in the following:

Federal Enforcement Authority Within States of the Union, Form #05.032  
<https://sedm.org/Forms/FormIndex.htm>

How, then, must Congress create civil statutory statuses and the civil statutory obligations that attach to them, both of which are PROPERTY of the government, without instituting unconstitutional THEFT and SLAVERY? There is only one rational way to do this that we can think of:

1. They must create a civil statute that imposes and enforces a result they want. This is done by imposing civil obligations against one party and rights to the party those obligations are owed. Rights and obligations therefore always come in pairs and always involve two or more separate parties or fictions.
  - 1.1. The fictional "person" with the obligation is called the OBLIGOR.
  - 1.2. The fictional "person" to whom the obligation is owed is called the OBLIGEE. When an obligation is owed to you, it is usually called a "right". If the OBLIGOR is the government, it is called a "public right" or a "privilege".
2. The obligations and corresponding rights within the civil statute always attach to what is called a "civil status". Such statuses include but are not limited to civil statutory "persons", "taxpayers", "citizens", or "residents".
3. The civil status is a "res", meaning that it is a fiction representing a collection of rights/obligations.

**Res.** Lat. The subject matter of a trust or will. In the civil law, a thing; an object. As a term of the law, this word has a very wide and extensive signification, including not only things which are objects of property, but also such as are not capable of individual ownership. And in old English law it is said to have a general import, comprehending both corporeal and incorporeal things of whatever kind, nature, or species. By "res," according to the modern civilians, is meant everything that may form an object of rights, in opposition to "persona," which is regarded as a subject of rights. "Res," therefore, in its general meaning, comprises actions of all kinds; while in its restricted sense it comprehends every object of right, except actions. This has reference to the fundamental division of the Institutes that all law relates either to persons, to things, or to actions.

Res is everything that may form an object of rights and includes an object, subject-matter or status. In re Riggle's Will, 11 A.D.2d. 51 205 N.Y.S.2d. 19, 21, 22. The term is particularly applied to an object, subject-matter, or status, considered as the defendant in an action, or as an object against which, directly, proceedings are taken. Thus, in a prize case, the captured vessel is "the res"; and proceedings of this character are said to be in rem. (See In personam; In Rem.) Res" may also denote the action or proceeding, as when a cause, which is not between adversary parties, is entitled "In re \_\_\_\_\_".

**Classification**

Things (res) have been variously divided and classified in law, e.g., in the following ways: (1) Corporeal and incorporeal things; (2) movables and immovables; (3) res mancipi and res nec mancipi; (4) things real and things personal; (5) things in possession and choses (i.e., things) in action; (6) fungible things and things not fungible (fungibles vel non fungibiles); and (7) res singulae (i.e., individual objects) and universitates rerum (i.e., aggregate things). Also persons are for some purposes and in certain respects regarded as things.  
[Black's Law Dictionary, Sixth Edition, pp. 1304-1306]

4. The definitions section of the civil statute is the place the civil status or “res” and the rights and obligations it represents are CREATED. This is because any statutory civil obligation/right the government creates must attach to a civil status fiction rather than directly to a physical human being standing on land protected by the Constitution. If the obligation attaches to a physical human being protected by the Constitution without provable consent, it is involuntary servitude and THEFT. The THEFT is represented by the OBLIGATIONS taken from the OBLIGOR without their consent because these obligations represent “property” in a legal sense.
5. As the CREATOR of the fictional civil status, the government is the OWNER. See:  

Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship  
<https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>
6. The status they attach the OBLIGATION or RIGHT, meaning PROPERTY INTEREST or RES, to must be voluntary and require consent in some form to acquire, whether overt or covert (sub silentio).
7. The civil status that the obligation or privilege it attaches to must be a fiction and an agent or officer of the government that they have the right to command or enforce against WITHOUT constitutional constraints.

“The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O’Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277-278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm’n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616-617 (1973).”  
[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]

8. Those who consent to the civil status must usually take a VOLUNTARY oath, and the oath is how the civil obligations acquire “the force of law” against the human TAKING said oath. That oath is found in 5 U.S.C. §3331:

“But, it may be suggested, that the office being established by a law of the United States, it is an incident naturally attached to the authority of the United States, to guard the officer against the approaches of corruption, in the execution of his public trust. It is true, that the person who accepts an office may be supposed to enter into a compact to be answerable to the government, which he serves, for any violation of his duty; and, having taken the oath of office, he would unquestionably be liable, in such case, to a prosecution for perjury in the Federal Courts.”  
[United States v. Worrall, 2 U.S. 384 (1798)]

TITLE 5 > PART III > Subpart B > CHAPTER 33 > SUBCHAPTER II > § 3331  
§ 3331. Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: “I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” This section does not affect other oaths required by law.

9. The civil status such as “person”, “citizen”, “resident”, etc must be easily confused (by the legally ignorant) with the man or woman or artificial entity adopting the civil status so that:
  - 9.1. Equivocation may be abused by the government to hide the mandatory requirement that the OFFICE/STATUS and the OFFICER can only be connected together by EXPRESS CONSENT.
  - 9.2. Implied consent and sub silentio can be used as a form of sophistry to TRICK people into unknowingly volunteering for the civil status and the office it represents:

1 “SUB SILENTIO. Under silence; without any notice being taken. Passing a thing sub silentio may be evidence of consent”  
2 [Black’s Law Dictionary, Fourth Edition, p. 1593]

3 “Qui tacet consentire videtur.  
4 He who is silent appears to consent. Jenk. Cent. 32.”  
5 [Bouvier’s Maxims of Law, 1856;  
6 SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

- 7 9.3. The process of consent is hidden and obscured so that people don’t realize they have the option of NOT  
8 consenting. We call this “invisible consent” in the following document:

Requirement for Consent, Form #05.003, Section 9.4  
<https://sedm.org/Forms/FormIndex.htm>

- 9 9.4. The obligations attached to the CIVIL STATUS and OFFICE or AGENCY appear to be unavoidable to you and  
10 do not require your overt consent, even though this is NEVER the case. According to the Declaration of  
11 Independence, all just powers of government derive from CONSENT of those governed. If you don’t want to be  
12 “governed”, controlled, or enforced against, then simply don’t claim or consent to the civil status that the civil  
13 obligations attach to. That is all that is needed.

- 14 9.5. The usually legally ignorant party enforcing the civil statute in the de facto corrupt government can then claim  
15 “plausible deniability” in confusing the OFFICE/STATUS with the OFFICER filling the status. That way they  
16 can’t be prosecuted for the THEFT and SLAVERY against those who don’t consent to the status or the civil  
17 obligations attached to the status.

- 18 10. Government must define a public officer as someone in charge of the property of the public.

19 “**Public office.** The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or  
20 enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government  
21 for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in  
22 their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d. 396,  
23 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035;  
24 Shelmadine v. City of Elkhart, 75 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413,  
25 52 P.2d. 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as  
26 de- notes duration and continuance, with Independent power to control the property of the public, or with public functions to be  
27 exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a  
28 designation or title, the position so created is a public office. State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593.  
29 [Black’s Law Dictionary, Fourth Edition, p. 1235]

- 30 11. When or if a private man or woman or artificial entity invokes the status on a government form or uses a franchise  
31 mark, such as an SSN or EIN, then the private man or artificial entity is treated AS IF they tacitly consented to the  
32 office which the status or franchise mark represents. This is because the status or franchise mark and the PUBLIC  
33 rights which to attach to it are PUBLIC property and the recipient or user of the property is now in charge of “the  
34 property of the public” as a public officer as defined above.

- 35 11.1. By “treated as if”, we mean they are treated as a lawful target of government enforcement activity, even if they in  
36 fact are not. The word used for “treated as if” is “dissimulation”:

37 *dissimulate*

38 **verb**

39 *dis-sim-u-late* \(\(di- 'sim-yə-, lāt \

40 ***dissimulated; dissimulating***

41 *Definition of dissimulate*

42 **transitive verb**

43 *:to hide under a false appearance*

44 *//smiled to dissimulate her urgency—Alice Glenday*

45 **intransitive verb**

46 ***:DISSEMBLE***

//a politician's ability to dissimulate  
[Merriam Webster Dictionary: Dissimulate; SOURCE: <https://www.merriam-webster.com/dictionary/dissimulated>]

For humorous real-life examples of “dissimulation” in action, see:

11.1.1. [#1: Hospital](https://sedm.org/education/liberty-university/liberty-university-2-10-1-hospital/)  
<https://sedm.org/education/liberty-university/liberty-university-2-10-1-hospital/>

11.1.2. [#2: Airplane](https://sedm.org/education/liberty-university/liberty-university-2-10-2-airplane/)  
<https://sedm.org/education/liberty-university/liberty-university-2-10-2-airplane/>

11.1.3. [#3: Home](https://sedm.org/education/liberty-university/liberty-university-2-10-3-home/)  
<https://sedm.org/education/liberty-university/liberty-university-2-10-3-home/>

11.1.4. [#4: Dad in Car](https://sedm.org/education/liberty-university/liberty-university-2-10-4-dad-in-car/)  
<https://sedm.org/education/liberty-university/liberty-university-2-10-4-dad-in-car/>

11.1.5. [#5: Park](https://sedm.org/education/liberty-university/liberty-university-2-10-5-park/)  
<https://sedm.org/education/liberty-university/liberty-university-2-10-5-park/>

11.2. The legally ignorant man or woman who volunteers for the office or agency of civil statutory “person”, “citizen”, or “resident” becomes such a lawful target of enforcement even without the usually customary implementing regulations, because the Administrative Procedures Act, 5 U.S.C. §553(a)(2) says or implies that those in possession of government property or even eligible to receive “benefits” may be the direct target of congressional legislation without the implementing regulations required by 5 U.S.C. §552(a)(1):

[TITLE 5](#) > [PART I](#) > [CHAPTER 5](#) > [SUBCHAPTER II](#) > § 552  
[§ 552. Public information; agency rules, opinions, orders, records, and proceedings](#)

(a)(1) Except to the extent that a person has actual and timely notice of the terms thereof, **a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published.** For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

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[TITLE 5](#) > [PART I](#) > [CHAPTER 5](#) > [SUBCHAPTER II](#) > § 553  
[§ 553. Rule making](#)

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) **a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.**

11.3. The definitions of “person” for the purposes of both civil penalties and criminal enforcement confirms the above:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 68](#) > [Subchapter B](#) > [PART I](#) > § 6671  
[§ 6671. Rules for application of assessable penalties](#)

(b) Person defined

The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, **who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.**

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[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 75](#) > [Subchapter D](#) > § 7343  
[§ 7343. Definition of term “person”](#)

The term “person” as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

12. The U.S. Supreme Court has acknowledged the above process by stating the following:

*But when Congress creates a statutory right [a “privilege” in this case, such as a “trade or business”], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks*

related to that right [such as “Tax Court”, “Family Court”, “Traffic Court”] etc.].<sup>FN35</sup> Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts. [Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. at 83-84, 102 S.Ct. 2858 (1983)]

The above limitations are consistent with the rules of statutory construction and interpretation:

"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "  
[In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]

The statutory definition of “federal personnel” confirms that those who are even ELIGIBLE to receive any retirement program, including Social Security, are deemed to be “federal personnel” and therefore parties who fit within 5 U.S.C. §553(a)(2) above.

[5 U.S. Code § 552a - Records maintained on individuals](#)

(a) Definitions.—For purposes of this section—

**(13) the term “Federal personnel” means** officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), **individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).**

So they at least PRETEND to have made you into a government agent or officer by offering you Social Security. In reality, however, Social Security cannot be offered within a constitutional state, so it’s really a FRAUD to break down the separation of powers, enslave you, and destroy ALL your constitutional rights:

[Why You Aren’t Eligible for Social Security](#), Form #06.001  
<https://sedm.org/Forms/FormIndex.htm>

We also discuss WHY government can’t lawfully impose civil statutory obligations WITHOUT your consent, and how to AVOID consenting and avoid being the lawful target of enforcement in the following:

[Lawfully Avoiding Government Obligations Course](#), Form #12.040  
<https://sedm.org/Forms/FormIndex.htm>

The weak link in the above is the concept of the CREATOR being the OWNER. There are actually TWO creations happening in the above process:

1. The STATUTORY creation of the legal fiction “person”, “citizen”, “resident”, “driver”, etc.
2. The act of manifesting EXPRESS consent by a SPECIFIC human being that connects the legal fiction to a SPECIFIC flesh and blood human being, without which the “res” cannot realistically be CREATED. This is usually done by the OBLIGOR. This creation can be:
  - 2.1. EXPRESS in the form of a signed physical government form submitted by the OBLIGOR (you) to the OBLIGEE (government).
  - 2.2. IMPLIED by the conduct of the party. If you ACT like a party subject called a “taxpayer”, then you CONSENT to be one, no matter what the forms say.

The second option above is just as potent and real an action of CREATION as the first one. Therefore, it represents an opportunity for YOU as a human being to create an OWNERSHIP or PROPERTY interest in the outcome against the government recipient in the same manner as they do against you. You don’t control the first act of CREATION above but you directly and exclusively control the SECOND one above. The way you control the second act of CREATION is the paperwork you submit. On that paperwork, ONLY YOU control:

1. WHAT is on the form.
2. The DEFINITION of the words.
3. The CONTEXT of the terms, whether CONSTITUTIONAL or STATUTORY.

4. The meaning of the perjury statement. You don't have to CHANGE any part of the perjury statement to change its impact. Just define the ENTIRE paragraph's meaning so that the RECIPIENT can't. This avoids any possibility of a "jurat" penalty by the recipient.

The courts have repeatedly held that you cannot trust ANYTHING a government worker says or publishes or writes, and even government forms.<sup>8</sup> Thus, if you DON'T take full and complete advantage of defining and describing each of the elements of the forms you submit to the government so that YOU are the "Merchant" and the government is the "Buyer" under the UCC and they work for you and you don't work for them, then you will SURELY get screwed, black and blued, and tattooed by the government. Not doing the FOUR above things amounts to signing a blank check and permitting and even encouraging them to PRESUME anything they want about the meaning and significance and CONTEXT of the terms used. Bad idea!

As an example of how to flip the relationship around and make the GOVERNMENT the "Buyer" rather than the "Merchant", simply define the originally statutory terms and franchise marks that are compelled to be used to be private property on loan to the government recipient. Below is an example:

NOTES:

*1. All terms used on this form OTHER than "Social Security Number" shall be construed in their statutory sense. This is especially true in the case of money or finance. They are not used in their private, ordinary, or common law sense. The term "Social Security Number" identifies a PRIVATE number owned and issued by the Submitter to the government under license and franchise. It is not a number identified in any governments statute and does not pertain to anyone eligible to receive Social Security Benefits and may not be used to indicate or imply eligibility to receive said benefits. The license for the use of the number for use outside of the VA for any purpose, and especially civil or criminal enforcement purpose, is identified below and incorporated by reference herein. Acceptance or use of said number for such purpose constitutes constructive or implied consent to said agreement by all those so using said number:*

*Injury Defense Franchise and Agreement, Form #06.027; <https://sedm.org/Forms/06-AvoidingFranch/InjuryDefenseFranchise.pdf>.*

*This provision is repeated Section 0 in the attached form entitled Why It is Illegal for Me to Request or Use a Taxpayer Identification Number, Form #04.205. The reason for this provision is that everyone who asks for such number refers to them as "MINE" or "MY" or "YOUR", meaning that it is MY absolutely owned PRIVATE property. Therefore I am simply documenting the fact that it is my absolutely owned private property as a private human not affiliated with the government. All private property can be used as a basis to place conditions on its use or else it isn't mine. That's what "ownership" implies in a legal sense. Congress does the same thing with ITS property under Article 4, Section 3, Clause 2, and I am simply carrying out exactly the authority THEY claim over THEIR property in the same manner as them.*  
*[Veterans Administration Benefit Application, Form #06.041, Notes at the end; <https://sedm.org/Forms/FormIndex.htm>]*

Under the UCC, there cannot be lawful consent or a waiver of rights without the language of the acceptance and the language of the offer being mutually agreed to and stipulated by the Merchant and the Buyer. In other words, the definitions represent the PROPERTY that is being exchanged between the party, and both parties MUST agree to that property. See:

1. *This Form is Your Form*, Mark DeAngelis  
<http://www.youtube.com/embed/b6-PRwhU7cg>
2. *Mirror Image Rule*, Mark DeAngelis  
<http://www.youtube.com/embed/j8pgbZV757w>
3. *The Power of Paper*, minivanjack  
<http://www.youtube.com/embed/kEwxYhIIaI0>

Any attempt by either party to define the terms differently than what the franchise statutes say turns an offer/acceptance into a COUNTER-offer and an entirely new relationship. When you define a civil status on a form (such as "person" or "SSN") in such a way as to take it OUT of its original statutory context, then it ceases to be PUBLIC property on loan to you and becomes PRIVATE property on loan to the government. This is because the CREATOR of a thing is always the OWNER of a thing, so you become the NEW owner as the CREATOR of the status.<sup>9</sup> When you change the CREATOR of a thing or status or a right or a privilege, you change the OWNER. And once you become the OWNER, you are now the

<sup>8</sup> See: *Federal Courts and the IRS' Own IRM Say the IRS is NOT RESPONSIBLE for Its Actions or Its Words or For Following Its Own Written Procedures!*, Family Guardian Fellowship; <https://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>.

<sup>9</sup> See: *Hierarchy of Sovereignty: The Power to Create is the Power to Tax*, Family Guardian Fellowship; <https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>.

1 Merchant renting and granting that thing to the government who can make ALL the rules to prejudice the government and  
2 advantage yourself. We talk about this method of reversing the relationship to make the GOVERNMENT into a privileged  
3 party instead of you in:

*Path to Freedom*, Form #09.015, Sections 5.6 and 5.7  
<https://sedm.org/Forms/FormIndex.htm>

4 The government has NO WAY to fight this tactic because the courts have repeatedly held that you CANNOT TRUST or  
5 rely upon anything a government worker says or even publishes on a government form.<sup>10</sup> Thus, even if they WANTED to  
6 define a term to retain its context, you could not RELY on that definition and it would not be admissible in court.  
7 Therefore you are COMPELLED to provide your OWN definition to ensure there is court-admissible evidence of  
8 EXACTLY what the parties agreed to. This will rule out the exercise of any discretion whatsoever by the judge or  
9 prosecutor to advantage the government. This is discussed in:

*Avoiding Traps in Government Forms*, Form #12.023  
<https://sedm.org/Forms/FormIndex.htm>

10 Lastly, we prove with exhaustive evidence that the income tax functions essentially as a rental fee for the use of  
11 government property, such as the PRIVILEGE of being treated as a STATUTORY “citizen” under the Internal Revenue  
12 Code in the following:

*Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property*, Form  
#04.404  
<https://sedm.org/Forms/FormIndex.htm>

## 13 **10 Demands for a Return of the Common Law, Common Law Jurisdiction, and For Common** 14 **Law Courts**

- 15 1. Common Law Court, Youtube  
16 <https://www.youtube.com/watch?v=3nVOCbxuQ-Y>
- 17 2. It's time, take our Courts back International Common Law Meeting, Youtube  
18 <https://www.youtube.com/watch?v=LDwmGbAFaso>
- 19 3. I Claim Common law Jurisdiction. I do Not Consent and Waive the Benefits, Youtube  
20 <https://www.youtube.com/watch?v=5zky4TRz5hU>
- 21 4. Convening of International Common Law Court of Justice, Youtube  
22 <https://www.youtube.com/watch?v=hr3lpMA58EE>
- 23 5. Kar Lentz 187-Understanding statute and common law courts, Youtube  
24 [https://www.youtube.com/watch?v=\\_0ecNc0ZLAU](https://www.youtube.com/watch?v=_0ecNc0ZLAU)
- 25 6. Lawful v. Legal-Bill Turner, Youtube  
26 <https://www.youtube.com/watch?v=ET9Ntr-JL44>
- 27 7. AV10-John Smith-Common Law Courts, Youtube  
28 <https://www.youtube.com/watch?v=AU9ifWnloDo>

## 29 **11 Methods of CIRCUMVENTING the common law**

30 To circumvent the common law is to:

- 31 1. Circumvent the oath that all public officers must take to protect and defend private property and private rights.
- 32 2. Remove the protections of the Bill of Rights and replace it with civil statutory law.
- 33 3. Change the choice of law from the Bill of Rights to the civil statutory code.
- 34 4. Cause the victim to become a target of criminal identity theft if they didn't consent.
- 35 5. Steal private property and private rights.
- 36 6. Make public servants into public masters.
- 37 7. Convert public servants from protectors to predators.
- 38 8. Convert our system of government to a dulocracy.

<sup>10</sup> See: *Reasonable Belief About Income Tax Liability*, Form #05.007; <https://sedm.org/Forms/FormIndex.htm>.

1 9. Replace absolute ownership of property with qualified or equitable ownership.

2 The process of circumventing the common law is described below:

*How Scoundrels Corrupted Our Republican Form of Government*, Family Guardian Fellowship  
<https://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm>

3 **11.1 Offering or enforcing franchises, privileges, or licenses**

4 Civil franchises replace constitutional rights and private property with civil statutory privileges and public property.  
5 Domicile is merely one of many types of civil franchises. The result of offering or enforcing civil franchises is to change  
6 the choice of law from the organic law to the civil statutory law as described in:

- 7 1. Choice of Law, Litigation Tool #01.010  
8 <https://sedm.org/Litigation/01-General/ChoiceOfLaw.pdf>  
9 2. Government Identity Theft, Form #05.046-describes all the methods of government identity theft which result in a  
10 change of choice of law from the Bill of Rights to civil statutes.  
11 <https://sedm.org/Forms/05-MemLaw/GovernmentIdentityTheft.pdf>

12 **11.2 Bundling of multiple privileges together in what we call “weaponization of government”**

13 We define “weaponization of government as follows in our Disclaimer:

14  
15 **SEDM Disclaimer**

16 **Section 4.31 Weaponization of Government**

17 The process by which a classically governmental function is abused as a method to destroy or war against private rights,  
18 private property, common law remedies, constitutional remedies, or even personal choice and autonomy. The  
19 PERPETRATOR we call the RECRUITER and the VICTIM we call the PEON, VASSAL, and SLAVE. We describe the  
20 HAZARDS of participating in, NOT opposing, or benefiting from the "weaponization of government" on the opening page  
21 of our site as follows:

22 *People of all races, genders, political beliefs, sexual orientations, and nearly all religions are welcome here. All are treated equally*  
23 *under REAL “law”. The only way to remain truly free and equal under the civil law is to avoid seeking government civil services,*  
24 *benefits, property, special or civil status, exemptions, privileges, or special treatment. All such pursuits of government services or*  
25 *property require individual and lawful consent to a franchise and the surrender of inalienable constitutional rights AND*  
26 *EQUALITY in the process, and should therefore be AVOIDED. The rights and equality given up are the “cost” of procuring the*  
27 *“benefit” or property from the government, in fact. Nothing in life is truly “free”. Anyone who claims that such “benefits” or*  
28 *property should be free and cost them nothing is a thief who wants to use the government as a means to STEAL on his or her behalf.*  
29 *All just rights spring from responsibilities/obligations under the laws of a higher power. If that higher power is God, you can be*  
30 *truly and objectively free. If it is government, you are guaranteed to be a slave because they can lawfully set the cost of their*  
31 *property as high as they want as a Merchant under the U.C.C. If you want it really bad from people with a monopoly, then you will*  
32 *get it REALLY bad. Bend over. There are NO constitutional limits on the price government can charge for their monopoly services*  
33 *or property. Those who want no responsibilities can have no real/PRIVATE rights, but only privileges dispensed to wards of the*  
34 *state which are disguised to LOOK like unalienable rights. Obligations and rights are two sides of the same coin, just like self-*  
35 *ownership and personal responsibility. For the biblical version of this paragraph, read 1 Sam. 8:10-22. For the reason God*  
36 *answered Samuel by telling him to allow the people to have a king, read Deut. 28:43-51, which is God’s curse upon those who*  
37 *allow a king above them. Click Here for a detailed description of the legal, moral, and spiritual consequences of violating this*  
38 *paragraph.*  
39 *[Sovereignty Education and Defense Ministry (SEDM) Website Opening Page; <http://sedm.org/>]*

40 Below are the elements describing exactly what we mean by this term:

- 41 1. The result is:  
42 1.1. An INVOLUNTARY conversion of PRIVATE property, PRIVATE rights, and PRIVATE civil status into  
43 PUBLIC property, PUBLIC rights, and PUBLIC civil statutory status respectively.  
44 1.2. A destruction of the legal separation between PUBLIC and PRIVATE. See:

*Separation Between Public and Private Course*, Form #12.025

<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

1.3. A government that has superior or supernatural powers in relation to the people it was created to SERVE from below rather than RULE from above.

1.4. The creation of a ALLEGED but not ACTUAL consensual connection between a fictional office (the "franchisee") in the government and an otherwise PRIVATE human OUTSIDE the government.

1.5. A destruction of equality of treatment and protection between the GOVERNORS and the GOVERNED. See:

*Requirement for Equal Protection and Equal Treatment*, Form #05.033

<https://sedm.org/Forms/05-MemLaw/EqualProtection.pdf>

1.6. The establishment of a civil or governmental religion in violation of the First Amendment. See:

*Socialism: The New American Civil Religion*, Form #05.016

<https://sedm.org/Forms/05-MemLaw/SocialismCivilReligion.pdf>

2. Such activities:

2.1. Work a purpose OPPOSITE of that of establishing government in the first place, which is EXCLUSIVELY the protection of PRIVATE property and PRIVATE rights.

2.2. Violate the Bill of Rights of the constitution of the government doing so.

2.3. Violate the oath of office of those working in the government who conspire to engage in such activities.

2.4. Result in a conversion of the government engaging in them from DE JURE to DE FACTO. See:

*De Facto Government Scam*, Form #05.043

<https://sedm.org/Forms/05-MemLaw/CorpGovt.pdf>

3. The method of instituting this weaponization of government usually consists of illegal "bundling" of a WANTED service with an UNWANTED service, privilege or franchise. This makes it IMPOSSIBLE to avoid the UNWANTED service, privilege, or franchise, because:

3.1. The government has a monopoly on the WANTED aspect of the product or service.

3.2. Private industry is usually legally prohibited from offering the WANTED service. In some cases, the offering of the service is a criminal offense, in order to ENSURE and protect this criminal mafia racketeering.

4. The techniques described herein fit in the following CRIMINAL categories:

4.1. Extortion. [18 U.S.C. §872](#). They are coercing you into a public office and franchise so you become a usually ONGOING sponsor of their criminal activities.

4.2. Offer to procure appointive public office. [18 U.S.C. §210](#). Offering you the UNWANTED portion of the service, which is usually a public office, constitutes a criminal offer to procure the public office with the bribe of "benefits" that you technically aren't eligible for.

4.3. Bribery of public officials and witnesses. [18 U.S.C. §201](#). The monies paid to the government under the coerced public office or fiction occupied by the victim of this extortion constitute bribes to a public official to treat you AS IF you are a real de jure public officer and to pay you "benefits" that only public officers can collect.

4.4. Conflict of interest. [18 U.S.C. §208](#). A criminal financial conflict of interest is created in the people offering the WANTED service to market and compel the UNWANTED service to increase their revenues.

4.5. Peonage and slavery. [18 U.S.C. §1581](#) and Thirteenth Amendment. The civil statutory obligations that attach to the compelled office that the VICTIM involuntarily occupies constitute PEONAGE.

4.6. Impersonating a public officer. [18 U.S.C. §912](#). Government can only regulate its own officers. Those officers must, in turn, be lawfully elected, appointed, or hired and they NEVER are. Following proper appointment, election, or hiring protocol would, after all, inform you that you are a volunteer, and they can NEVER admit that they need your consent to regulate you.

5. Those in government engaging in such activities protect themselves from criminal consequences by:

5.1. Abusing "equivocation" of key terms to make PUBLIC and PRIVATE indistinguishable.

5.2. Playing stupid.

5.3. Ensuring that people administering the program are NOT legally responsible or accountable for anything they say, write, or publish. See:

*Legal Deception, Propaganda, and Fraud*, Form #05.014

<https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf>

5.4. Compartmentalizing service personnel at the bottom by telling them to learn PROCEDURES and NEVER actual LAW. Thus, they can claim plausible deniability and never be prosecuted personally for their criminal activities. .

6. To ensure the continuation and protection of the weaponization of government, the corrupt government agents and employees engaging in it will:

6.1. Hide forms for quitting the programs.

6.2. Describe the program as "voluntary" but provide no regulations, forms, or internal procedures to QUIT.

- 6.3. Not offer options on the application for the WANTED service any method of UNBUNDLING or REMOVING the UNWANTED service from the transaction.
- 6.4. Define no statutory or regulatory terms which recognize ANYONE who has not volunteered for the UNWANTED service so that their PRIVATE rights can be legally recognized and even ADMINISTRATIVELY enforced.
- The above tactics, in a PRIVATE business context, would be referred to as "marketing".
7. To ensure that the government is never victimized by the above tactics by PRIVATE people using it against THEM, the corrupted and covetous government must implement SOVEREIGN IMMUNITY in its own case but DENY it to the sovereign people they serve:
- 7.1. Government must claim to have sovereign immunity which requires EXPRESS WRITTEN CONSENT to surrender that sovereign immunity. By the way, the CONSTITUTION DOES NOT AUTHORIZE sovereign immunity and there is therefore NO SUCH THING! See: [Najim v. CACI Premier Tech., Inc., 368 F.Supp.3d. 935 \(2019\).](#)
- 7.2. The Sovereign People from whom that sovereign immunity was delegated DO NOT have sovereign immunity. Thus, sovereign immunity is a "supernatural power" the people as the "natural" cannot and do not possess.
- 7.3. All people signing up for the SCAM UNWANTED service do so through usually IMPLIED rather than EXPRESS consent. Thus, they are UNAWARE that they are "electing" themselves ILLEGALLY into a public office and joining the government by doing so. This constitutes fraud, because they are NOT ALLOWED to know that is what they are doing, and if they knew that was what they were doing, they would DEMAND the ability to NOT CONSENT to the UNWANTED service connected to the office and receive only the WANTED service or product. See:

*Proof That There Is a "Straw Man",* Form #05.042  
<https://sedm.org/Forms/05-MemLaw/StrawMan.pdf>

8. Synonyms for this process include: adhesion contract, unconscionable contract, compelled franchise, compelled privilege, SLAVERY, PEONAGE, HUMAN TRAFFICKING.

Examples of government programs which usually implement "weaponization of government" as described above:

1. Passports. Most people use this document mainly for INTERSTATE travel and ID to conduct commerce, neither of which can be or should be "privileged" or regulated. Foreign travel use requests the PRIVILEGE of protection abroad is only secondary and should be optional. The Department of State should offer TWO passports, one for INTRASTATE use and one for FOREIGN use, so that you have a "NONPRIVILEGED" version of the document that you can obtain WITHOUT the need to collect an SSN or TIN. Forcing applicants to provide an SSN or TIN to receive ANY kind of passport essentially bundles a DE FACTO public office with otherwise PRIVATE travel. That office is called "STATUTORY citizen" under [8 U.S.C. §1401](#), 26 C.F.R. §1.1-1(c), etc. See:
- Getting a USA Passport as a "State National",* Form #10.013  
<https://sedm.org/product/getting-a-usa-passport-as-a-state-national-form-10-013/>
2. State "resident" ID. This id is intended primarily for use in commerce, and most people, if they had a choice, would AVOID the STATUTORY "resident" civil status and public office bundled with it.
3. Driver licensing. This id is intended primarily for use in commerce, and most people, if they had a choice, would AVOID the STATUTORY "driver" civil status and public office bundled with it.
4. Marriage licensing. Licensed marriage is a civil statutory privilege and a three party contract. A licensed marriage is polygamy with the state, and the state is the only one of the three parties who can rewrite the contract at will any time they want. Thus, the state literally becomes god as the only party with superior or supernatural powers in violation of the First Amendment.
5. Professional licensing. Government uses licenses to institute in effect ECONOMIC EMBARGOES on all those who don't follow their rules. If you don't follow their rules and regulations, they take away the license. In the absence of a license, you lose business and could literally starve in some cases. The result is GENOCIDE.
6. Building permits. It's not your property if you need permission from the government to do anything to it that doesn't demonstrably injure others.
7. Property taxes. Through the Torrens Act and the building code, the state claims a shared ownership in the property and acquires absolute ownership. If you don't pay the property tax, they literally STEAL your property and all your equity. The absolute owner is the only party who can deprive other parties of the use of the property so they are the absolute owner.
8. The Federal Reserve counterfeiting franchise. We presently have "currency", and not "money". Currency in turn is a debt instrument, and the effective lender is the PRIVATE, for profit, Federal Reserve. Every attempt to regulate the use

of this fiat currency through money laundering statutes presupposes that those handling it are engaged in a public office in the national government. See:

8.1. *The Money Scam*, Form #05.041

<https://sedm.org/Forms/05-MemLaw/MoneyScam.pdf>

8.2. *The Money Laundering Enforcement Scam*, Form #05.044

<https://sedm.org/Forms/05-MemLaw/MoneyLaunderingScam.pdf>

9. Criminal courts, who will insist that you must be "REPRESENTED" essentially by a public officer and officer of the court with a criminal financial conflict of interest, or they won't allow litigation to proceed. See:

*Unlicensed Practice of Law*, Form #05.029

<https://sedm.org/product/unlicensed-practice-of-law-form-05-029/>

In the private commercial marketplace, such tactics by large corporations include the following:

1. The Google Android operating system:

1.1. If phone manufacturers what to implement on their phone, must agree to use Google Search as their default search engine.

1.2. Developers who want to sell their apps in the Google Play store must run all payments through the Google Play payment system and pay a commission to Google. They are NOT allowed to have their OWN private app store or payment platform.

2. The Apple IOS operating system. Vendors who want to offer their apps in the Apple Store must use the Apple payment platform and pay an exorbitant 30% of all revenues their app collects, even if it isn't the sale of their app initially. This is extortion.

3. The Microsoft Windows operating system. For years, Microsoft mandated that the Internet Explorer browser had to be installed as the default browser on all new PC's sold, or the manufacturer could not buy Windows to install on their computer.

4. Amazon marketplace. Third party vendors who sell on Amazon must agree in writing when they sign up to NEVER offer the products they sell on Amazon at a LOWER price than the Amazon price.

5. Banks. Most banks COMPEL you ILLEGALLY into a public office called a STATUTORY "U.S. Person" in order to open a bank account, even though it is ILLEGAL to occupy or elect yourself into such an office. They do this by refusing to accept the W-8 form and mandating the use of the W-9 form to open an account, even though the W-9 doesn't apply to most Americans. See:

*"U.S. Person" Position*, Form #05.052

<https://sedm.org/Forms/05-MemLaw/USPersonPosition.pdf>

6. Money Service Businesses (MSBs) such as Western Union. They require you to provide an SSN in order to obtain a reloadable gift card and claim that "the law" mandates this.

6.1. Their basis for doing so is usually "anti-money laundering" statutes (not "laws", but "statutes") that DO NOT apply to the average American. See:

*The Money Laundering Enforcement Scam*, Form #05.044

<https://sedm.org/Forms/05-MemLaw/MoneyLaunderingScam.pdf>

6.2. No law mandates that a state national and nonresident alien not engaged in the "trade or business" franchise must have or use an SSN or TIN, but they ILLEGALLY refuse to allow prospective cardholders to claim this status or avoid the SSN/TIN requirement. See:

*About IRS Form W-8BEN*, Form #04.202

<https://sedm.org/Forms/04-Tax/2-Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>

7. Private employers accepting job applicants. They say you MUST fill out a W-4 and will not accept a W-8 in order to obtain a job, NOT as an "employee", but simply as a "worker" who is NOT a statutory government "employee". See

*Federal and State Withholding Options for Private Employers*, Form #09.001

<https://sedm.org/Forms/09-Procs/FedStateWOptions.pdf>

The European Union has previously SANCTIONED large corporations to the tune of billions of dollars of penalties connected with the above tactics, which they label in court as "anti-competitive behavior". Why aren't they applying the SAME tactics to THEMSELVES, as far as the MONEY system? For instance, why aren't PRIVATE companies allowed to have private money systems and not connect those who use them into a public office illegally? Every time someone tries to do this, they get RAIDED illegally under the guise of "know your customer rules" that don't apply to private people. This has happened with eGold, Bitclub, Liberty Dollar, National Commodity and Barter Association (NCBA), and MANY others. Litigating against these entities can only have one purpose: Protect a de facto monopoly on money that the Constitution does NOT EXPRESSLY authorize and which is therefore FORBIDDEN. See:

1. *The Money Scam*, Form #05.041  
<https://sedm.org/Forms/05-MemLaw/MoneyScam.pdf>
2. *Why It is Illegal for You to Enforce Money Laundering Statutes In My Specific Case*, Form #06.046  
<https://sedm.org/Forms/06-AvoidingFranch/MonLaundEnfIllegal.pdf>
3. *Money Laundering Enforcement Scam*, Form #05.044  
<https://sedm.org/Forms/05-MemLaw/MoneyLaunderingScam.pdf>

The main purpose of ELIMINATING all "weaponization of government" as described above is to:

1. Pursue "justice", which is legally defined as the "right to be left alone" by everyone, INCLUDING and ESPECIALLY government. See:

*What is "Justice"?*, Form #05.050

<https://sedm.org/Forms/05-MemLaw/WhatIsJustice.pdf>

2. Restore the constitutional separation between PUBLIC and PRIVATE. The Constitution is a TRUST indenture, and the main "benefit" it delivers, in fact, is PRIVATE PROPERTY! See:

*Separation Between Public and Private Course*, Form #12.025

<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

3. Restore government to its DE JURE functions and eliminate all DE FACTO practices. See:

*De Facto Government Scam*, Form #05.043

<https://sedm.org/Forms/05-MemLaw/DeFactoGov.pdf>

4. Eliminate the "Administrative State" that depends for its entire existence upon the ILLEGAL creation of the public offices that animate and implement the above FRAUD upon the people. See:

*Administrative State: Tactics and Defenses Course*, Form #12.041

<https://sedm.org/LibertyU/AdminState.pdf>

5. To eliminate the criminal activities and criminal financial conflicts of interest in both the judiciary and the legal profession created by the above.

[*SEDM Disclaimer*, Section 4.31: Weaponization of Government; <https://sedm.org/disclaimer.htm>]

### **11.3 Compelled Domicile without Express Written Consent**

Domicile is voluntary. Any attempt to compel domicile or to use implied consent to a domicile based on specific behaviors results in changing the choice of law from the Bill of Rights to the civil statutory law, and thus, to repeal the Bill of Rights and natural rights. In essence, it amounts to criminal identity theft. The subject of domicile and efforts to force it upon those who don't consent is exhaustively described in:

*Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002

<https://sedm.org/Forms/05-MemLaw/Domicile.pdf>

### **11.4 Constitutional Avoidance Doctrine**

The Constitutional Avoidance Doctrine is a principle of statutory interpretation that suggests that when a federal statute is susceptible to multiple interpretations, one of which would raise constitutional issues, courts should choose the interpretation that avoids the constitutional question. Here are a few notable U.S. Supreme Court cases that have involved or referenced the Constitutional Avoidance Doctrine:

1. *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288 (1936): This case is often cited as one of the earliest instances of the Supreme Court discussing the principle of constitutional avoidance. The Court stated that it should avoid passing on constitutional questions if the case can be decided on other grounds.
2. *Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Construction Trades Council*, 485 U.S. 568 (1988): In this case, the Supreme Court applied the Constitutional Avoidance Doctrine to avoid deciding a First Amendment challenge to a state statute. The Court interpreted the statute in a way that would not raise constitutional issues.
3. *Clark v. Martinez*, 543 U.S. 371 (2005): This case involved a challenge to a federal statute that potentially impacted the equal protection rights of certain groups. The Supreme Court applied the Constitutional Avoidance Doctrine and interpreted the statute in a way that did not raise significant constitutional concerns.

4. National Labor Relations Board v. Catholic Bishop of Chicago, 440 U.S. 490 (1979): In this case, the Supreme Court applied the Constitutional Avoidance Doctrine to avoid deciding whether certain employees of religious schools were subject to federal labor law, as this could raise First Amendment concerns regarding the separation of church and state.
5. National Cable & Telecommunications Association v. Brand X Internet Services, 545 U.S. 967 (2005): While this case primarily focused on issues related to administrative law and the Chevron deference doctrine, it also touched on the concept of constitutional avoidance. The Court noted that if a statute could be reasonably interpreted to avoid a serious constitutional question, that interpretation should be preferred.

These cases demonstrate the application of the Constitutional Avoidance Doctrine in various legal contexts and its role in guiding the Court's approach to statutory interpretation when constitutional issues are potentially at stake.

The rules specifically include:

1. Rule 1) The Rule against Feigned or Collusive Lawsuits. Parties to a case must be adverse to each other. Justice Brandeis stated: The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary, proceeding, declining because to decide such questions 'is legitimate only in the last resort, and as a necessity in the determination of real, earnest, and vital controversy between individuals.'<sup>8</sup>
2. Rule 2) Ripeness. The court should not resolve constitutional questions prematurely. As Justice Brandeis wrote: The Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it'<sup>9</sup> and '[i]t is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case.'<sup>10</sup>
3. Rule 3) Judicial Minimalism. The court should decide questions of constitutional law narrowly. Justice Brandeis stated: The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'<sup>11</sup>
4. Rule 4) The Last Resort Rule. If possible, a court should resolve a case on non-constitutional grounds instead of resolving it on constitutional grounds. Explaining this rule, Justice Brandeis stated: The Court will not pass upon a constitutional question . . . if there is also present some other ground upon which the case may be disposed . . . [I]f a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter.<sup>12</sup> He further added: Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.<sup>13</sup>
5. Rule 5) Standing and Mootness. The complainant should suffer an actual injury; as Justice Brandeis noted: The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation.<sup>14</sup>
6. Rule 6) Constitutional Estoppel. A party cannot challenge a law's constitutionality when he or she enjoys the benefits of such law.<sup>15</sup> Justice Brandeis stated: The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.<sup>16</sup>
7. Rule 7) The Constitutional-Doubt Canon. Courts should construe statutes to be constitutional if such a construction is plausible. Explaining this requirement, Justice Brandeis noted: 'When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.'<sup>17</sup>

#### FOOTNOTES:

8. *Ashwander*, 297 U.S. at 346–48 (Brandeis, J. concurring) (quoting [Chicago & Grand Trunk Ry. v. Wellman](#), 143 U.S. 339, 345 (1892)). The Rule Against Feigned or Collusive Lawsuits corresponds to the adversity requirement discussed in [ArtIII.S2.C1.5.1 Overview of Adversity Requirement](#).
9. *Id.* at 346–47 (quoting [Liverpool, N.Y. & Phila. S.S. Co. v. Comm'rs of Emigration](#), 113 U.S. 33, 39 (1885) and citing [Proprietors of Charles River Bridge v. Proprietors of Warren Bridge](#), 36 U.S. (11 Pet.) 420, 553 (1837); [Trademark Cases](#), 100 U.S. 82, 96 (1879); [Arizona v. California](#), 283 U.S. 423, 462–64 (1931); [Abrams v. Van Schaick](#), 293 U.S. 188 (1934); and [Wilshire Oil Co. v. United States](#), 295 U.S. 100 (1935)). The ripeness requirement is discussed, in [ArtIII.S2.C1.7.1 Overview of Ripeness Doctrine](#).
10. *Ashwander*, 297 U.S. at 347 (quoting [Burton v. United States](#), 196 U.S. 283, 295 (1905)).
11. *Id.* (quoting [Liverpool, N.Y. & Phila. S.S. Co. v. Emigration Comm'rs](#), 113 U.S. 33, 39 (1885)).
12. *Id.* (quoting [Siler v. Louisville & Nashville R.R.](#), 213 U.S. 175, 191 (1909); [Light v. United States](#), 220 U.S. 523, 538 (1911)).

13. *Id.* (citing [Berea Coll. v. Ky.](#), 211 U.S. 45, 53 (1908)).
14. *Id.* at 347–48 (citing [Columbus & Greenville Railway v. Miller](#), 283 U.S. 96, 99–100 (1939); [Concordia Fire Institute Co. v. Illinois](#), 292 U.S. 535, 547 (1934); [Corp. Comm’n of Okla. v. Lowe](#), 281 U.S. 431, 438 (1930); [Sprout v. South Bend](#), 277 U.S. 163, 167 (1928); [Massachusetts v. Mellon](#), 262 U.S. 447 (1923); [Fairchild v. Hughes](#), 258 U.S. 126 (1922); [Heald v. District of Columbia](#), 259 U.S. 114, 123 (1922); [Hendrick v. Maryland](#), 235 U.S. 610, 621 (1915); [Hatch v. Reardon](#), 204 U.S. 152, 160–61 (1907); [Tyler v. The Judges](#), 179 U.S. 405 (1900)). Standing and mootness are discussed, in [ArtIII.S2.C1.6.1 Overview of Standing](#) and [ArtIII.S2.C1.8.1 Overview of Mootness Doctrine](#), respectively.
15. [Fahey v. Mallonee](#), 332 U.S. 245, 255 (1947) ([I]t is an elementary rule of constitutional law that one may not ‘retain the benefits of the Act while attacking the constitutionality of one of its important conditions.’ (citations omitted)). See also [Buck v. Kuykendall](#), 267 U.S. 307, 316 (1925) ([O]ne cannot in the same proceeding both assail a statute and rely upon it. Nor can one who avails himself of the benefits conferred by a statute deny its validity. (citations omitted)).
16. *Ashwander*, 297 U.S. at 348 (citing [St. Louis Malleable Casting Co. v. Prendergast Construction Co.](#), 260 U.S. 469 (1923); [Wall v. Parrot Silver & Copper Co.](#) 244 U.S. 407, 411–12 (1917); [Great Falls Manufacturing Co. v. Garland](#), 124 U.S. 581 (1888)).
17. *Id.* (quoting [Crowell v. Benson](#), 285 U.S. 22, 62 (1932) and citing [Interstate Com. Comm’n v. Or.-Wash. R.R. & Navigation Co.](#), 288 U.S. 14, 40 (1933); [Lucas v. Alexander](#), 279 U.S. 573, 577 (1929); [Richmond Screw Anchor Co. v. United States](#), 275 U.S. 331, 346 (1928); [Blodgett v. Holden](#), 275 U.S. 142, 148 (1928); [Mo. Pac. R.R. v. Boone](#), 270 U.S. 466, 471–72 (1926); [Panama R.R. v. Johnson](#), 264 U.S. 375, 390 (1924); [Linder v. United States](#), 268 U.S. 5, 17–18 (1922); [Texas v. E. Tex. R.R.](#), 258 U.S. 204, 217 (1922); [Baender v. Barnett](#), 255 U.S. 224 (1921); [United States v. Jin Fuey Moy](#), 241 U.S. 394, 401 (1916); [United States v. Del. & Hudson Co.](#), 213 U.S. 366, 407–08 (1909)).

See also:

[ArtIII.S2.C1.10.4 Ashwander and Rules of Constitutional Avoidance](#)  
[https://constitution.congress.gov/browse/essay/artIII-S2-C1-9-4/ALDE\\_00013156/](https://constitution.congress.gov/browse/essay/artIII-S2-C1-9-4/ALDE_00013156/)

## 12 Rebutted False Arguments

### 12.1 The Common Law Does Not Exist

#### FALSE STATEMENT:

The common law is not an imaginary body of law that does not exist.

#### REBUTTAL:

It is real. It is written because it is demonstrated in the written decisions of courts in recorded history. Its existence is even recognized in the United States Constitution.

*United States Constitution*  
AMENDMENT [VII.]

*In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.*

### 12.2 Common law is ONLY CURRENT case law

#### FALSE STATEMENT:

Common law is the ONLY current case law.

#### REBUTTAL:

"Common law" simply means "case law" written by judges (as opposed to dictated by statutes or constitutions written by others). However, in the context of the CONSTITUTION, it means the common law of England, because that was the context for the term at the time the constitution was written. The common law of England does not originate in any court in this country. After we separated from England, it became "foreign law".

### **12.3 The Common Law has Never been Written or I can make up my own common law**

#### **FALSE STATEMENT:**

The common law has never been written or I can make up my own common law.

#### **REBUTTAL:**

But, amateur legal theorists mistakenly thought that the term, "unwritten law", once a nickname for the "common law", meant that the "common law" WAS LITERALLY "UNWRITTEN" ALTOGETHER. This resulted in amateur legal theorists simply "MAKING UP" what they thought the common law should be (as long as it was more favorable to them than their perception of today's laws). Then, after simply "MAKING UP" what they thought the "common law" should be, they claimed that the common law "has been taken away" BECAUSE ALL MODERN LAW IS WRITTEN AND THEREFORE CANNOT BE POSSIBLY BE "COMMON LAW". They claim that the reason that common law was "taken away" was to eliminate all personal freedom and liberty and reduce humanity to slaves. Accordingly, they claim that today's written laws are in direct conflict with the unwritten common law which they believe shielded people from all responsibility and accountability to society as a whole absent injury to another person or that person's property.

**ACTUAL PROOF:** What follows is a written explanation of the "common law" based on this very mistake described above (that common law is "UNWRITTEN" law) and based on the mistake that the "common law" is no longer used in today's legal system. This explanation was posted on the website of Karl Lentz, a prominent peddler of this amateur belief system about the law. \*

*4 – THE LAW IS UNWRITTEN [NOTE THE TERM, "UNWRITTEN" HERE] YET KNOWABLE. It stands on its own and unmodified – inherent/obvious to reasonable humans... .*

*"NO WRITTEN [NOTE THE TERM, "WRITTEN" HERE, DRAWING A DISTINCTION BETWEEN THE WORD "UNWRITTEN" ABOVE] LAW MAY BE ENFORCED BY THE GOVERNMENT UNLESS IT CONFORMS WITH (sic) CERTAIN UNWRITTEN [NOTE THE TERM, "UNWRITTEN" HERE AGAIN], UNIVERSAL PRINCIPLES OF FAIRNESS, MORALITY, AND JUSTICE THAT TRANSCEND HUMAN LEGAL SYSTEMS [AS IF THE "COMMON LAW" WAS NOT OF HUMAN ORIGIN]. – [http://legal-dictionary.thefreedictionary.com/rule+of+law... .](http://legal-dictionary.thefreedictionary.com/rule+of+law...)"*

*"...[The common law is] UNWRITTEN [NOTE THE TERM "UNWRITTEN" HERE AGAIN], UNIVERSAL PRINCIPLES..." or maxims, established long before any civilizations, governments, or corporations were even thought of [AS IF THE "COMMON LAW" PRE-DATED THE JUDGES WHO WROTE IT]... .*

*THUS, UNWRITTEN [NOTE THE TERM, "UNWRITTEN" HERE AGAIN] LAW IS ABOVE (PRIOR TO) AND SUPERIOR TO, (sic) ALL OTHER FORMS OF MAN-MADE LAW. ... \*\*\*\*\*!====> ...LAWFUL vs. LEGAL...<====!" \*\*\*\*\* (emphasis in original)*

*"...On June 30, 1864..., Congress...changed...the reason of (sic) law in America, FROM PERSONAL LIBERTY UNDER THE COMMON LAW TO CIVIL LIBERTY UNDER MUNICIPAL (ROMAN CIVIL LAW), i.e., rules and regulations commanding what is right and prohibiting what is wrong..."*  
*[The Secret People Blog, SOURCE: <https://thesecretpeople.wordpress.com/2014/01/10/karl-lentz-uncommonlaw/>]*

Thus, some amateur legal theorists mistakenly believe that the "common law" is literally "unwritten" altogether, that it is morally and legally superior to today's law and that today's written law is in direct conflict with the "common law". In fact, the Bible is written and it is the moral compass that formed the basis of the common law throughout its entire evolution the Western civilization.

Written civil statutes, which in most cases implement franchises and privileges and are administered by legislative franchise court, on the other hand, DO NOT form the basis for the common law and the Bill of Rights it implements. Civil/franchise statutes on the one hand and the Common law and the Bill of Rights on the other hand are mutually exclusive and non-overlapping. Civil statutes can't create or impair common law rights, and common law rights cannot be heard in legislative franchise courts that enforce only civil statutes.

Regardless, it is correct to be outraged, even among amateur legal theorists, over any of the following:

1. Efforts to make ALL property subject to governmental control, taxation, or regulation, and thus to ABOLISH absolutely owned private property.
2. Efforts to eliminate CONSTITUTIONAL courts and replace them with legislative franchise courts.
3. Efforts to not acknowledge, to DESTROY, or to undermine the enforcement of absolutely owned PRIVATE property and PRIVATE rights in CONSTITUTIONAL courts.
4. Equivocation which fools a free people into thinking that the following two things are equivalent:
  - 4.1. Common law protects only PRIVATE property and PRIVATE rights.
  - 4.2. Statutory case law protects only absolutely owned GOVERNMENT property which human beings do not own or control but can “benefit” from if they are DUMB enough to participate in government franchises.

The above transgressions by government are not an “imaginary injustice”. They are REAL. They are the REAL reason that the people now so commonly demand a “return” to the “unwritten” common law which has existed from the early history of western civilization to today. Common law courts, common law jurisdiction, common law rules of court, common law procedure, common law motions, common law pleadings, and common law rulings are all real. Books have been written about the subject that are still available today. They are not fantasy land. It is not a moral or political transgression to expect that judges will provide a remedy for the protection of absolutely owned PRIVATE rights and PRIVATE property NOT SUBJECT to civil legislative control, forfeiture, or limitations. It is the MAIN JOB and the very reason, according to the Declaration of Independence for the establishment of civil government from the beginning!

## **12.4 There is no such thing as separate “common law courts”**

### **FALSE STATEMENT:**

There is no such thing as separate “common law courts” which are separate and distinct from today’s modern courts. All of today’s courts are common law courts and all of them use and follow the common law. So, you do not need to create a new court system of common law courts to do what is already being done in today’s modern courts\*.

### **REBUTTAL:**

The foundation of the common law is the protection of organic rights of HUMAN BEINGS under the Bill of Rights. Under the “Public Rights Doctrine” first elucidated in *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272, 15 L.Ed. 372 (1856), franchise courts (e.g. traffic court, family court, tax court) may entertain ONLY STATUTORY disputes involving fictions of law created by Congress who are the SUBJECT of those statutes. They cannot entertain CONSTITUTIONAL questions unless expressly granted that authority BY STATUTE and NOT THE CONSTITUTION. That grant of authority NEVER happens. Thus, they are NOT a proper forum for entertaining questions of the “common law” or the Bill of Rights that it implements. As such, YES, there ARE such things as common law courts. Those courts MUST be able to entertain CONSTITUTIONAL violation questions rather than only STATUTORY disputes.

*The Supreme Court first recognized the public-rights doctrine in Murray's Lessee v. Hoboken Land & Improvement Co., 59 U.S. 272, 15 L.Ed. 372 (1856), a case that is instructive here. That case involved the Treasury Department's sale of property belonging to a customs collector who had failed to transfer payments to the Federal Government that he had collected on its behalf. Id. at 274-75. The plaintiff, who claimed title to the same land through a different transfer, objected that the Treasury Department's calculation of the deficiency and sale of the property was void, because it was a judicial act that could not be assigned to the Executive under Article III. Id. at 274-75, 282-83. The Court ruled that this challenge to the Treasury Department's sale of land fell into the public-rights category of cases, "because it could only be brought if the Federal Government chose to allow it by waiving sovereign immunity." Stern, 564 U.S. at 489 (citing Murray's Lessee, 59 U.S. at 283-284). Thus Murray's Lessee stands for the important principle that "Congress may set the terms of adjudicating a suit when the suit could not otherwise proceed at all." Stern, 564 U.S. at 489. See also Juda v. United States, 13 Cl.Ct. 667, 687 (1987) ("The doctrine of public rights is based, [\*14] in part, on the traditional principle of sovereign immunity, which recognizes that the government may attach conditions to its consent to be sued.").  
[United States District Court for the Western District of Texas, San Antonio Division, February 7, 2017, Decided; February 7, 2017, CAUSE NO. SA-16-CV-1054-FB]*

The above case mentions the origin of the Public Rights Doctrine as “sovereign immunity”. But of course, that is a red herring for what is really going on, which essentially is that once the property enters their hands, they are PRESUMED to be the absolute owner, even if they obtained it wrongfully, and must consent by waiving sovereign immunity in some way before they have to return the wrongfully obtained property. They may even specify the method of adjudicating disputes involving the surrender of the property by delegating it to legislative franchise courts and removing it from constitutional courts.

Courts that cannot entertain CONSTITUTIONAL questions are called “legislative franchise courts” because they can only entertain disputes involving absolutely owned GOVERNMENT rather than PRIVATE property taking the form of PRIVILEGES and FRANCHISES. They are “property courts”, and can operate ONLY upon absolutely owned government property, privileges, and/or franchises wherever such property is found. The civil statutes are the rental/loan/grant agreement or “legal strings” that regulate the use of such GOVERNMENT property. Below is a definition of such courts:

*“franchise court. Hist. A privately held court that (usu.) exists by virtue of a royal grant [privilege], with jurisdiction over a variety of matters, depending on the grant and whatever powers the court acquires over time. In 1274, Edward I abolished many of these feudal courts by forcing the nobility to demonstrate by what authority (quo warrant) they held court. If a lord could not produce a charter reflecting the franchise, the court was abolished. - Also termed courts of the franchise.*

*Dispensing justice was profitable. Much revenue could come from the fees and dues, fines and amercements. This explains the growth of the second class of feudal courts, the Franchise Courts. They too were private courts held by feudal lords. Sometimes their claim to jurisdiction was based on old pre-Conquest grants ... But many of them were, in reality, only wrongful usurpations of private jurisdiction by powerful lords. These were put down after the famous Quo Warranto enquiry in the reign of Edward I.” W.J.V. Windeyer, Lectures on Legal History 56-57 (2d ed. 1949).” [Black’s Law Dictionary, Seventh Edition, p. 668]*

Examples of “legislative franchise courts” include:

1. Traffic court.
2. Family Court.
3. Tax Court. See 26 U.S.C. §7441 and Freytag v. Commissioner, 501 U.S. 868 (1991). According to Freytag, Tax Court is in what Justice Scalia called a mysterious “Fourth Branch of Government”.

Notice the phrase “private courts held by feudal lords” in the above definition. They have this status because all statutes that regulate the use of such property are SPECIAL LAW or PRIVATE law dealing only with those in temporary possession, use, or “benefit from” such property.

*“special law. One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. A private law. A law is “special” when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. A “special law” relates to either particular persons, places, or things or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but not such legislation, be applied. Utah Farm Bureau Ins. Co. v. Utah Ins. Guaranty Ass’n, Utah, 564 P.2d. 751, 754. A special law applies only to an individual or a number of individuals out of a single class similarly situated and affected, or to a special locality. Board of County Com’rs of Lemhi County v. Swensen, Idaho, 80 Idaho 198, 327 P.2d. 361, 362. See also Private bill; Private law. Compare General law; Public law.” [Black’s Law Dictionary, Sixth Edition, pp. 1397-1398]*

*“Private law. That portion of the law which defines, regulates, enforces, and administers relationships among individuals, associations, and corporations. As used in contradistinction to public law, the term means all that part of the law which is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare Public Law.” [Black’s Law Dictionary, Sixth Edition, p. 1196]*

The CIVIL/PENAL statutes regulating the use of such PUBLIC property and privileges and franchises managed by “franchise court” don’t pertain to EVERYONE, and therefore are not “law” in a legal sense. REAL LAW applies equally to ALL, regardless of their consent or actions. We prove this in:

What is “law”?, Form #05.048  
<https://sedm.org/Forms/FormIndex.htm>

Because “legislative franchise courts” can only address disputes dealing with absolutely owned government/public property, they function essentially as private arbitration boards over those in temporary custody of government property. Grants of government property to formerly PRIVATE, constitutionally protected people are in effect being used to ILLEGALLY CREATE new franchise public offices. Once they lend you government property essentially as a “bribe”, you effectively consent or ASSENT to be treated as a de facto “public officer” in the government. A “public officer” is, after all, legally defined as **someone who is in charge of the property of the public!** Receipt and temporary custody of the valuable property of the public, therefore, constitutes your “employment consideration” to act as a public officer!:

1       “**Public office.** The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or  
2       enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government  
3       for the benefit of the public. *Walker v. Rich*, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in  
4       their performance the exercise of some portion of the sovereign power, either great or small. *Yaselli v. Goff*, C.C.A., 12 F.2d. 396,  
5       403, 56 A.L.R. 1239; *Lacey v. State*, 13 Ala.App. 212, 68 So. 706, 710; *Curtin v. State*, 61 Cal.App. 377, 214 P. 1030, 1035;  
6       *Shelmadine v. City of Elkhart*, 75 Ind.App. 493, 129 N.E. 878. *State ex rel. Colorado River Commission v. Frohmiller*, 46 Ariz. 413,  
7       52 P.2d. 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as  
8       de- notes duration and continuance, with Independent power to control the property of the public, or with public functions to be  
9       exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a  
10      designation or title, the position so created is a public office. *State v. Brennan*, 49 Ohio.St. 33, 29 N.E. 593.  
11      [*Black's Law Dictionary*, Fourth Edition, p. 1235]

12      Why do they use property as the means to effect or create the franchise? The reason is because they have jurisdiction over  
13      their property WHEREVER it is situated, including within states of the Union:

14      “The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the territory or other  
15      property belonging to the United States. This power applies as well to territory belonging to the United States within the States,  
16      as beyond them. It comprehends all the public domain, wherever it may be. The argument is, that the power to make ‘ALL  
17      needful rules and regulations’ ‘is a power of legislation,’ ‘a full legislative power;’ ‘that it includes all subjects of legislation in  
18      the territory,’ and is without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress  
19      may then regulate or prohibit slavery upon the public domain within the new States, and such a prohibition would permanently  
20      affect the capacity of a slave, whose master might carry him to it. And why not? Because no power has been conferred on Congress.  
21      This is a conclusion universally admitted. But the power to ‘make rules and regulations respecting the territory’ is not restrained  
22      by State lines, nor are there any constitutional prohibitions upon its exercise in the domain of the United States within the  
23      States; and whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and are not  
24      dependent on the situs of ‘the territory.’”  
25      [*Dred Scott v. Sandford*, 60 U.S. 393, 509-510 (1856)]

26      If they didn’t use the LENDING or RENTAL of their property to reach you, they would otherwise not have civil  
27      jurisdiction over those domiciled in the exclusive jurisdiction of a legislatively (but not constitutionally) foreign state such  
28      as a Constitutional state of the Union through their civil statutory law, since all law is prima facie territorial, and they don’t  
29      own and don’t have civil jurisdiction over Constitutional states of the Union:

30      “*The canon of construction which teaches that legislation of Congress, unless a contrary intent appears, is meant to apply only*  
31      *within the territorial jurisdiction of the United States, Blackmer v. United States, supra, at 437, is a valid approach whereby*  
32      *unexpressed congressional intent may be ascertained. It is based on the assumption that Congress is primarily concerned with*  
33      *domestic conditions.”*  
34      [*Foley Brothers, Inc. v. Filardo*, 336 U.S. 281 (1949)]

35      “*The laws of Congress in respect to those matters [outside of Constitutionally delegated powers] do not extend into the territorial*  
36      *limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the*  
37      *national government.”*  
38      [*Caha v. U.S.*, 152 U.S. 211 (1894)]

39      “*There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears [legislation] is meant to*  
40      *apply only within the territorial jurisdiction of the United States.”*  
41      [*U.S. v. Spelar*, 338 U.S. 217 at 222.]

42      Below is an example of a ruling relating to Social Security which identifies it as a LOAN of property:

43      But this is not the situation with which we are called upon to deal in the present case. For here, the state must deposit the proceeds  
44      of its taxation in the federal treasury, upon terms which make the deposit suspiciously like a forced loan to be repaid only in  
45      accordance with restrictions imposed by federal law. Title IX, §§ 903 (a) (3), 904 (a), (b), (e). All moneys withdrawn from this fund  
46      must be used exclusively for the payment of compensation. § 903 (a) (4). And this compensation is to be paid through public  
47      employment offices in the state or such other agencies as a federal board may approve. § 903 (a) (1). The act, it is true,  
48      recognizes [§ 903 (a) (6)] the power of the legislature to amend or repeal its compensation law at any time. But there is nothing in  
49      the act, as I read it, which justifies the conclusion that the state may, in that event, unconditionally withdraw its 613\*613 funds from  
50      the federal treasury. Section 903 (b) provides that the board shall certify in each taxable year to the Secretary of the Treasury each  
51      state whose law has been approved. But the board is forbidden to certify any state which the board finds has so changed its law that  
52      it no longer contains the provisions specified in subsection (a), "or has with respect to such taxable year failed to comply  
53      substantially with any such provision." The federal government, therefore, in the person of its agent, the board, sits not only as a  
54      perpetual overseer, interpreter and censor of state legislation on the subject, but, as lord paramount, to determine whether the  
55      state is faithfully executing its own law — as though the state were a dependency under pupilage[\*] and not to be trusted. The  
56      foregoing, taken in connection with the provisions that money withdrawn can be used only in payment of compensation and that it  
57      must be paid through an agency approved by the federal board, leaves it, to say the least, highly uncertain whether the right of the  
58      state to withdraw any part of its own funds exists, under the act, otherwise than upon these various statutory conditions. It is true  
59      also that subsection (f) of § 904 authorizes the Secretary of the Treasury to pay to any state agency "such amount as it may duly  
60      requisition, not exceeding the amount standing to the account of such State agency at the time of such payment." But it is to be

observed that the payment is to be made to the state agency, and only such amount as that agency may duly requisition. It is hard to find in this provision any extension of the right of the state to withdraw its funds except in the manner and for the specific purpose prescribed by the act.

By these various provisions of the act, the federal agencies are authorized to supervise and hamper the administrative powers of the state to a degree which not only does not comport with the dignity of a quasi-sovereign 614\*614 state — a matter with which we are not judicially concerned — but which denies to it that supremacy and freedom from external interference in respect of its affairs which the Constitution contemplates — a matter of very definite judicial concern. I refer to some, though by no means all, of the cases in point.

[Steward Machine Co. v. Davis, 301 U.S. 548 (1937)]

For more on “legislative franchise courts”, see and rebut the following:

Government Instituted Slavery Using Franchises, Form #05.030, Section 25  
<https://sedm.org/Forms/FormIndex.htm>

## **12.5 There is no such thing as separate “common law standing”**

### **FALSE STATEMENT:**

There is no such thing as separate “common law standing” which is separate and distinct from “standing” under today’s modern law. This is because all of today’s courts are common law courts and all of them use and follow the common law.

### **REBUTTAL:**

The foundation of the common law is the protection of organic rights under the Bill of Rights. Those organic rights attach ONLY to “human beings” and standing on constitutionally protected LAND, not fictions of law or artificial entities. That is why the Constitution identifies itself as the “law of the land” instead of the “law of the STATUS of the people ON the land”.

*“It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it.”*  
[Balzac v. Porto Rico, 258 U.S. 298 (1922)]

This is confirmed by the difference between a CONSTITUTIONAL “person” (a human being) and a STATUTORY fictional creation of Congress called a “person”. This distinction appears in the annotated version of the Constitution:

*“Citizens of the United States within the meaning of this Amendment must be natural and not artificial persons; a corporate body is not a citizen of the United States.”<sup>14</sup>*

<sup>14</sup> Insurance Co. v. New Orleans, 13 Fed.Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States, corporations accordingly have been declared unable “to claim the protection of that clause of the Fourteenth Amendment which secures the privileges and immunities of citizens of the United States against abridgment or impairment by the law of a State.” Orient Ins. Co. v. Daggs, 172 U.S. 557, 561 (1869). This conclusion was in harmony with the earlier holding in Paul v. Virginia, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations were not within the scope of the privileges and immunities clause of state citizenship set out in Article IV, Sect. 2. See also Selover, Bates & Co. v. Walsh, 226 U.S. 112, 126 (1912); Berea College v. Kentucky, 211 U.S. 45 (1908); Liberty Warehouse Co. v. Tobacco Growers, 276 U.S. 71, 89 (1928); Grosjean v. American Press Co., 297 U.S. 233, 244 (1936).

[Annotated Fourteenth Amendment, Congressional Research Service.

SOURCE: [http://www.law.cornell.edu/anncon/html/amdt14a\\_user.html#amdt14a\\_hd1](http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1)]

Thus, only HUMAN BEINGS can have STANDING to invoke these ORGANIC/NATURAL rights in a court of law. Artificial entities, corporations, or fictions of law CANNOT. Thus, not all “persons”, whether artificial or physical, can have EQUAL standing to invoke common law or the organic rights that it protects.

“...we are of the opinion that there is a clear distinction in this particular between an [PRIVATE] individual and a [PUBLIC] corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to

*the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.*

*“Upon the other hand, the [PUBLIC] corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges. “*  
*[Hale v. Henkel, 201 U.S. 43 (1906)]*

For more on the distinctions between PRIVATE CONSTITUTIONAL “persons” and PUBLIC STATUTORY “persons”, see:

1. Separation Between Public and Private Course, Form #12.025  
<https://sedm.org/Forms/FormIndex.htm>
2. Proof That There Is a “Straw Man”, Form #05.042  
<https://sedm.org/Forms/FormIndex.htm>
3. Legal Fictions, Form #09.071  
<https://sedm.org/Forms/FormIndex.htm>

## **12.6 There is no such thing as separate “common law rules” or a separate “common law jurisdiction”**

### **FALSE STATEMENT:**

There is no such thing as a separate “common law jurisdiction” which is separate and distinct within a specific court you may already be litigating in. As far as the jurisdiction of modern courts today, all of today’s courts are common law courts, and all of them use and follow the common law, so you cannot “invoke” common law jurisdiction (like flipping a switch “on”). Common law jurisdiction has never been flipped “off” to be flipped back “on”.

There is no such thing as separate “common law rules of court” which are separate and distinct from the rules of court under today’s modern law. This is because all of today’s courts are common law courts and all of them use and follow the common law.

### **REBUTTAL:**

This statement falsely equivocates by grouping all “courts” together. Based on our earlier definition of “common law” in section 5, not all courts are created equal.

1. There are CONSTITUTIONAL courts that can hear matters of rights under U.S. Constitution Article III, and
2. There are FRANCHISE courts created legislatively within the Executive Branch under the authority of Constitution Article I or Article 4.

Not ALL of these courts can hear matters of constitutional rights or rule on common law issues RELATING to those rights. The two different types of courts have DIFFERENT court rules. Constitution Article III courts are common law constitutional courts. Constitution Article 1 and Article 4 courts are legislative franchise courts that cannot hear disputes involving any aspect of the Bill of Rights. If you want to adjudicate violations of Constitutional rights, you can’t “flip a switch” on in a “legislative franchise court”. You have to LEAVE the FRANCHISE court and dismiss the case and file the action in a DIFFERENT, CONSTITUTIONAL court.

Constitution Article 4, Section 3, Clause 2 recognizes the ability of Congress to “make all needful rules and regulations respecting the Territory or other property belonging to the United States”:

United States Constitution  
Article 4, Section 3, Clause 2

The Congress shall have Power to dispose of and **make all needful Rules and Regulations respecting the Territory or other Property** belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Contrary to what most people might ignorantly believe, the above constitutional provision DOES NOT limit itself to LAND. ANY kind of property, including chattel property, slaves, or “taxpayers” (statutory creations of congress and “fictions of law”) is covered by the above constitutional provision. This was admitted by the U.S. Supreme Court as follows:

The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the territory [\*\*\*268] or other property belonging to the United States. This power applies as well to territory belonging to the United States within the States, as beyond them. It comprehends all the public domain, wherever it may be. The argument is, that [\*\*\*510] the power to make "ALL needful rules and regulations" "is a power of legislation," "a full legislative power;" "that it includes all subjects of legislation in the territory," and is without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress may then regulate or prohibit slavery upon the public domain within the new States, and such a prohibition would permanently affect the capacity of a slave, whose master might carry him to it. And why not? Because no power has been conferred on Congress. This is a conclusion universally admitted. But the power to "make rules and regulations respecting the territory" is not restrained by State lines, nor are there any constitutional prohibitions upon its exercise in the domain of the United States within the States; and whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and are not dependent on the situs [\*\*\*269] of "the territory."  
[Scott v. Sandford, 60 U.S. 393 (1857)]

The above power delegated to Congress to “make needful rules respecting the Territory or Other Property” was delegated by the People to the government. It is a maxim of law that a power that is delegated cannot be greater than the party who delegated it:

*“Quod meum est sine me auferri non potest.  
What is mine [sovereignty in this case] cannot be taken away without my consent”*  
[Bouvier's Law Dictionary Unabridged, 8<sup>th</sup> Edition, pg. 2159]

*“Derivativa potestas non potest esse major primitive.  
The power [sovereign immunity in this case] which is derived cannot be greater than that from which it is derived.”*  
[Bouvier's Law Dictionary Unabridged, 8<sup>th</sup> Edition, pg. 2131]

*“Nemo potest facere per obliquum quod non potest facere per directum.  
No one can do that indirectly which cannot be done directly.”*  
[Bouvier's Law Dictionary Unabridged, 8<sup>th</sup> Edition, pg. 2147]

*“Quod per me non possum, nec per alium..  
What I cannot do in person, I cannot do through the agency of another.”*  
[Bouvier's Law Dictionary Unabridged, 8<sup>th</sup> Edition, pg. 2159]

Thus, THE PEOPLE who delegated the right to make rules for “property” to government must ALSO have this power to “make needful rules” regarding the USE, CONTROL, or BENEFICIAL use of THEIR absolutely owned, PRIVATE property in relation to ANY AND ALL OTHERS, including governments. This authority is recognized in the definition of “ownership” itself:

**“PROPERTY. Rightful dominion over external objects; ownership; the *unrestricted and exclusive right to a thing; the right to dispose of the substance of a thing in every legal way, to possess it, to use it and to exclude every one else from interfering with it.* Mackeld. Rom. Law, § 265.**

*Property is the highest right a man can have to anything; being used for that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy. Jackson ex dem. Pearson v. Housel, 17 Johns. 281, 283.*

*A right imparting to the owner a power of indefinite user, capable of being transmitted to universal successors by way of descent, and imparting to the owner the power of disposition, from himself and his successors per universitatem, and from all other persons who have a spes successions under any existing concession or disposition, in favor of such person or series of persons as he may choose, with the like capacities and powers as he had himself, and under such conditions as the municipal or particular law allows to be annexed to the dispositions of private persons. Aust. Jur. (Campbell's Ed.) § 1103.*

**The right of property is that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe. It consists in the free use, enjoyment and disposal of**

all a person's acquisitions, without any control or diminution save only by the laws of the land. 1 Bl.Comm. 138; 2 Bl.Comm. 2, 15.

The word is also commonly used to denote any external object over which, the right of property is exercised. In this sense it is a very wide term, and includes every class of acquisitions which a man can own or have an interest in. See *Scranton v. Wheeler*, 179 D.S. 141, 21 Sup.Ct. 48, 45 L.Ed. 126; *Lawrence v. Hennessey*, 165 Mo. 659, 65 S.W. 717; *Boston & L.R. Corp. v. Salem & L. R. Co.*, 2 Gray (Mass.), 35; *National Tel. News Co. v. Western Union Tel. Co.*, 119 Fed. 294, 56 C.C.A. 198, 60 L.R.A. 805; *Hamilton v. Rathbone*, 175 U.S. 414, 20 Sup.Ct. 155, 44 L.Ed. 219; *Stanton v. Lewis*, 26 Conn. 449; *Wilson v. Ward Lumber Co.* (C.C.) 67 Fed. 674.

—Absolute property. In respect to chattels personal property is said to be "absolute" where a man has, solely and exclusively, the right and also the occupation of any movable chattels, so permanent, but may at some times subsist and not at other times; such for example, as the property a man may have in wild animals which he has caught and keeps, and which are his only so long as he retains possession of them. 2 Bl.Comm. 389.—Real property. A general term for lands, tenements, and hereditaments; property which, on the death of the owner intestate, passes to his heir. Real property is either corporeal or incorporeal. See Code N.Y. § 462 — Separate property. The separate property of a married woman is that which she owns in her own right, which is liable only for her own debts, and which she can encumber and dispose of at her own will.—Special property. Property of a qualified, temporary, or limited nature; as distinguished from absolute, general, or unconditional property. Such is the property of a bailee in the article bailed, of a sheriff in goods temporarily in his hands under a levy, of the finder of lost goods while looking for the owner, of a person in wild animals which he has caught. *Stief v. Hart*, 1 N.Y. 24; *Moulton v. Witherell*, 52 Me. 242; *Eisendrath v. Knauer*, 64 111. 402; *Phelps v. People*, 72 N.Y. 357.  
[Black's Law Dictionary, Second Edition, p. 955]

Note the phrase "rightful dominion". That is a GOVERNMENTAL term. You as the absolute owner of private property can literally GOVERN anyone who wants to use it with your own set of "rules" you determine. The only thing that people who want the property or to use it can do is either accept and follow your rules, or hit the road and leave you alone, as the definition of "justice" requires:

PAULSEN, *ETHICS* (Thilly's translation), chap. 9.

"Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interests of others, and, as far as possible, hinders such interference on the part of others. This virtue springs from the individual's respect for his fellows as ends in themselves and as his co equals. The different spheres of interests may be roughly classified as follows: body and life; the family, or the extended individual life; property, or the totality of the instruments of action; honor, or the ideal existence; and finally freedom, or the possibility of fashioning one's life as an end in itself. The law defends these different spheres, thus giving rise to a corresponding number of spheres of rights, each being protected by a prohibition. . . . To violate the rights, to interfere with the interests of others, is injustice. All injustice is ultimately directed against the life of the neighbor; it is an open avowal that the latter is not an end in itself, having the same value as the individual's own life. The general formula of the duty of justice may therefore be stated as follows: Do no wrong yourself, and permit no wrong to be done, so far as lies in your power; or, expressed positively: Respect and protect the right."

[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 2]

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"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men."

[*Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting); see also *Washington v. Harper*, 494 U.S. 210 (1990)]

"Leaving you and your property ALONE" as justice requires literally means:

1. Not "regulating" its use.
2. Not taxing it or its use. This would be an "excise tax" such as the income tax.
3. Not placing "conditions" on its use or requiring "permission" to use it, such as a "permit".

For more on the definition of "justice", see:

<p>What is "Justice"? Form #05.050 <a href="https://sedm.org/Forms/FormIndex.htm">https://sedm.org/Forms/FormIndex.htm</a></p>
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This power to make “needful rules” for the use, benefit, or enjoyment of your property in the custody or benefit of all others, such as governments, gives you all kinds of control over what courts can do to the property or to those who use or temporarily control or benefit from it. For instance, the contract or agreement giving temporary use of it might dictate:

1. The courts that disputes relating to its use must be litigated in. This is called “choice of law”.
- Whether the court or the person using it surrenders their official, judicial, or sovereign immunity as a government or public servant.
- The cost of using or benefitting from the property.
- The rules of evidence at trials government disputes over it.
- The jury instructions that the jurors must read.
- The selection of the judge.
- Which existing court rules, IF ANY, apply to the dispute.
- Whether the case or controversy can be appealed and WHERE it can be appealed.
- Whether binding arbitration can be ordered by the court or forum that is mandated under the agreement.

The above provisions of a contract lending or granting property are the ultimate in “governmental power”. You can literally rule anyone who touches your property as a “king” if you want, provided that you give them “notice” of the terms of use in advance, and tell them that any use beyond that point constitutes an “acceptance” under the Uniform Commercial Code. In that capacity, you as the owner are the “Merchant” under U.C.C. §2-104(1) and the or the government is the “Buyer” under U.C.C. §2-103(1)(a). This requirement for advanced notice of the rules is similar to the constitutional requirement for “Reasonable Notice” as described below:

Requirement for Reasonable Notice, Form #05.022  
<https://sedm.org/Forms/FormIndex.htm>

We also emphasize that the very purpose of establishing government is to PROTECT private property and your right to privately contract. The U.S. Constitution forbids interfering with that right in Article 1, Section 10. Therefore, if a so-called “government” DOES interfere with such a contract or tries to invoke sovereign immunity to GET OUT of such a contract, they in effect are violating the very purpose of their creation.

Thus, in the context of disputes in any court relating to enforcing the contract or agreement relating to the use of your absolutely owned private property, YOU MAKE ANY AND ALL THE RULES, if you want to. You can even supersede the existing rules of court for the purpose of protecting your own property. YOU ARE IN CHARGE! This, in fact, is what we do in our Member Agreement, Form #01.001:

*I acknowledge that the obligations of this agreement are perpetual, supersede enacted law, and are superior to it. I voluntarily waive any and all benefit, privilege, or immunity conferred by any state or federal statute (and especially any statute of limitations) which might limit or destroy remedies or damages that could be claimed under this agreement in any court of law. Instead, I am a “non-resident non-person” (Form #05.020) to any and all state and federal statutes and my conduct is limited and protected ONLY by the Constitution, the criminal law, the common law, and the Holy Bible, New King James Version as documented in [Laws of the Bible, Litigation Tool #09.001](#). Every attempt to escape these choice of law rules by any alleged governmental actor shall be regarded by every court as: 1. Non-governmental activity; 2. Purely private commercial activity under the Clearfield Doctrine; 3. An implied waiver of official, judicial, and sovereign immunity by ALL parties affected; 4. An attempt to act as a [De Facto Government \(Form #05.043\)](#). [SEDM Member Agreement, Form #01.001, Section 8; <https://sedm.org/participate/member-agreement/>]*

The U.S. Supreme Court recognized a SIMILAR power of Congress over its OWN property, when it held:

*“The distinction between public rights and private rights has not been definitively explained in our precedents. Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise “between the government and others.” Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413. In contrast, “the liability of one individual to another under the law as defined,” Crowell v. Benson, supra, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See Atlas Roofing Co. v. Occupational Safety and Health Review Comm’n, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292. See also Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 (1930).FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power.”*

[...]

1 Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress [PUBLIC RIGHTS] and other  
2 [PRIVATE] rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights  
3 created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in  
4 light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional  
5 system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of  
6 the other branches of government. *Buckley v. Valeo*, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory  
7 right [a "privilege" or "public right" in this case, such as a "trade or business"], it clearly has the discretion, in defining that  
8 right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to  
9 vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that  
10 right. FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power  
11 to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of  
12 congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the  
13 Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather,  
14 such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves  
15 for Art. III courts.  
16 [*Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 102 S.Ct. 2858 (1983)]

17 If CONGRESS can have that kind of power over the use of ITS property, then SO CAN YOU, because YOU delegated that  
18 power to them. This is the only conclusion you can reach in a society where the foundation of your freedom is EQUALITY  
19 OF RIGHTS OF ALL. You are equal to the government:

20 "No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that  
21 equality of rights which is the foundation of free government."  
22 [*Gulf, C. & S.F.R. Co. v. Ellis*, 165 U.S. 150 (1897)]

23 More on EQUALITY of rights between the governed and the governors can be found at:

- 24 1. *Foundations of Freedom Course*, Form #12.021, Video 1: Introduction  
25 <https://sedm.org/Forms/FormIndex.htm>  
26 2. *Requirement for Equal Protection and Equal Treatment*, Form #05.033  
27 <https://sedm.org/Forms/FormIndex.htm>

28 So, to summarize this section, YES, there CAN BE but not necessarily ARE or MUST be PRIVATE rules of court  
29 involving disputes involving the enforcement of the contract or agreement that regulates the use of your absolutely owned  
30 private property.

31 Anyone who suggests OTHERWISE is what we call "an amateur legal theorist".

## 32 **12.7 There is no such thing as separate "common law motions" or separate "common law** 33 **pleadings" or separate "common law procedure"**

### 34 **FALSE STATEMENT:**

35 There is no such thing as separate "common law motions" which are separate and distinct from motions under today's  
36 modern law. This is because all of today's courts are common law courts and all of them use and follow the common law.

37 There is no such thing as separate "common law pleadings" which are separate and distinct from pleadings under today's  
38 modern law. This is because all of today's courts are common law courts and all of them use and follow the common law.  
39 Books purporting to be publications on "common law pleadings" are actually books on common law "claims" (claims that  
40 could be made under the common law). Today's modern claims include virtually all of the common law "claims" that ever  
41 existed. The "pleadings" themselves (the complaint, answer and reply) under the common law were no different in basic  
42 form, function and substance than they are today in today's modern courts which are themselves all common law courts.

43 There is no such thing as separate "common law procedure" which is separate and distinct from court procedure under  
44 today's modern law. This is because all of today's courts are common law courts and all of them use and follow the  
45 common law.

### 46 **REBUTTAL:**

1 This is plainly untrue. The following books, for instance, provide hundreds of pages of sample pleadings UNIQUE to  
2 common law actions that were not part of STATUTORY pleading and practice at the time they were written:

- 3 1. *Handbook of Common Law Pleading*, Benjamin Shipman (48 MB)-  
4 [http://famguardian.org/Publications/CommonLawPractice/Hand\\_book\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Hand_book_of_Common_law_Pleading.pdf)
- 5 2. *Handbook of Common Law Pleading*, Joseph Koeffler (4.8 MB).  
6 [http://famguardian.org/Publications/CommonLawPractice/CL\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/CL_Pleading.pdf)
- 7 3. *Principles of Common Law Pleading*, John McKelvey (3.5 MB)  
8 [http://famguardian.org/Publications/CommonLawPractice/Principles\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Principles_of_Common_law_Pleading.pdf)
- 9 4. *Pleadings and Practice in Actions At Common Law*, Martin Burks (90.3 MB)  
10 [http://famguardian.org/Publications/CommonLawPractice/Pleading\\_and\\_Practice\\_in\\_Actions\\_at\\_Comm.pdf](http://famguardian.org/Publications/CommonLawPractice/Pleading_and_Practice_in_Actions_at_Comm.pdf)

11 Why ON EARTH would entire books be written about how to write common law pleadings if they are THE SAME as  
12 ordinary motions at the time?

### 13 **12.8 Because the “Common law” is actually case law written by judges, it is the single most** 14 **common form of law used in today’s legal system**

#### 15 **FALSE STATEMENT:**

16 Because “common law” is actually case law written by judge, it is the single most common form of law used in today’s  
17 legal system.

#### 18 **REBUTTAL:**

19 The common law is case law dealing with constitutional rights disputes between the government and human beings whose  
20 rights have been violated, or absolutely owned private property disputes between two PRIVATE people. Neither of these  
21 types of disputes can be limited by statute EXCEPT by the consent of the parties whose PRIVATE property is STOLEN by  
22 limiting its use.

23 *“Common law causes of action are not “implied” from federal statutes. They exist as a matter of state law. “*  
24 *[Weiss v. Temporary Inv. Fund, 692 F.2d. 928 (1982)]*

25 Yes, most disputes fall into these two categories. However, STATUTORY disputes regulating absolutely owned  
26 government property are also VERY common and form NO PART of the common law.

### 27 **12.9 "Common Law" does not refute, contradict, or supersede any portion of statutory civil** 28 **laws**

#### 29 **FALSE STATEMENT:**

30 “Common law” does not refute, contradict or conflict with today’s laws. It is part of today’s laws.

#### 31 **REBUTTAL:**

32 This false statement equivocates about WHICH “laws” they mean and presumes all that contexts and all courts are  
33 equivalent. There are TWO contexts: CONSTITUTIONAL and STATUTORY. CONSTITUTIONAL context involves  
34 the Bill of Rights and the Sovereign States of the Union. STATUTORY context presumes franchise and privilege  
35 enforcement on federal territory NOT within the exclusive jurisdiction of a Constitutional state. Confusing those two terms  
36 or PRESUMING they are equivalent is a THEFT of private property protected by the Constitution and a communist  
37 conspiracy to convert all PRIVATE property to GOVERNMENT property.

38 The common law can and does address ONLY those people, activities, and property that are exclusively and absolutely  
39 owned by those OTHER than government, and which are therefore beyond the CIVIL legislative authority of Congress. As  
40 such, those people who invoke it are not subject to or regulated by the CIVIL statutory enactments that regulate public  
41 property, public rights, privileges, or franchises. In a sense then, the “common law” SUPERCEDES civil statutory law in

the case of private property and private rights, because such statutes, per the rules of statutory construction, CANNOT impair any constitutionally protected right:

"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "  
[In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]

The fact that the common law supersedes enacted civil statutory law is confirmed in Federal Rule of Civil procedure 17(b).

IV. PARTIES > Rule 17.  
Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;  
(2) for a corporation [the "United States", in this case, or its officers on official duty representing the corporation], by the law under which it was organized [laws of the District of Columbia]; and  
(3) for all other parties, by the law of the state where the court is located, except that:  
(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and  
(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.

[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

Domicile is voluntary.<sup>11</sup> Anything proceeding from consent is OPTIONAL. Those who do not have a domicile in a specific municipal jurisdiction are regarded as "non-residents", and hence, they have no "civil status" or "statuses under the STATUTORY civil laws" of the jurisdiction they are non-resident in relation to. A human being with no consensual civil domicile within federal territory, based on the above:

1. Has no capacity to sue or be sued in federal court under the CIVIL statutes of the national government.
2. Has no "status" or "civil status" under any federal civil statute, including:
  - 2.1. "person".
  - 2.2. "individual".
3. Is not a statutory "citizen" under federal law such as 26 U.S.C. §3121(e) and 26 C.F.R. §1.1-1(c), but rather a statutory "non-resident non-person". If they are ALSO a public officer in the national government, they are also a statutory "individual" and "nonresident alien" (26 U.S.C. §7701(b)(1)(B)) in relation to the national government.
4. May STILL sue under the constitution and the common law because both of these sources of law attach to the TERRITORY rather than the "civil status" of the physical people ON that physical territory. This is, in part, because the CONSTITUTION is "self-executing" and needs no statutes to enforce:<sup>12</sup>

"It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it."  
[Balzac v. Porto Rico, 258 U.S. 298 (1922)]

<sup>11</sup> See: *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002; <https://sedm.org/Forms/FormIndex.htm>.

<sup>12</sup> On the subject of the "self-executing" nature of the Constitution, the U.S. Supreme Court has held:

*The design of the Fourteenth Amendment has proved significant also in maintaining the traditional separation of powers 524\*524 between Congress and the Judiciary. The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those prohibitions. The Bingham draft, some thought, departed from that tradition by vesting in Congress primary power to interpret and elaborate on the meaning of the new Amendment through legislation. Under it, "Congress, and not the courts, was to judge whether or not any of the privileges or immunities were not secured to citizens in the several States." Flack, supra, at 64. While this separation-of-powers aspect did not occasion the widespread resistance which was caused by the proposal's threat to the federal balance, it nonetheless attracted the attention of various Members. See Cong. Globe, 39th Cong., 1st Sess., at 1064 (statement of Rep. Hale) (noting that Bill of Rights, unlike the Bingham proposal, "provide[s] safeguards to be enforced by the courts, and not to be exercised by the Legislature"); id., at App. 133 (statement of Rep. Rogers) (prior to Bingham proposal it "was left entirely for the courts . . . to enforce the privileges and immunities of the citizens"). As enacted, the Fourteenth Amendment confers substantive rights against the States which, like the provisions of the Bill of Rights, are self-executing. Cf. South Carolina v. Katzenbach, 383 U. S., at 325 (discussing Fifteenth Amendment). The power to interpret the Constitution in a case or controversy remains in the Judiciary. [City of Boerne v. Flores, 521 U.S. 507 (1997)]*

We must emphasize at this point that the ABSENCE of a STATUTORY “civil status” is ALSO a “civil status”, but under a DIFFERENT system of law, which is that of the ORGANIC law rather than the STATUTORY law. As an extension of your right to associate/disassociate and contract/not contract under the First Amendment, you can choose to be a CONSTITUTIONAL “PERSON” WITHOUT being a STATUTORY “PERSON”. The state in such a case STILL has a duty to protect THAT LACK OF STATUS under the CIVIL STATUTORY LAW and to protect the right to ONLY have a “civil status” under the CONSTITUTION or the COMMON LAW:

*“As independent sovereignty, it is State's province and duty to forbid interference by another state or foreign power with status of its own citizens. Roberts v Roberts (1947) 81 CA.2d. 871, 185 P.2d. 381. “*  
[Black's Law Dictionary, 4th Ed., p 1300]

If, in fact, “consent makes the law” per the maxims of the common law, then “consent” of the PARTY claiming OR NOT CLAIMING the “civil status” makes the CIVIL STATUTORY “PERSON” as well:

*Consensus facit legem. Consent makes the law. A contract is a law between the parties, which can acquire force only by consent.*  
[Bouvier's Maxims of Law, 1856; <https://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

For exhaustive proof on why this is true, see:

[Why Statutory Civil Law is Law for Government and Not Private Persons](https://sedm.org/Forms/FormIndex.htm), Form #05.037  
<https://sedm.org/Forms/FormIndex.htm>

## **12.10 You're an anarchist if you don't want to obey the statutory civil law or put the common law above it**

### **FALSE STATEMENT:**

You're an anarchist if you don't want to obey the statutory civil law or put the common law above it. It means you don't want to accept or be responsible for damages that you cause to others through your injurious actions.

The common law does not apply where it is supplanted by statute.

### **OUR REBUTTAL:**

1. The two most basic sources of lawful obligations are injury and contract. See Lawfully Avoiding Government Obligations Course, Form #12.040.
2. We have never argued against people being responsible for the injuries they cause whether they consent or not.
3. The only issue is the source of CIVIL law that does the enforcement or penalizing. The common law does not require consent, while civil statutes do. Whether civil statutes apply to the enforcement of the common law of England is the only dispute.
4. Even under the Common law of England, when a man injures another, he has to pay the PROVEN injuries, not artificial and arbitrary STATUTORY civil penalties, which are often usurious and oppressive.
5. The behavior, physical location, and voluntary domicile of the injuring party determine the choice of law in determining the penalty. It isn't always the civil statutes ONLY. They are a voluntary civil protection franchise.
6. Those who don't consent to the civil statutory protection franchise by default are subject to the criminal law and the common law, whether they consent or not.
7. Absolute ownership of property implies the right to choose the civil law system that protects it, whether civil statutes or the common law. Otherwise, one is deprived of control and protection of the property.
8. Congress can pass whatever criminal statutes they want and they are all territorial and don't apply outside their exclusive jurisdiction. Civil statutes may have slightly expanded application, but only in the case of their own officers. See U.S. v. Worral.
9. If a party is not an officer of the national government, territorial limits apply to CIVIL STATUTORY enforcement and it becomes a common law action. Civil statutory law cannot reach outside the territory unless a civil office is implicated.
10. Yes, Congress has the right to make rules for ITS property that operate against all those who use or benefit from it, wherever they physically are. But all their power is delegated and therefore so do I. If I don't have the same right against them using my property, then what you suggest is idolatry and injustice. Further, false information returns

cannot CREATE a government property interest that did not previously exist. They are a FRAUD against the party they are filed against for which the filer should be criminally prosecuted and civilly penalized. If Uncle will not prosecute these filers just as readily as they prosecute 26 U.S.C. §6700 cases, then neither type of infraction should be prosecuted. Selective enforcement for personal benefit is INJUSTICE.

11. We don't advocate that paying damages under the common law for injuries they cause is slavery. But we do advocate that enforcing civil STATUTORY penalties RATHER than common law damages against a nonresident party absolutely IS slavery.

12. Civil statutes and common law are mutually exclusive. I said one cannot retain ALL CONSTITUTIONAL RIGHTS, not just those LEFT OVER after the civil statutes are enforced. The common law does not sacrifice constitutional rights because injuries and contracts are the only two methods of losing them. Statutory penalties can be so severe that one ends up with no money and no means of living, rather than only paying identified and quantified damages. That's unjust.

Even under the Common law of England, when a man injures another, he has to pay for the PROVEN injuries, not artificial and arbitrary penalties. The common law does not apply where it is supplanted by statute.

The entire COUNTRY is a common law country. The application of civil statutes is limited by the choice of domicile of the party. They can't operate without consent in choosing a domicile. Those who don't choose a domicile or have a foreign domicile revert to the common law.

[https://en.wikipedia.org/wiki/Common\\_law](https://en.wikipedia.org/wiki/Common_law)

No. Different people are subject to different types of CIVIL penalties: Not domiciled is common law penalties. Domiciled is civil statutory penalties. That's the main implication of Federal Rule of Civil Procedure 17. They both still pay penalties or damages as the case may be. The amount is different is all.

Common law penalties are the actual quantifiable injury. Statutory penalties can be whatever the civil statutory protection franchise grantor decides.

The evidence for all this is in the three links, and until you rebut it, we have nothing further to discuss on this subject.

<https://sedm.org/Forms/05-MemLaw/Domicile.pdf>

<https://sedm.org/Forms/05-MemLaw/WhatIsLaw.pdf>

<https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf>

Until you quit running and face the music, there is no way to open a closed mind. Minds are like parachutes. They only work when they are open, not to OPINION, but to EVIDENCE.

All you have offered so far is opinion

Our mind is rightfully closed to opinion absent evidence. So should yours.

Contrary to what you keep trying to accuse us of, we are not anarchists and we do not seek to be irresponsible under the law for injuries we cause. We only insist on some control through our choices and behavior over what law is enforced to punish the injury.

### **THEIR REBUTTAL:**

You seem utterly un-concerned with how things actually work in the real world.

That is the biggest difference between SEDM and my approach. I very much care about how an argument has been shown to work in the real world. Your argument that "the law doesn't apply to me because..." is DOA

### **OUR REBUTTAL:**

It's a fallacy to PRESUME that the way things CURRENTLY work is the way the law REQUIRES them to work. And by "law" I don't mean civil statutes:

1 <https://sedm.org/Forms/05-MemLaw/WhatIsLaw.pdf>

2 The fact that most people pay taxes they don't owe and that you have been able to make a business out of remedying that  
3 issue is the most obvious proof.

4 1. You seem utterly unconcerned about how and when and under what circumstances constitutional rights or private  
5 property are surrendered and converted to PUBLIC property. As long as there is a statute that commands it, anything is ok  
6 with you. BULLSHIT!

7 <https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

8 2. The common law only has two types of obligations: Injury and contract.

9 3. Civil statute law has UNLIMITED obligations for which one can be penalized subject to the discretion of the grantor of  
10 the civil statutory protection franchise.

11 4. If you couldn't enforce the obligations in the IRC against your non-consenting neighbor towards you, then how were  
12 those obligations created toward Uncle Sam without your consent if we are all equal under REAL law and Uncle is equal to  
13 your neighbor?

14 5. The answer is that domicile is a civil statutory protection franchise. Since it requires consent, then it cannot form the  
15 basis for an injury. Thus, civil statutes enacted under it pursuant to Federal Rule of Civil Procedure 17 are only enforceable  
16 against club members. They are club rules. Those who aren't members of the club only have two obligations: Don't hurt  
17 others and honor their contracts. That is a lot easier to obey than memorizing and trying to obey the entire U.S. Code.  
18 Federal Rule of Civil Procedure 17 does not limit civil jurisdiction when there has been a common law injury because  
19 common law enforcement doesn't require consent. An injury is the only thing you need to invoke it as you have pointed  
20 out repeatedly.

21 <https://sedm.org/Forms/05-MemLaw/Domicile.pdf>

22 6. The franchise rights granted by government under the civil statutory protection franchise are property on loan to those  
23 who claim it. If you don't want the property, then you don't have to follow the rules. That property consists of all payments,  
24 obligations, and services it renders BEYOND mere damages for a specified injury.

25 Keep it simple! Anything else is vanity and promotes crime, because no one can obey all those Pharisee statutes and  
26 inevitably will commit a crime. Only Pharisees want all those statutes instead of the simplicity of the Common law.

27 <https://sedm.org/Forms/05-MemLaw/WhatIsLaw.pdf>

28 <https://sedm.org/Forms/05-MemLaw/WhoWerePharisees.pdf>

29 These are really basic and simple concepts that you completely overlook, because you don't understand the relation between  
30 civil statutes and common law and the purpose of government as a civil statutory rule-maker ONLY for its CONSENTING  
31 members. God has a different plan:

32 *"Do not walk in the statutes of your fathers [the heathens], nor observe their [STATUTORY but not COMMON LAW] judgments,*  
33 *nor defile yourselves with their [pagan government] idols. I am the LORD your God: Walk in [obey] My statutes, keep My*  
34 *judgments, and do them; hallow My Sabbaths, and they will be a sign between Me and you, that you may know that I am the LORD*  
35 *your God."*  
36 *[Ezekial 20:10-20, Bible, NKJV]*

37 When Caesar commands us to disobey God, we are commanded to put God first:

38 *"But Peter and the other apostles answered and said: "We ought to obey God rather than men."*  
39 *[Acts 5:29, Bible, NKJV]*

40 If you follow His commands as the Bible requires, the only thing you have to do is love your neighbor by honoring your  
41 contracts and not hurting him.

42 Jesus rebuked the Pharisees and I rebuke you for the same reason. Keep it simple and ALWAYS put God first. Anything  
43 else is idolatry and heresy. Are you going to put God first or not? And are you an anarchist if you don't?

## 12.11 There is no such thing as a common law “fiction of law”

### FALSE STATEMENT:

“What needs your paramount attention are the fictions of laws such as corporations, limited liability companies, partnerships, etc. I cannot create a fiction to control my neighbor, nor to control you. No natural right is given to any of us to create a fiction within our common law. For this reason, such a delegation of power cannot be granted from the People to our states under our natural rights. It simply does not exist, because it cannot be traced back to us. Hence, corporations cannot be created by the states to control the citizens within it. Yet currently every aspect of our lives is controlled by a myriad of corporations and/or agencies on a daily basis in defiance of common law.

The state is created under the fundamental principles of our Common Law instruments (the state constitutions). The constitutions cannot expand, add to, create, usurp, or empower itself of any authority that specifically cannot be traced to a natural and unalienable (inherent) right that is in both you and me. We can only delegate inherent rights to the state for our protection. Unlawful (un - common law) expansions are a violation of the fundamental principles upon which each state's constitution was adopted.

[*They Own It All (Including You)*, Robert Rowen and Ronald Macdonald, p. 17; <https://www.amazon.com/They-Own-All-Including-You/dp/1439233616/>]

### REBUTTAL:

Strictly speaking, a “fiction of law” is an artificial entity that is not physical. Such an entity can either be legislatively created or created by the common law. Legislatively created fictions of law are PUBLIC, while common law fictions of law are PRIVATE and protected by the Constitution and not statutory civil law.

**FICTION.** An assumption or supposition of law that something which is or may be false is true, or that a state of facts exists which has never really taken place. *New Hampshire Strafford Bank v. Cornell*, 2 N.H. 324; *Hibberd v. Smith*, 67 Cal. 547, 4 P. 473, 56 Am.Rep. 726; *Murphy v. Murphy*, 190 Iowa 874, 179 N.W. 530, 533. An assumption, for purposes of justice, of a fact that does not or may not exist. *Dodo v. Stocker*, 74 Colo. 95, 219 P. 222, 223.

A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. *Best*, Ev. 419.

These assumptions are of an innocent or even beneficial character, and are made for the advancement of the ends of justice. They secure this end chiefly by the extension of procedure from cases to which it is applicable to other cases to which it is not strictly applicable, the ground of inapplicability being some difference of an immaterial character. *Brown*.

Fictions are to be distinguished from presumptions of law. By the former, something known to be false or unreal is assumed as true; by the latter, an inference is set up, which may be and probably is true, but which, at any rate, the law will not permit to be controverted. It may also be said that a presumption is a rule of law prescribed for the purpose of getting at a certain conclusion, though arbitrary, where the subject is intrinsically liable to doubt from the remoteness, discrepancy, or actual defect of proofs.

Fictions are also to be distinguished from estoppels: an estoppel being the rule by which a person is precluded from asserting a fact by previous conduct inconsistent therewith on his own part or the part of those under whom he claims, or by an adjudication upon his rights which he cannot be allowed to question.

*Best* distinguishes legal fictions from presumptions *juris et de jure*, and divides them into three kinds, affirmative or positive fictions, negative fictions, and fictions by relation. *Best*, Pres. p. 27, 8 24.

**FICTION OF LAW.** Something known to be false is assumed to be true. *Ryan v. Motor Credit Co.*, 130 N.J.Eq. 531, 23 A.2d. 607, 621.

[*Black's Law Dictionary*, Fourth Edition, p. 751]

The above statement does not distinguish the ORIGIN or CONTEXT of the term “fiction of law” as either PUBLIC or PRIVATE, which is absolutely CRITICAL. The statement is therefore almost entirely false at worst and very misleading for the following reasons:

1. Common law trusts are permitted. We call such trusts “pure trusts”. Even the IRS recognizes the right to invoke COMMON LAW trusts on the 1040NR tax return form as a “nonresident alien”. The fact that it is a “nonresident alien” is proof that it is PRIVATE and constitutionally protected.<sup>13</sup>

<sup>13</sup> See: *Non-Resident Non-Person Position*, Form #05.020; <https://sedm.org/Forms/FormIndex.htm>.

At **common law** there were no requirements that charitable **trusts** register or be licensed, or meet reporting requirements of any kind. By the 1950's it became widely recognized that intentional or negligent misuses of charitable **trusts** were an all too common problem. (Bell, Supervision of Charitable **Trusts** in California (1980) 32 Hastings L.J. 433, 435.) In response to this problem, states began enacting statutes requiring trustees of charitable **trusts** to account to the state attorney general. (Id. at pp. 435-436.) **[\*\*\*17]** In 1954, the National Conference of Commissioners on Uniform State Laws approved the Uniform Supervision of Trustees for Charitable Purposes Act. In 1955, California became the first state to adopt the Uniform Act. (Stats. 1955, ch. 1820, § 1, p. 3357, repealed by Stats. 1959, ch. 1258, § 1, p. 3396; current version at [Gov.Code, §12580, et seq.](#), added by Stats. 1959, ch. 1258, § 2, p. 3396, eff. June 30, 1959.) (32 Hastings L.J. at pp. 436-437.)  
[Van de Kamp v. Gumbiner, 221 Cal. App.3d. 1260 (1990)]

## 2. Common law partnerships are permitted.

The "aggregate concept of **partnership** was universally accepted" at **common law**.**[26]** "Historically, a **partnership**, unlike a **[\*1124]** corporation[,] did not enjoy 'entity' status, [i.e.], it had not been considered a jural person but a collection of persons with aggregate rights."**[27]** At **common law**, a partner dissociating from the **partnership** would cause dissolution of the **partnership**.  
[United States ex rel. JKJ P'ship 2011 LLP v. Sanofi-Aventis U.S. LLC, 226 A.3d. 1117 (2020)]

### FOOTNOTES:

26. Silliman, 302 A.2d. at 331 (citing Rowley on **Partnerships**, 2d ed., Sec. 1.3); J. William Callison & Maureen A. Sullivan, **Partnership** Law & Practice § 3:1 (2019) ("At **common law**, a **partnership** was considered to be an aggregate of the individual partners . . . Extrapolating the aggregate theory to its extreme, a **partnership** is nothing more than a relationship between persons acting for a common business purpose." (emphasis in original)).

27. Silliman, 302 A.2d at 331.

3. Under the common law, PRIVATE corporations are permitted. By PRIVATE, we mean common law. Below are a few ENTIRE BOOKS on the subject:
  - 3.1. Treatise on the Law of Private Corporations, Ninth Edition, Joseph K. Angell and Samuel Ames, Little Brown and Company, 1871
  - 3.2. Commentaries on the Law of Private Corporations, Second Edition, Joseph Thompson, The Bobbs-Merrill Company, 1910
  - 3.3. A Treatise on the Law of Private Corporations, Fifth Edition, Henry Osborn Taylor, The Banks Law Publishing Co, 1902
4. They contradicted themselves in the above by stating that there is no such thing as a common law corporation, and yet they identified the "state" as being founded on the common law, which is a corporation:

"The state is created under the fundamental principles of our Common Law instruments (the state constitutions)." *[They Own It All (Including You)]*, Robert Rowen and Ronald Macdonald, p. 17; <https://www.amazon.com/They-Own-All-Including-You/dp/1439233616/>

**"Corporations are also of all grades, and made for varied objects; all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made.** One universal rule of law protects persons and property. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution."  
[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837)]

Further rebuttal of the above book can be found on our site below:

Critique of the Book "They Own It All (Including You)" by Ronald Macdonald and Robert Rowen, SEDM Blog  
<https://sedm.org/critique-of-the-book-they-own-it-all-including-you-by-ronald-macdonald/>

## 13 The Reason for All the Confusion

But, amateur legal theorists correctly note that the "common law" is sometimes called "unwritten law". So, they ask:

1 "If the "common law" is sometimes called "unwritten law", how can the "common law" possibly be case law "written by judges?"

2 That is a fair question. The answer is:

3 "Because it [the common law] is not written by elected politicians, but rather [is written], by judges, it is also referred to as  
4 unwritten law [proving that "unwritten law" does not actually mean literally "unwritten altogether"] or *lex non scripta* [in Latin].  
5 For proof, click on the link below and scroll down to about 35-40% through the text to the black letters on the white background:

Duhaime's Law Dictionary: Common Law Definition  
<http://www.duhaime.org/LegalDictionary/C/CommonLaw.aspx>

6 Indeed, that is precisely the way that the Supreme Court Of The United States uses the term, "unwritten law" (referring to  
7 laws written by judges as opposed to laws written by elected lawmakers). In over-ruling an earlier decision in *Swift v.*  
8 *Thompson*, the Supreme Court Of The United States wrote in *Erie v. Tompkins*,

9 "FEDERAL COURTS exercising jurisdiction on the ground of diversity of citizenship NEED NOT... APPLY THE UNWRITTEN  
10 LAW OF THE STATE AS DECLARED BY ITS HIGHEST COURT [IN A WRITTEN COURT DECISION].... ." (in the 7th full  
11 paragraph at about 15% through the text of the page.

12 [*Erie Railroad v. Tompkins*, 304 U.S. 64 (1938); SOURCE:  
13 [https://scholar.google.com/scholar\\_case?case=4671607337309792720](https://scholar.google.com/scholar_case?case=4671607337309792720)]

14 These words from the Supreme Court Of The United States prove that the term, "unwritten law" does not mean literally  
15 "unwritten" altogether. It only really means laws written by judges (as opposed to statutes or constitutions written by  
16 others). "Lex non scripta" is Latin for "unwritten law". But, this term also means laws written by judges rather than laws  
17 written by others, as this ancient explanation makes clear. Click on the link below and scroll down slightly to the light  
18 peach-colored background to see for yourself.

Duhaime's Law Dictionary: Lex Non Scripta Definition  
<http://www.duhaime.org/LegalDictionary/L/LexNonScripta.aspx>

## 19 **14 What Does All This Mean?**

20 1. "COMMON LAW" IS SIMPLY "CASE LAW" WRITTEN BY JUDGES WHICH:

21 1.1. RESPECTS AND PROTECTS CONSTITUTIONAL RIGHTS.

22 1.2. RESPECTS AND PROTECTS THE ABSOLUTE EQUALTY BETWEEN THE GOVERNED AND THE  
23 GOVERNORS.

24 1.3. ADDRESSES HOW TO ENFORCE CONSTITUTIONAL RIGHTS.

25 1.4. IS A PRACTICE WHICH BEGAN IN ANCIENT ENGLAND AND CONTINUES TO BE MADE AND  
26 CONTINUES TO BE USED TO THIS VERY DAY IN THE UNITED KINGDOM AND IN MOST  
27 COUNTRIES THAT WERE ONCE PART OF THE ENGLISH EMPIRE, INCLUDING THE UNITED  
28 STATES, AUSTRALIA AND NEW ZEALAND.

29 2. THE OPPOSITE OF THE COMMON LAW OR METHODS OF CIRCUMVENTING THE COMMON LAW  
30 CONSISTS OF:

31 2.1. COMPELLED PARTICIPATION IN GOVERNMENT FRANCHISES OR PRIVILEGES.

32 2.2. BUNDLING OF MULTIPLE PRIVILEGES TOGETHER IN WHAT WE CALL "WEAPONIZATION OF  
33 GOVERNMENT".

34 2.3. COMPELLED OR ENFORCED CIVIL DOMICILE WHICH MAKES THE VICTIM INTO A MEMBER OF A  
35 POLITICAL COMMUNITY AND TO THEREBY SURRENDER CONSTITUTIONAL PROTECTIONS BY  
36 SUBORDINATING THE NEEDS OF THE STATE. SEE:

*Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002

<https://sedm.org/Forms/FormIndex.htm>

37 2.4. THE U.S. SUPREME COURT'S CONSTITUTIONAL AVOIDANCE DOCTRINE. THIS DOCTRINE  
38 ESSENTIALLY GIVES COURTS THE ABILITY TO DISREGARD OR REFUSE TO ENFORCE  
39 CONSTITUTIONAL RIGHTS OF THOSE INVOKING CIVIL STATUTES.

40 3. THERE IS NO SUCH THING AS "COMMON LAW" IN THE CONTEXT OF ANYTHING HAVING TO DO  
41 WITH CIVIL STATUTES, GOVERNMENT PROPERTY, OR FRANCHISES. ALL LITIGATION DEALING  
42 WITH THESE SUBJECTS IS HANDLED ONLY BY "LEGISLATIVE FRANCHISE COURTS" IN THE  
43 EXECUTIVE BRANCH, NOT THE JUDICIAL BRANCH.

44 4. THERE IS NO SUCH THING AS A "COMMON LAW" WHICH IS SEPARATE AND DIFFERENT FROM "CASE  
45 LAW" THAT DEALS ONLY WITH CONSTITUTIONAL RIGHTS NOT REGULATED BY STATUTE. THEY

ARE THE SAME THING.

5. CASE LAW THAT DEALS ONLY WITH STATUTORY ENFORCEMENT FORMS NO PART OF THE COMMON LAW BECAUSE YOU CAN'T HAVE CONSTITUTIONAL RIGHTS AND BE SUBJECT TO STATUTES AT THE SAME TIME. THEY ARE MUTUALLY EXCLUSIVE. SEE:

*Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037  
<https://sedm.org/Forms/FormIndex.htm>

6. THERE IS SUCH THING AS SEPARATE "COMMON LAW RULINGS".
- 6.1. THEY DEAL ONLY WITH CONSTITUTIONAL RIGHTS.
- 6.2. THE CONSTITUTIONAL PROVISIONS ENFORCED ARE "SELF-EXECUTING" AND NEED NO STINKING STATUTES TO ENFORCE.
- 6.3. NO STATUTES OR PRIVILEGES ARE ENFORCED AS PART OF THE RULING.
7. "COMMON LAW" (CASE LAW) IS AN INTEGRAL PART OF TODAY'S LEGAL SYSTEM BECAUSE THERE ARE STILL PRIVATE AND CONSTITUTIONAL RIGHTS THAT CAN'T BE REGULATED THAT NEED TO BE PROTECTED. THIS WILL ALWAYS BE SO AS LONG AS THE BILL OF RIGHTS IS NOT REPEALED.
8. IF YOU ARE LOOKING FOR SOMETHING DIFFERENT FROM CIVIL STATUTES, YOU WILL FIND THAT CONSTITUTIONAL COMMON LAW AND PRIVATE ABSOLUTELY OWNED PROPERTY FURNISH AN ALTERNATIVE CONTEXT FOR PROTECTING YOU AND YOUR RIGHTS AND PROPERTY.
9. SO, "COMMON LAW" **IS, IN FACT**, SOMETHING SEPARATE, DISTINCT AND DIFFERENT FROM STATUTORY ENFORCEMENT COURT RULINGS.
- 9.1. IT IS THE SINGLE LARGEST PORTION OF TODAY'S LAWS.
- 9.2. BUT STATUTORY ENFORCEMENT DEALING WITH FRANCHISES AND PRIVILEGES IS ALSO VERY COMMONPLACE.
10. IT IS TRUE THAT STATUTES MAY PROVIDE PROCEDURE TO ACKNOWLEDGE AND PROTECT ABSOLUTELY OWNED PRIVATE RIGHTS AND PRIVATE PROPERTY. BUT:
- 10.1. THEY CANNOT LIMIT, RESTRAIN OR ELIMINATE PRIVATE PROPERTY AND PRIVATE RIGHTS. THAT WOULD BE A FIFTH AMENDMENT TAKING OF PRIVATE PROPERTY.
- 10.2. NEITHER CAN THEY CREATE ANY NEW PRIVATE RIGHTS. ONLY THE CONSTITUTION (ORGANIC LAW) CAN DO THAT.
11. OVER TIME, VIRTUALLY EVERY MODERN STATUTE ITSELF BECOMES THE SUBJECT OF LITIGATION:
- 11.1. THIS USUALLY HAPPENS IN A FRANCHISE COURT.
- 11.2. IT CAN ALSO HAPPEN IN A CONSTITUTIONAL COURT AND BE HEARD BY A JUDGE ACTING IN A FRANCHISE CAPACITY, SUCH AS TAX MATTERS.
- 11.3. THE WRITTEN DECISIONS IN FRANCHISE COURTS OR CONSTITUTIONAL COURTS ACTING IN A FRANCHISE CAPACITY DO NOT BECOME PART OF THE COMMON LAW. THE COMMON LAW DOES NOT DEAL WITH ABSOLUTELY OWNED GOVERNMENT PROPERTY. IT ONLY DEALS WITH ABSOLUTELY OWNED PRIVATE PROPERTY.
12. BECAUSE THERE IS NO LIMIT TO THE MANY FORMS THAT PRIVATE PROPERTY CAN TAKE, THE COMMON LAW IS ALWAYS BECOMING LARGER.
13. IT IS NOT ANTI-DEMOCRATIC OR AN ACT OF "LEGISLATION" IN VIOLATION OF THE SEPARATION OF POWERS FOR A JUDGE TO SIMPLY ACKNOWLEDGE AND ENFORCE THE RIGHT OF ABSOLUTELY OWNED PRIVATE PROPERTY. IT INSTEAD SIMPLY IMPLEMENTS HIS OATH TO SUPPORT AND DEFEND THE CONSTITUTION, WHICH INCLUDES THE BILL OF RIGHTS.
14. COURT RULES, PROCEDURES, MOTIONS, PLEADINGS AND THE LIKE ARE NOW GOVERNED BY RULE BOOKS. BUT, LIKE THE REST OF THE "COMMON LAW", THESE RULES ARE THEMSELVES ALSO WRITTEN BY SUPREME COURT JUSTICES (OR AT THEIR REQUEST) (NOT BY LEGISLATURES) AND ARE THEMSELVES ALSO BASED ON PRECEDENT (MOST OF WHICH IS ANCIENT). IN THAT SENSE, COMMON LAW COURT RULES, PROCEDURES, MOTIONS, PLEADINGS AND THE LIKE ARE STILL IN FORCE TODAY.\*

Any understanding to the contrary of the above is mistaken.

## **15 Misinformation about the common law by Virgo Triad and Snoop4Truth**

In researching this document, we identified a major source of misinformation on the common law. Those sources are:

1. Virgo Triad Youtube Channel  
<https://www.youtube.com/c/VirgoTriad/featured>

1 2. Virgo Triad Website  
2 <http://virgotriad.com>

3 The specific document that was disagree with about the common law is found at:

*Misunderstandings About the Common Law*, Snoop4Truth  
<https://www.oom2.com/t71724-the-common-law-hoax-by-snoop4truth>

4 A retired attorney who uses the pseudo name "Snoop4Truth" publishes on the above sources. This document began as a  
5 REBUTTAL to his DISINFORMATION. Below the following line is an email we wrote to him and the lady who  
6 maintains the above Youtube channel, for your information and edification:

7 \_\_\_\_\_

8 Snoop4Truth,

9 Thank you for the response and your offer to help.

10 Your document about Misunderstandings about the Common Law is a good start to address a pressing need within our  
11 community. It leaves much to be desired, however. We will improve it over time, as we previously indicated. We agree on  
12 most things, but we don't agree on everything. This should already be apparent from the current version of the document.  
13 Since Virgo Triad is cc'd on this email, the address of an IMPROVED version of that document can be found at:

14 <https://sedm.org/Forms/08-PolicyDocs/RebuttedFalseArgumentsAboutCommonLaw.pdf>

15 Some answers to your questions.

16 YOUR STATEMENT: Do you design and create elaborate hoaxes to intentionally defraud the American people? Do you  
17 FORGE fake legal books about fake laws and a fake legal system while pretending to be a retired federal judge named,  
18 "Judge DALE" (Rodney DALE Class)? Do you claim to have won cases in court that you never had or actually lost? Do  
19 you pretend to represent others in court as a "Private Attorney General" (a client of a real lawyer in a federal civil rights  
20 case)? Do you FORGE documents to support your claims? Do you ALTER documents to make them support your claims?

21 There is an enormous difference between simply being mistaken about the law on one hand AND CREATING AN  
22 ELABORATE HOAX TO PROVE THOSE MISTAKEN BELIEFS ABOUT THE LAW on the other hand.

23 Which one are you?

24 OUR RESPONSE: No to your above questions. Like you, we don't intend to deceive anyone and intend only to educate the  
25 public about the law and preserve and protect the equality of rights between the governed and the governors that is the  
26 foundation of all of our freedoms.

27 *"No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that*  
28 *equality of rights which is the foundation of free government."*  
29 *[Gulf, C. & S.F.R. Co. v. Ellis, 165 U.S. 150 (1897)]*

30 Like you, we ALSO seek to prevent misunderstandings of the law promoted by charlatans, INCLUDING those in  
31 government. For samples of our work in that department, see:

32 1. *Liberty University*, Sections 8 and 9- in the case of BOTH government deception and private sector deception  
33 <https://sedm.org/LibertyU/LibertyU.htm>

34 2. *Great IRS Hoax*, Form #11.302- in the case of government deception  
35 <https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

36 Like you, we too have problems with Anna Von Reitz and many others in the freedom community. See, for instance:

- 1 1. Who's Who in the Freedom Community, Form #08.009  
2 <https://sedm.org/Forms/08-PolicyDocs/WhosWho.pdf>
- 3 2. SEDM Forms/Pubs Page, Section 1.8: Policy Documents  
4 <https://sedm.org/Forms/FormIndex.htm> (Section 1.8 on the left)  
5 <https://sedm.org/Forms/Navigation/FormIndex-Right-1.08.htm>

6 The premise we operate from is that ALL are equal. You are equal to the government and no man is above any other man.  
7 This is also the premise of the social compact: Equality of protection and treatment:

- 8 1. Requirement for Equal Protection and Equal Treatment, Form #05.033  
9 <https://sedm.org/Forms/05-MemLaw/EqualProtection.pdf>

- 10 2. Foundations of Freedom Course, Form #12.021, Video 1  
11 <https://www.youtube.com/watch?v=ikf7CcT2I8I>

12 We oppose elitist "sovereign citizens" just as readily as we oppose GOVERNMENT SUPREMACISTS who think an entire  
13 COLLECTIVE of men can have any more rights under REAL LAW than a single individual. See our disclaimer below:

14 \_\_\_\_\_

15 SEDM Disclaimer  
16 Section 4: Meaning of Words  
17 Section 4.21: Anarchy

18 The term "anarchy" implies any one or more of the following, and especially as regards so-called "governments". An important  
19 goal of this site is to eliminate all such "anarchy":

- 20 1. Are superior in any way to the people they govern UNDER THE LAW.
- 21 2. Are not directly accountable to the people or the law. They prohibit the PEOPLE from criminally prosecuting their own crimes,  
22 reserving the right to prosecute to their own fellow criminals. Who polices the police? THE CRIMINALS.
- 23 3. Enact laws that exempt themselves. This is a violation of the Constitutional requirement for equal protection and equal treatment  
24 and constitutes an unconstitutional Title of Nobility in violation of Article 1, Section 9, Clause 8 of the United States Constitution.
- 25 4. Only enforce the law against others and NOT themselves, as a way to protect their own criminal activities by persecuting  
26 dissidents. This is called "selective enforcement". In the legal field it is also called "professional courtesy". Never kill the goose  
27 that lays the STOLEN golden eggs.
- 28 5. Break the laws with impunity. This happens most frequently when corrupt people in government engage in "selective  
29 enforcement", whereby they refuse to prosecute or interfere with the prosecution of anyone in government. The Department of  
30 Justice (D.O.J.) or the District Attorney are the most frequent perpetrators of this type of crime.
- 31 6. Are able to choose which laws they want to be subject to, and thus refuse to enforce laws against themselves. The most frequent  
32 method for this type of abuse is to assert sovereign, official, or judicial immunity as a defense in order to protect the wrongdoers in  
33 government when they are acting outside their delegated authority, or outside what the definitions in the statutes EXPRESSLY  
34 allow.
- 35 7. Impute to themselves more rights or methods of acquiring rights than the people themselves have. In other words, who are the  
36 object of PAGAN IDOL WORSHIP because they possess "supernatural" powers. By "supernatural", we mean that which is  
37 superior to the "natural", which is ordinary human beings.
- 38 8. Claim and protect their own sovereign immunity, but refuse to recognize the same EQUAL immunity of the people from whom  
39 that power was delegated to begin with. Hypocrites.
- 40 9. Abuse sovereign immunity to exclude either the government or anyone working in the government from being subject to the laws  
41 they pass to regulate everyone ELSE'S behavior. In other words, they can choose WHEN they want to be a statutory "person" who  
42 is subject, and when they aren't. Anyone who has this kind of choice will ALWAYS corruptly exclude themselves and include  
43 everyone else, and thereby enforce and implement an unconstitutional "Title of Nobility" towards themselves. On this subject, the U.S.  
44 Supreme Court has held the following:

"No man in this country [including legislators of the government as a legal person] is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives," 106 U.S., at 220. "Shall it be said... that the courts cannot give remedy when the Citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights," 106 U.S., at 220, 221.  
[United States v. Lee, 106 U.S. 196, 1 S. Ct. 240 (1882)]

10. Have a monopoly on anything, INCLUDING "protection", and who turn that monopoly into a mechanism to force EVERYONE illegally to be treated as uncompensated public officers in exchange for the "privilege" of being able to even exist or earn a living to support oneself.

11. Can tax and spend any amount or percentage of the people's earnings over the OBJECTIONS of the people.

12. Can print, meaning illegally counterfeit, as much money as they want to fund their criminal enterprise, and thus to be completely free from accountability to the people.

13. Deceive and/or lie to the public with impunity by telling you that you can't trust anything they say, but force YOU to sign everything under penalty of perjury when you want to talk to them. 26 U.S.C. §6065.

In support of the above definition of "anarchy", here is how the U.S. Supreme Court defined it:

"Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."  
[Olmstead v. United States, 277 U.S. 438 (1928)]

The above requirements are a consequence of the fact that the foundation of the United States Constitution is EQUAL protection and EQUAL treatment. Any attempt to undermine equal rights and equal protection described above constitutes:

1. The establishment of a state sponsored religion in violation of the First Amendment and the Religious Freedom Restoration Act, 42 U.S.C. Chapter 21B. That religion is described in: Socialism: The New American Civil Religion, Form #05.016. The object of worship of such a religion is imputing "supernatural powers" to civil rulers and forcing everyone to worship and serve said rulers as "superior beings".

2. The establishment of an unconstitutional Title of Nobility in violation of Article 1, Section 9, Clause 8 of the United States Constitution.  
[SEDM Disclaimer, Section 4.21: Anarchy; SOURCE: <https://sedm.org/disclaimer.htm>]

As a former practicing attorney no doubt with a "license", you have spent an entire career placing your loyalty and allegiance to the court and the government (your food source) ABOVE that of the clients you were supposed to be serving and protecting FROM the government. So I would expect you in the context of our relationship to be a devoted apologist for a corrupted government run amuck. That makes you different from us in the most fundamental way.

Until you are willing to address corruption in the government and your own profession just as readily as you address corruption OUTSIDE of it, we will continue to question your motives and criticize your hypocrisy. We will also question the deception of your profession, the government, and the judiciary generally as documented in the following:

Legal Deception, Propaganda, and Fraud, Form #05.014  
<https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf>

So far as we can tell after 20 years of research and evidence gathering, your former profession and the corrupted government have made a profession out of kidnapping people into their statutory jurisdiction and milking them like COWS and government serfs. See:

1. *How to Leave the Government Farm*, 12.020  
<https://www.youtube.com/watch?v=Mp1gJ3iF2Ik>

2. *Government Identity Theft*, Form #05.046  
<https://sedm.org/Forms/05-MemLaw/GovernmentIdentityTheft.pdf>

We too call to task "sovereign citizen" types who think they have rights or abilities above anyone else, but we will never trust anyone who won't call GOVERNMENT corruption of the SAME SORT to task equally. Hypocrisy is the reason. And no, we don't claim to be "sovereign citizens" or ANY OTHER name, label or stereotype the government might want to use to slander us or anyone else.

No, we aren't "anti-government", just ANTI-HYPOCRISY and anti-crime. We are against corruption or violations of the most IMPORTANT law, which is God's law first and foremost.

*Laws of the Bible*, Litigation Tool #09.001  
<https://sedm.org/Litigation/09-Reference/LawsOfTheBible.pdf>

If you care about protecting the American people as you and your compadres claim, but only in the context of charlatans OUTSIDE the government or the legal profession, then there is no way for you to avoid protecting the WORSE and most EXTENSIVE source of harm to the American people that comes mainly from corruption within the government and the legal profession. Preventing and prosecuting THAT harm is more important than preventing private sector harm to people whose power and influence are dwarfed compared to the people inside government. The bible calls THAT source of harm "The Beast" and makes it the DUTY of all Christians to fight it in the Book of Revelation. If you don't take that calling and commission seriously, we question your motivation and your Christian faith, if you have one.

Our audience is a very large one, and it is probably worth you and your compadres spending time helping us improve the quality of our materials to prevent the damage to the public you claim to want to prevent. But we don't expect you (as an insider from the legal profession and a government benefactor) to ever look the gift horse in the mouth that has been bribing you to look the other way most of your life and gagging you from telling the WHOLE truth about a profession with police powers that refuses to police itself and attacks all those OUTSIDE of it who try to do the policing such as us. As the Chinese proverb on this subject says:

*"The mouth which eats does not talk."*

Your mouth is gagged on precisely HALF of the total problem we both should be fighting.

We too fight for "justice" just like you:

<https://sedm.org/Forms/05-MemLaw/WhatIsJustice.pdf>

But we fight corruption WITHIN government and the government as the main cause of injustice, unlike you and your compadres.

Virgo Triad's Youtube channel states "The Facts Matter", but I can't find ANY facts on the channel that I would ever consider useful in fighting both private and public corruption in court. Video anecdotes with NO briefs, legal memorandums, or court-admissible evidence I don't consider "facts", but only more sensationalism and SLANDER just like the people you are criticizing.

I can find NOTHING on the Youtube channel, or the respective websites linked to it about how the people who you allege are committing "mistakes of law" can learn how to do legal research to discover the error of their ways, for instance. That makes a travesty out of the work you are doing and compromises your credibility and those on your team.

1 The public is already over-saturated with video and audio media. But to fight corruption, reading, writing, and legal  
2 research skills are more important. There is NOTHING from you or any of your compadres that fits in that category that I  
3 have found so far. It's all more sensationalism that can and does do nothing to combat the problems you claim to want to  
4 correct.

5 We, on the other hand, provide things that REAL students of the law could use in court as evidence to prove their point.  
6 And they are all organized just like the tools that real lawyers use. You and your team should consider more of that  
7 approach.

8 We aren't interested in videos or "edutainment". All it does is feed and protect the legal ignorance and immorality that is the  
9 main cause of the problems you claim to want to fight.

10 Show us REAL facts! Videos aren't facts and they wouldn't pass muster in a real court. Only reading and writing and  
11 evidence would. You as a former practicing attorney, of all people, understand that. Why don't you use that law degree,  
12 Snoop4Truth? It's going to waste. And more importantly, why don't you use that law degree to attack the corruption within  
13 your own former profession and the government just as readily as you attack corruption OUTSIDE of it? Until you do, few  
14 if any of my students will believe a word you say.

15 *"What you DO speaks so loudly I can't hear a word you SAY."*

16 Virgo Triad's videos on citizenship and taxation are just as deceptive as the garbage distributed by the people you criticize.  
17 For proof:

18 1. *Why You are a Political Citizen but Civil Non-Citizen, National, and Nonresident Alien*, Form #05.006  
19 <https://sedm.org/Forms/05-MemLaw/WhyANational.pdf>

20 2. *The "Trade or Business" Scam*, Form #05.001  
21 <https://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf>

22 Rebutting the above WITH EVIDENCE instead of idiotic videos with no substance is how you can REALLY help and  
23 educate the people you claim to want to protect the American people from. Unless and until you and your compadres are  
24 willing to address substantial evidence that would be useful in court of the corruption you claim to want to fight, no amount  
25 of videos will get you anywhere and you will not engage or interest our audience at all.

26 As far as citizenship and taxation, your videos are a JOKE and no one will believe them. You sound like IRS shills on the  
27 government payroll. And worse yet, you are seeking donations from both sides of the aisle: The idiots who believe your  
28 videos and the government BOTH.

29 You should care about engaging and interesting our audience by providing REAL evidence and legal debate, not more  
30 dumb videos. We don't like videos and neither does our audience. They are all scholars and professional skeptics.

31 The door between us is still open. We are open to debate and real evidence. Facts DO matter. But we haven't seen any  
32 WRITTEN facts from any of you or your compadres. Videos aren't facts, so your slogan is deceptive and not helpful at all.

33 We understand your need for secrecy because of the people you criticize. We have the same problem because the  
34 community of people we expose as charlatans is TWICE the size, also encompassing the government and the legal  
35 profession. That latter community is much more lethal and dangerous. We are NOT, however, a violent or malicious  
36 community. Christians don't hurt others. They love and protect them. So your reticence in engaging us in personal contact  
37 is unwarranted.

38 We have cc'd Virgo Triad so she can read what we have to say to you. Of all the people you could reach to educate the  
39 community you criticize and expose, we are probably the most important as far as influence. We do have an open mind, but  
40 we are only interested in facts and law and WRITINGS useful as evidence or legal memorandums in court. Videos are  
41 useless and unproductive for our BUSY ACADEMIC community of religious believers who sincerely want to honor their  
42 commitment to God and His holy law.

Beyond this point, if you want to converge on something helpful to our community and to the American public more generally, you can send your constructive comments and suggestions AND real "facts" and "law" in written form to improve the document we lead this post with.

<https://sedm.org/Forms/08-PolicyDocs/RebuttedFalseArgumentsAboutCommonLaw.pdf>

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## 16 Summary

The purpose of establishing government, according to the Declaration of Independence, is to secure PRIVATE rights. The FIRST step in protecting such rights is to prevent them from being converted to PUBLIC rights, privileges, or franchises or regulating or taxing or controlling those rights or property. A government that can't or won't do THAT job is not really a de jure government, but a MAFIA that charges "RENT" called "taxes" on ALL property and makes EVERYTHING into a taxable privilege. Such an abuse would certainly be characterized as an unconstitutional "invasion" within the meaning of Article 4, Section 4 of the Constitution in the context of the exclusive jurisdiction of the Constitutional states of the Union:

*United States Constitution  
Section 4. Obligations of United States to States*

*The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.*

It is a COMMERCIAL invasion that STEALS property rather than a PHYSICAL invasion just like the one the Declaration of Independence describes, in which the states are "invaded" with "swarms of officers who eat out our substance".

*"He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance."*  
[Declaration of Independence, 1776; SOURCE: <https://www.archives.gov/founding-docs/declaration-transcript> ]

The "offices" Thomas Jefferson is describing above are FRANCHISES:

*"Is it a franchise? A franchise is said to be a right reserved to the people by the constitution, as the elective franchise. Again, it is said to be a privilege conferred by grant from government, and vested in one or more individuals, as a public office. Corporations, or bodies politic are the most usual franchises known to our laws."*  
[People v. Ridgley, 21 Ill. 65, 1859 WL 6687, 11 Peck 65 (Ill., 1859)]

Enticing people into franchise offices using an ILLEGAL bribe of "benefits" or government property is the main method to get them to SURRENDER the protections of the common law and the constitution to replace PRIVATE rights with PUBLIC rights and privileges:

*"The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places whereby a certain individual or class of individuals was exempted from the rigor of the common law. Privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption. "*  
[The Privileges and Immunities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10;  
SOURCE: [http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The\\_privileges\\_and\\_immunities\\_of\\_state\\_c.pdf](http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The_privileges_and_immunities_of_state_c.pdf)]

### FOOTNOTES:

*See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.*

The U.S. Supreme Court described this THEFT of PRIVATE property and PRIVATE rights and invasion of the constitutional states a little differently as part of what is called "The Brandeis Rules":

*The Court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision. They are:*

[...]

6. **The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.**<sup>FN7</sup> *Great Falls Mfg. Co. v. Attorney General*, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527; *Wall v. Parrot Silver & Copper Co.*, 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229; *St. Louis Malleable Casting Co. v. Prendergast Construction Co.*, 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351.

FOOTNOTES:

<sup>FN7</sup> Compare *Electric Co. v. Dow*, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088; *Pierce v. Somerset Ry.*, 171 U.S. 641, 648, 19 S.Ct. 64, 43 L.Ed. 316; *Leonard v. Vicksburg, etc., R. Co.*, 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed. 1108. [*Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 56 S.Ct. 466 (1936)]

Covetous public servants try to hide this reality by calling it a “privilege”, but “franchise” and “privilege” are equivalent terms for all practical purposes. The U.S. Supreme Court has held that TAXABLE privileges may not be carried on within the exclusive jurisdiction of a Constitutional State so this LITERAL and UNCONSTITUTIONAL INVASION is ILLEGAL:

*“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for granting coasting licenses, licenses to pilots, licenses to trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize a trade or business within a State in order to tax it.**”*

[*License Tax Cases*, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) ]

Take note of the use of the phrase “trade or business” above. It is worth repeating that the modern income tax is an EXCISE tax upon a “trade or business”, and its enforcement is thus FORBIDDEN against those within the exclusive jurisdiction of a constitutional state who aren’t DUMB enough to “volunteer”, usually through fraud or mistake, as described below:

*How State Nationals Volunteer To Pay Income Tax*, Form #08.024  
<https://sedm.org/Forms/FormIndex.htm>

Like the “common law remedies” described herein provided by ABSOLUTELY OWNED PRIVATE PROPERTY granted temporarily to anyone and everyone including governments, the income tax is a mere regulation of government property under the authority of Article 4, Section 3, Clause 2. False information return reporting FALSELY gives a PUBLIC status or character to otherwise PRIVATE earnings and thus, STEALS or CONVERTS the property to a public use in violation of maxims of law on the subject. More on this is found at:

*Separation Between Public and Private Course*, Form #12.025  
<https://sedm.org/Forms/FormIndex.htm>

The only way to fight the abuse of the law of property to illegally institute franchises within the exclusive jurisdiction of constitutional states is to fight fire with fire, which means to use an ANTI-FRANCHISE against the invaders, as described in:

*Injury Defense Franchise and Agreement*, Form #06.027  
<https://sedm.org/Forms/FormIndex.htm>

Thus, amateur legal theorists mistakenly believe that the "common law" is literally "unwritten" altogether, that it is superior to today's "written law" and that today's "written law" is in direct conflict with the "common law". But, none of this is so. Unknown to amateur legal theorists, today's law INCLUDES THE COMMON LAW which is still "case law" written by judges and which is still being made every single day all over the globe.

## **17 Other Rebuttals of misuses of the term “common law”**

### **17.1 Justice Antonin Scalia**

At a speech given at the Federalist Society, now deceased U.S. Supreme Court Justice Antonin Scalia said that he didn't want to have anything to do with the common law.

1. [Role of the Federal Judiciary](https://fedsoc.org/conferences/2008-national-lawyers-convention), Federalist Society National Lawyers Convention, C-Span, 11/22/08, 50 minutes <https://fedsoc.org/conferences/2008-national-lawyers-convention>
2. [Rebuttal to U.S. Supreme Court Justice Scalia's Comments About the Common Law](https://sedm.org/rebuttal-to-justice-scalias-comments-about-the-common-law/), SEDM <https://sedm.org/rebuttal-to-justice-scalias-comments-about-the-common-law/>

Below is a list of his comments on common law and natural law:

1. At minutes 14-16:28, he stated that:
  - 1.1. A belief in the common law was naïve.
  - 1.2. The Supreme Court said there was no federal common law within a state in *Erie Railroad v. Tompkins*.
  - 1.3. The modern conception of “common law” is that when one puts on a black robe, they are charged with protecting human rights, but that those rights (which are property) are subjective and cannot be defined by judges.
  - 1.4. When you put an unelected judge in charge of deciding what “human rights” are, then it is “anti-democratic”.
2. At minutes 28-29:25 he says:
  - 2.1. Natural law has nothing to do with his decisions.
  - 2.2. Natural law is subjective.
  - 2.3. The constitution should not contravene natural law.
  - 2.4. As far as he is concerned, there is nothing in the constitution that DOES contravene or contradict natural law.

During his lecture in minutes 14-17, Scalia even goes so far as to say:

*“I don't think for many countries of the world the text [of the Constitution] even matters anymore. What has happened can only be compared with the naïve belief that we used to have in the common law. You recall before *Erie Railroad v. Tompkins*, we really believed that there was A COMMON LAW. THE COMMON LAW. And every state was trying to grasp its reality. Some of them got it wrong, but they were all engaged in the same enterprise. And so they would cite each other, right? New York would cite Georgia. California would cite New York because we were all looking for the same thing. Well, *Erie Railroad* blows that away. Holmes says there is no brooding on the presence of the common law up there. What's happening that each state is adopting its own domestic common law through the adjudicative system and we all understand that. And we [supreme court justices] sort of chuckle at how naïve, how naive the world could have been ever to have thought there was a common law up there.”*

*“The common law has been replaced by human rights, Capital H capital R. There is a belief that judges, somehow, are charged with protecting human rights in the abstract. Never mind the text of a particular constitutional guarantee. When one puts on a black robe, one becomes charged with protecting Human Rights. As though we all agree as to what human rights are. There's enormous disagreement. And to give the responsibility of determining the meaning of that abstract phrase to unelected magistrates is anti-democratic.”*

*[Justice Scalia, Role of the Federal Judiciary, Federalist Society National Lawyers Convention, C-Span, 11/22/08]*

Notice the phrase “As though we all agree on what human rights are”. We WOULD all agree if we hadn't ABANDONED the Christian roots of our culture by abusing franchises [see [Government Instituted Slavery Using Franchises, Form #05.030](#)], fiat currency [See [The Money Scam, Form #05.041](#)], and income taxes [which are FRANCHISE/EXCISE taxes, see [The Great IRS Hoax, Form #11.302](#)] to do “social engineering” that replaces God with the government, fires the people/state as the sovereign, and puts the rancher owner (We the People) in the barn with the horses.

*“Much has been said of the paramount duty to the state, a duty to be recognized, it is urged, even though it conflicts with convictions of duty to God. Undoubtedly that duty to the state exists within the domain of power, for government may enforce obedience to laws regardless of scruples. When one's belief collides with the power of the state, the latter is supreme within its sphere and submission or punishment follows. But, in the forum of conscience, duty to a moral power higher than the state has always been maintained. The reservation of that supreme obligation, as a matter of principle, would unquestionably be made by*

many of our conscientious and law-abiding citizens. The essence of religion is belief in a relation to God involving duties superior to those [283 U.S. 605, 634] arising from any human relation. As was stated by Mr. Justice Field, in Davis v. Beason, 133 U.S. 333, 342, 10 S.Ct. 299, 300: 'The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will.' One cannot speak of religious liberty, with proper appreciation of its essential and historic significance, without assuming the existence of a belief in supreme allegiance to the will of God. Professor Macintosh, when pressed by the inquiries put to him, stated what is axiomatic in religious doctrine. And, putting aside dogmas with their particular conceptions of deity, freedom of conscience itself implies respect for an innate conviction of paramount duty. The battle for religious liberty has been fought and won with respect to religious beliefs and practices, which are not in conflict with good order, upon the very ground of the supremacy of conscience within its proper field. What that field is, under our system of government, presents in part a question of constitutional law, and also, in part, one of legislative policy in avoiding unnecessary clashes with the dictates of conscience. There is abundant room for enforcing the requisite authority of law as it is enacted and requires obedience, and for maintaining the conception of the supremacy of law as essential to orderly government, without demanding that either citizens or applicants for citizenship shall assume by oath an obligation to regard allegiance to God as subordinate to allegiance to civil power. The attempt to exact such a promise, and thus to bind one's conscience by the taking of oaths or the submission to tests, has been the cause of many deplorable conflicts. The Congress has sought to avoid such conflicts in this country by respecting our happy tradition. In no sphere of legislation has the intention to prevent such clashes been more conspicuous than in relation to the bearing of arms. It would require strong evidence [283 U.S. 605, 635] that the Congress intended a reversal of its policy in prescribing the general terms of the naturalization oath. I find no such evidence. “  
[U.S. v. Macintosh, 283 U.S. 605 (1931)]

The result of all this malicious, narcissistic, idolatrous social engineering is a dulocracy which we describe in Form #05.016:

**“Dulocracy.** A government where servants and slaves have so much license and privilege [meaning FRANCHISES, Form #05.030] that they domineer.”  
[Black's Law Dictionary, Sixth Edition, p. 501]

The reason Scalia doesn't know what the “common law” is derives from the fact that he's a pagan who worships men such as himself as gods with superior or supernatural powers. The entire development of the common law within western civilization derives from Christianity. He identifies subjective and relativistic “Human Rights” as his new pagan god and FIRES the real and living and true Christian God as the AUTHOR and CREATOR of human-kind and human liberty and REAL “Human Rights” that He is:

*“Is this not the fast [act of faith, worship, and OBEDIENCE] that I [God] have chosen [for believers]:  
To loose the bonds of wickedness,  
To undo the heavy burdens,  
To let the oppressed go free,  
And that you break every yoke [franchise, contract, tie, dependency, or “benefit” with the government]?”  
[Isaiah 58:6, Bible, NKJV]*

*“The Spirit of the Lord God is upon Me,  
Because the Lord has anointed Me  
To preach good tidings to the poor:  
He has sent Me to heal the brokenhearted,  
To proclaim liberty to the [government] captives  
And the opening of the prison [government FARM, Form #12.020] to those who are bound:  
To proclaim the acceptable year of the Lord,  
And the day of vengeance of our God:”  
[Isaiah 61:1-2, Bible, NKJV]*

A failure to acknowledge the above brings a curse and inevitable DESTRUCTION from God Himself, who uses a corrupted government to ENFORCE His Holy curse!:

#### Curses of Disobedience [to God's Laws]

**“The alien [Washington, D.C. is legislatively “alien” in relation to states of the Union] who is among you shall rise higher and higher above you, and you shall come down lower and lower [malicious destruction of EQUAL PROTECTION and EQUAL TREATMENT by abusing FRANCHISES]. He shall lend to you [Federal Reserve counterfeiting franchise], but you shall not lend to him; he shall be the head, and you shall be the tail.**

**“Moreover all these curses shall come upon you and pursue and overtake you, until you are destroyed, because you did not obey the voice of the Lord your God, to keep His commandments and His statutes which He commanded you. And they shall be upon you for a sign and a wonder, and on your descendants forever.**

**“Because you did not serve [ONLY] the Lord your God with joy and gladness of heart, for the abundance of everything, therefore you shall serve your [covetous thieving lawyer] enemies, whom the Lord will send against you, in hunger, in thirst, in nakedness,**

and in need of everything; and He will put a yoke of iron [franchise codes] on your neck until He has destroyed you. The Lord will bring a nation against you from afar [the District of CRIMINALS], from the end of the earth, as swift as the eagle flies [the American Eagle], a nation whose language [LEGALESE] you will not understand, a nation of fierce [coercive and fascist] countenance, which does not respect the elderly [assassinates them by denying them healthcare through bureaucratic delays on an Obamacare waiting list] nor show favor to the young [destroying their ability to learn in the public FOOL system]. And they shall eat the increase of your livestock and the produce of your land [with "trade or business" franchise taxes], until you [and all your property] are destroyed [or STOLEN/CONFISCATED]; they shall not leave you grain or new wine or oil, or the increase of your cattle or the offspring of your flocks, until they have destroyed you.  
[Deut. 28:43-51, Bible, NKJV]

What Scalia fails to realize is the purpose for establishing the very government that he is an integral part of and at the PINNACLE of:

1. That purpose is ONLY to protect PRIVATE and PRIVATE rights. Declaration of Independence.
2. The FIRST step in protecting PRIVATE rights is to keep them from being converted to PUBLIC rights without at least the EXPRESS WRITTEN CONSENT of the owner.
3. To only allow conversion to PUBLIC/government rights with explicit, fully informed, express consent. After all, according to the Declaration of Independence, all just powers spring from the CONSENT of the governed. Where there is no EXPRESS consent, there is only INJUSTICE.
4. To not play word games to make the consent INVISIBLE by using STATUTORY STATUSES that people are fooled into thinking are NOT voluntary to effect the conversion. See:

*Requirement for Consent*, Form #05.003, Section 9.4: Invisible Consent: The Weapon of Tyrants  
<https://sedm.org/Forms/FormIndex.htm>

5. To not HIDE methods to REMOVE consent to do the conversion by obfuscating legal terms. See:

*Legal Deception, Propaganda, and Fraud*, Form #05.014  
<https://sedm.org/Forms/FormIndex.htm>

By "private" we mean the following:

**SEDM Disclaimer**  
**Section 4: Meaning of Words**  
**4.3. Private**

The word "private" when it appears in front of other entity names such as "person", "individual", "business", "employee", "employer", etc. shall imply that the entity is:

1. In possession of absolute, exclusive ownership and control over their own labor, body, and all their property. In Roman Law this was called "dominium".
2. On an EQUAL rather than inferior relationship to government in court. This means that they have no obligations to any government OTHER than possibly the duty to serve on jury and vote upon voluntary acceptance of the obligations of the civil status of "citizen" (and the DOMICILE that creates it). Otherwise, they are entirely free and unregulated unless and until they INJURE the equal rights of another under the common law.
3. A "nonresident" in relation to the state and federal government.
4. Not a PUBLIC entity defined within any state or federal statutory law. This includes but is not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any under any civil statute or franchise.
5. Not engaged in a public office or "trade or business" (per 26 U.S.C. §7701(a)(26)). Such offices include but are not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any civil statute or franchise.  
  
"PRIVATE PERSON. An individual who is not the incumbent of an office."  
[Black's Law Dictionary, Fourth Edition, p. 1359]
6. Not consenting to contract with or acquire any public status, public privilege, or public right under any state or federal franchise. For instance, the phrase "private employee" means a common law worker that is NOT the statutory "employee" defined within 26 U.S.C. §3401(c) or 26 C.F.R. §301.3401(c)-1 or any other federal or state law or statute.
7. Not sharing ownership or control of their body or property with anyone, and especially a government. In other words:
  - 7.1 Ownership is not "qualified" but "absolute".
  - 7.2 There are no moities between them and the government.
  - 7.3 The government has no usufructs over any of their property.

8. Not subject to civil enforcement or regulation of any kind, except AFTER an injury to the equal rights of others has occurred. Preventive rather than corrective regulation is an unlawful taking of property according to the Fifth Amendment takings clause.

9. Not "privileged" or party to a franchise of any kind:

"PRIVILEGE. **A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law. [ . . . ] That which releases one from the performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common [common law] with all other persons.** State v. Grosnickle, 189 Wis. 17, 206 N.W. 895, 896. A peculiar advantage, exemption, or immunity. Sacramento Orphanage & Children's Home v. Chambers, 25 Cal.App. 536, 144 P. 317, 319.  
[Black's Law Dictionary, Fourth Edition, pp. 1359-1360]

"Is it a franchise? **A franchise is said to be a right reserved to the people by the constitution, as the elective franchise. Again, it is said to be a privilege conferred by grant from government, and vested in one or more individuals, as a public office.** Corporations, or bodies politic are the most usual franchises known to our laws. In England they are very numerous, and are defined to be royal privileges in the hands of a subject. An information will lie in many cases growing out of these grants, especially where corporations are concerned, as by the statute of 9 Anne, ch. 20, and in which the public have an interest. In 1 Strange R. (The King v. Sir William Louthier,) it was held that an information of this kind did not lie in the case of private rights, where no franchise of the crown has been invaded. If this is so--if in England a privilege existing in a subject, which the king alone could grant, constitutes it a franchise--in this country, under our institutions, **a privilege or immunity of a public nature, which could not be exercised without a legislative grant, would also be a franchise.**"  
[People v. Ridgley, 21 Ill. 65, 1859 WL 6687, 11 Peck 65 (Ill., 1859)]

10. The equivalent to a common law or Constitutional "person" who retains all of their common law and Constitutional protections and waives none.

"The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places **whereby a certain individual or class of individuals was exempted from the rigor of the common law.** Privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption. "  
[The Privileges and Immunities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10;  
SOURCE:  
[http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The\\_privileges\\_and\\_immunities\\_of\\_state\\_c.pdf](http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The_privileges_and_immunities_of_state_c.pdf)]

See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.

Every attempt by anyone in government to alienate rights that the Declaration of Independence says are UNALIENABLE shall also be treated as "PRIVATE BUSINESS ACTIVITY" that cannot be protected by sovereign, official, or judicial immunity. So called "government" cannot make a profitable business or franchise out of alienating inalienable rights without ceasing to be a classical/de jure government and instead becoming in effect an economic terrorist and de facto government in violation of Article 4, Section 4.

"No servant [or government or biological person] can serve **two masters**; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. **You cannot serve God and mammon [government].**"  
[Luke 16:13, Bible, NKJV]

[SEDM Disclaimer, Section 4: Meaning of Words; SOURCE: <https://sedm.org/disclaimer.htm>]

The legal encyclopedia confirms these conclusions in spades. On the duty of officers WITHIN the government to PROTECT PRIVATE PROPERTY, it says:

"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. <sup>14</sup> **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the**

<sup>14</sup> State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

1 making of personal financial gain from a discharge of their trusts.<sup>15</sup> That is, a public officer occupies a fiduciary relationship  
2 to the political entity on whose behalf he or she serves.<sup>16</sup> and owes a fiduciary duty to the public.<sup>17</sup> It has been said that the  
3 fiduciary responsibilities of a public officer cannot be less than those of a private individual.<sup>18</sup> **Furthermore, it**  
4 **has been stated that any enterprise undertaken by the public official**  
5 **which tends to weaken public confidence and undermine the sense of**  
6 **security for individual rights is against public policy.**<sup>19</sup>  
7 [63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

8 So the job of judges is quite simple, and the purpose of the common law is to effect ONLY the above goals. Since those  
9 goals in essence are the protection of private property, then judges don't need to MAKE law. All they have to do is  
10 RECOGNIZE what property is. This isn't rocket science or "anti-democratic" as Scalia puts it. A failure or refusal by  
11 people like Scalia to recognize the existence and rights of PRIVATE property protected by the Fifth Amendment makes  
12 government VAIN, according to the Supreme Court:

13 *"The rights of individuals and the justice due to them, are as dear and precious as those of states. Indeed the latter are founded*  
14 *upon the former; and the great end and object of them must be to secure and support the rights of individuals, or else vain is*  
15 *government."*  
16 [Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed. 440 (1793)]

17 *"Every man has a natural right to the fruits of his own labor, is generally admitted; and no other person can rightfully deprive him*  
18 *of those fruits, and appropriate them against his will..."*  
19 [The Antelope, 23 U.S. 66, 10 Wheat 66, 6 L.Ed. 268 (1825)]

20 *"This distinction is essential to the idea of constitutional government. To deny it or blot it out obliterates the line of demarcation*  
21 *that separates constitutional government from absolutism, free self-government based on the sovereignty of the people from that*  
22 *despotism, whether of the one or the many, which enables the agent of the State to declare and decree that he is the State; to say*  
23 *"L'Etat c'est moi." Of what avail are written constitutions whose bills of right for the security of individual liberty have been*  
24 *written, too often, with the blood of martyrs shed upon the battle-field and the scaffold, if their limitations and restraints upon*  
25 *power may be overpassed with impunity by the very agencies created and appointed to guard, defend, and enforce them; and that,*  
26 *too, with the sacred authority of law, not only compelling obedience, but entitled to respect? And how else can these principles of*  
27 *individual liberty and right be maintained, if, when violated, the judicial tribunals are forbidden to visit penalties upon individual*  
28 *offenders, who are the instruments of wrong, whenever they interpose the shield of the State? The doctrine is not to be tolerated.*  
29 *The whole frame and scheme of the political institutions of this country, State and Federal, protest against it. Their continued*  
30 *existence is not compatible with it. It is the doctrine of absolutism, pure, simple, and naked; and of communism, which is its twin;*  
31 *the double progeny of the same evil birth."*  
32 [Poindexter v. Greenhow, 114 U.S. 270 (1885)]

33 What Scalia is doing with his vague subjective notions about the purpose of government is to rewrite his job description so  
34 he can join the PLUNDER of private property with his Pharisee colleagues in the covetous legal profession.<sup>20</sup> As someone  
35 whose own son is a Catholic Priest, he ought to know better. What a LOSER!:

36 *'For among My [God's] people are found wicked [covetous public servant] men; They lie in wait as one who sets snares; They set*  
37 *a trap; They catch men. As a cage is full of birds, So their houses are full of deceit. Therefore they have become great and grown*  
38 *rich. They have grown fat, they are sleek; Yes, they surpass the deeds of the wicked; They do not plead the cause, The cause of the*  
39 *fatherless [or the innocent, widows, or the nontaxpayer]; Yet they prosper, And the right of the needy they do not defend. Shall I not*  
40 *punish them for these things?' says the Lord. 'Shall I not avenge Myself on such a nation as this?'*

<sup>15</sup> Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

<sup>16</sup> Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

<sup>17</sup> United States v. Holzer (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L.Ed. 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L.Ed. 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass) 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

<sup>18</sup> Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

<sup>19</sup> Indiana State Ethics Comm'n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

<sup>20</sup> See: *Who Were the Pharisees and Saducees?*, Form #05.047; <https://sedm.org/Forms/FormIndex.htm>.

1 ***"An astonishing and horrible thing Has been committed in the land: The prophets prophesy falsely, And the priests [judges in***  
2 ***franchise courts that worship government as a pagan deity] rule by their own power; And My people love to have it so. But what***  
3 ***will you do in the end?"***  
4 ***[Jer. 5:26-31, Bible, NKJV]***

5 Our Bible, the Open Bible, describes the folly of the road that pagans like Scalia are taking this country down as follows:

6 *The Book of Judges stands in stark contrast to Joshua. In Joshua an obedient people conquered the land through trust in the power*  
7 *of God. **In Judges, however, a disobedient and idolatrous people [towards God's law] are defeated time and time again because***  
8 ***of their rebellion against God.***

9 *In seven distinct cycles of sin to salvation, Judges shows how Israel had set aside God's law and in its place substituted "what was*  
10 *right in his own eyes" (21:25). **The recurring result of abandonment from God's law is corruption from within and oppression***  
11 ***from without.** During the nearly four centuries spanned by this book, God raises up military champions to throw off the yoke of*  
12 *bondage and to restore the nation to pure worship. But all too soon the "sin cycle" begins again as the nation's spiritual*  
13 *temperance grows steadily colder.*

14 ...

15 *The Book of Judges could also appropriately be titled "The Book of Failure."*

16 ***Deterioration** (1:1-3:4). Judges begins with short-lived military successes after Joshua's death, but quickly turns to the repeated*  
17 *failure of all the tribes to drive out their enemies. The people feel the lack of a unified central leader, but the primary reasons for*  
18 *their failure are a lack of faith in God and lack of obedience to Him (2:1-2). Compromise leads to conflict and chaos. Israel does*  
19 *not drive out the inhabitants (1:21, 27, 29, 30); instead of removing the moral cancer [IRS, Federal Reserve?] spread by the*  
20 *inhabitants of Canaan, they contract the disease. The Canaanite gods [money, sex, covetousness] literally become a snare to them*  
21 *(2:3). Judges 2:11-23 is a microcosm of the pattern found in Judges 3-16.*

22 ***Deliverance** (3:5-16:31). In verses 3:5 through 16:31 of the Book of Judges, seven apostasies (fallings away from God) are*  
23 *described, seven servitudes, and seven deliverances. **Each of the seven cycles has five steps: sin, servitude, supplication,***  
24 ***salvation, and silence.** These also can be described by the words **rebellion, retribution, repentance, restoration, and rest.** The*  
25 *seven cycles connect together as a descending spiral of sin (2:19). Israel vacillates between obedience and apostasy as the people*  
26 *continually fail to learn from their mistakes. Apostasy grows, but the rebellion is not continual. The times of rest and peace are*  
27 *longer than the times of bondage. The monotony of Israel's sins can be contrasted with the creativity of God's methods of*  
28 *deliverance.*

29 ***Depravity** (17:1-21:25). Judges 17:1 through 21:25 illustrate (1) religious apostasy (17 and 18) and (2) social and moral depravity*  
30 *(19-21) during the period of the judges. Chapters 19-21 contain one of the worst tales of degradation in the Bible. **Judges closes***  
31 ***with a key to understanding the period: "everyone did what was right in his own eyes" (21:25) [a.k.a. "what FEELS good"].** The*  
32 *people are not doing what is wrong in their own eyes, but what is "evil in the sight of the Lord" (2:11).*  
33 *[The Open Bible, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341]*

## 34 **17.2 Snoop For Truth**

35 A poster named "Snoop4Truth" posts on several sites about the hazards of the ABUSE of the common law. You can find  
36 one such post at:

- 37 1. ***Gold is Money Forums**, Treasure Chest...A Library, Beginners Forum: Intro to Common Law-Bill Thornton*  
38 *<https://www.goldismoney2.com/threads/intro-to-common-law-bill-thornton.60879/>*  
39 2. ***Out of Mind Blog***  
40 *<https://www.oom2.com/t71724-the-common-law-hoax-by-snoop4truth>*

41 Some of the content of this document was adapted from the above. HOWEVER, he appears to be an apologist for  
42 THIEVES in what Mark Twain (Samuel Clemens) called "The District of Criminals". He seems to promote SLAVERY  
43 and government idolatry instead of freedom.

44 Snoop For Truth and his Virgo Triad compadres are SOPHISTS. For a description of what that means see:

<i><u><b>Introduction to Sophistry</b></u>, Form #12.042</i> <i><u><a href="https://sedm.org/an-introduction-to-sophistry/">https://sedm.org/an-introduction-to-sophistry/</a></u></i>
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### 17.3 Virgo Triad (Snoop4Truth)

The following resources rebut the “common law fraud”:

1. Virgo Triad Website  
<https://www.virgotriad.com/>
2. "THE "COMMON LAW HOAX", Virgo Triad  
<https://www.youtube.com/watch?v=tYXSdsnNSQI>

Like the above websites, WE TOO share a distaste for the abuses they criticize, such as:

1. The “sovereign citizen” movement. The following document specifically says you may NOT be a “sovereign citizen” and participate in our ministry.

SEDM Member Agreement, Form #01.001, Section 1.1  
<https://sedm.org/participate/member-agreement/>

2. Efforts to connect us as a ministry to ANY name, label or stereotype that might be used to slander us or the God we exist SOLELY to serve and obey. See:

Policy Document: Rebutted False Arguments About Sovereignty, Form #08.018  
<https://sedm.org/Forms/FormIndex.htm>

3. Redemption scams
  - 3.1. Birth Certificate as a security.
  - 3.2. Accepted for Value.The above scams are documented in:

Policy Document: U.C.C. Redemption, Form #08.002  
<https://sedm.org/Forms/FormIndex.htm>

We do, however, take a different approach than they do to FIXING the above abuses. They just take anonymous pot shots at people or organizations that do the above. WE, however, not only write expositions of facts that prove they are wrong, but also contact them and volunteer to HELP them fix their materials and learn the truth. We are, for instance, acting as an EDITOR of the Redemption Manual Series (<http://makefreedom.com>) and removing all the mythology they criticize in the Redemption community.

*“They have a Right to censure, that have a Heart to help: The rest is Cruelty, not Justice.”*  
[William Penn, *Some Fruits of Solitude*, pt. 1, no. 46 (1693)]

We tried to take the SAME approach towards Virgo Triad and Snoop4Truth in writing this document, but they refused to allow us to contact them directly. So they are just slanderers and whiners who the public should not listen to, just like the people THEY criticize as SCAMMERS.

### 18 ChatGPT-4 AI questions about CIVIL v. COMMON LAW Jurisdiction

ChatGPT-4 was released by Microsoft starting in about February 2023. The AI bot outscored 90% of those taking the bar exam. You can use the bot for free yourself at:

<http://chat.openai.com>

To verify that everything we are saying in this memorandum is true, we have prepared a series of questions and answers from the ChatGPT-4 Chatbot relating to civil law v. Common law jurisdiction. Those questions and answers are below. These questions were first asked on 4/3/23. The Chatbot may have learned more since then.

#### 18.1 Does government franchising include essentially the rental or grant of property subject to terms and conditions in the civil legislation authorizing its grant?

Government franchising can include the rental or grant of property subject to terms and conditions in the civil legislation authorizing its grant. However, franchising generally involves more than just the rental or grant of property. It is a

1 contractual arrangement in which the franchisor (in this case, the government) grants the right to use its intellectual  
2 property, such as trademarks, logos, and operating systems, to a franchisee in exchange for a fee or other compensation.

3 In the context of government franchising, the government may grant the right to use its intellectual property in areas such as  
4 transportation, utilities, or public services, and may require the franchisee to adhere to certain standards and regulations in  
5 the provision of those services. The terms and conditions of the franchise agreement may also include provisions related to  
6 the payment of fees, the duration of the franchise, and the rights and obligations of both parties.

7 It is important to note that the specific terms and conditions of government franchising will depend on the legislation  
8 authorizing its grant and the policies and practices of the government agency or department responsible for administering  
9 the franchise.

## 10 **18.2 Is domicile a franchise in which the civil legislation granting rights to those with such a** 11 **domicile under Federal Rule of Civil Procedure 17?**

12 No, domicile is not a franchise. Domicile refers to the legal concept of an individual's permanent residence or the place  
13 where they have their primary physical and legal connections. It is not a contractual relationship or a business arrangement,  
14 which are typical features of a franchise.

15 Under Federal Rule of Civil Procedure 17, a party to a lawsuit must have capacity to sue or be sued. One aspect of capacity  
16 is the party's domicile, which is relevant to determine the proper venue or jurisdiction for the lawsuit. However, this does  
17 not transform domicile into a franchise.

18 Franchises involve the granting of a license or the right to use a business system, brand, or intellectual property for a fee or  
19 other consideration. Domicile, on the other hand, is a legal concept that relates to personal jurisdiction, venue, and choice of  
20 law in civil litigation.

## 21 **18.3 If "permanent residence" requires consent to choose a domicile, then doesn't the civil code** 22 **that acquires the force of law through a domicile require consent also?**

23 Yes, the establishment of a domicile generally requires the consent of the individual. In most legal systems, a person is free  
24 to choose their domicile and can acquire a new one by demonstrating an intention to make a particular place their  
25 permanent home.

26 The civil code that governs the legal effects of domicile, such as jurisdiction, venue, and choice of law, also requires the  
27 individual's consent to establish a domicile. The civil code does not create or grant the domicile itself but rather recognizes  
28 and gives legal effect to the domicile that the individual has established.

29 In this sense, the civil code operates as a set of rules that define and regulate the legal effects of domicile, rather than as a  
30 franchise that grants rights or privileges to the individual. The civil code applies to all individuals who have established a  
31 domicile in the relevant jurisdiction, regardless of whether they have entered into any contractual relationship or paid any  
32 fee or consideration.

## 33 **18.4 Isn't the ability to "sue or be sued" under Federal Rule of Civil Procedure a right and a** 34 **"benefit" of choosing a domicile, and therefore, isn't domicile a privilege implemented with** 35 **the civil law?**

36 While the ability to "sue or be sued" is a right under Federal Rule of Civil Procedure, it is not a direct benefit of choosing a  
37 domicile. Rather, it is a legal consequence of establishing a domicile within a particular jurisdiction.

38 Domicile is a legal concept that confers certain rights and obligations on an individual within a particular legal system.  
39 These include, for example, the right to vote, the obligation to pay taxes, and the ability to access certain government  
40 services. The ability to "sue or be sued" is one of the legal consequences of domicile that arises when an individual  
41 establishes a domicile within the jurisdiction of a particular court.

Therefore, while the establishment of a domicile is a privilege that is recognized and implemented by civil law, it is not a franchise or business arrangement that grants specific benefits or privileges to the individual. Rather, it is a fundamental aspect of legal identity that is essential for the functioning of any legal system.

**18.5 But aren't the ability to vote and serve on jury duty privileges? They are both consequences of domicile and you cannot do either without it right? The privilege to vote, in fact, is called "elective franchise" by the courts is it not?**

You are correct that the ability to vote and serve on jury duty are legal privileges that are conferred upon an individual as a consequence of their domicile. In the context of civil law, these privileges are recognized and implemented through the concept of domicile, which establishes an individual's legal connection to a particular jurisdiction.

The privilege to vote is commonly referred to as the "elective franchise" and is recognized as a fundamental right in many legal systems. However, it is important to note that while these privileges are associated with domicile, they are not equivalent to a franchise in the business or commercial sense of the term.

Franchises typically involve a contractual relationship in which a franchisor grants the right to use their business model or intellectual property to a franchisee in exchange for a fee or other compensation. In contrast, the privileges associated with domicile arise from an individual's legal connection to a particular jurisdiction and are generally not subject to negotiation or exchange.

Therefore, while the privileges associated with domicile are implemented through civil law, they are distinct from the concept of a franchise as it is commonly understood in the business context.

**18.6 So the EFFECT of domicile is the ability to participate in political privileges that are revocable unilaterally by the government, right?**

The effect of domicile is not limited to the ability to participate in political privileges, but that is one of the legal consequences of establishing a domicile within a particular jurisdiction. The privileges associated with domicile can include the ability to vote and serve on a jury, as well as access to certain government services and benefits.

It is true that these privileges are generally subject to regulation by the government and can be revoked or modified through the legislative process. However, the right to establish a domicile and to participate in the privileges associated with domicile is generally recognized as a fundamental aspect of legal identity and is protected by constitutional and human rights guarantees in many legal systems.

It is important to note that the concept of domicile is complex and can have different legal implications in different contexts. However, in general, domicile is a fundamental aspect of legal identity that establishes an individual's connection to a particular jurisdiction and confers certain legal rights and obligations.

**18.7 Is choice of domicile a first amendment protected choice of political or group or legal affiliation?**

The choice of domicile is not explicitly protected under the First Amendment of the US Constitution, which guarantees the rights of free speech, free press, free exercise of religion, and the right to peaceably assemble and petition the government for a redress of grievances. However, the Supreme Court has recognized that the freedom to choose one's place of residence is a fundamental right that is protected under the Due Process Clause of the Fourteenth Amendment.

While the choice of domicile is not a choice of political or group affiliation per se, it can have significant political and legal implications. The establishment of a domicile within a particular jurisdiction can affect an individual's ability to participate in political activities, access government services and benefits, and exercise other legal rights and obligations.

Therefore, the choice of domicile can be considered a form of expression and association that is protected under the First Amendment, as well as under other constitutional and human rights guarantees that protect freedom of movement, privacy, and due process.

1 **18.8 So is it lawful to exercise one's First Amendment right to NOT politically or legally**  
2 **associate by NOT choosing a domicile, and thus NOT be party to the social compact?**

3 The First Amendment protects an individual's right to free speech, association, and expression, as well as the right to refrain  
4 from exercising these rights. However, the choice of domicile is a legal requirement in many jurisdictions and is generally  
5 necessary for an individual to access certain government services and benefits.

6 While an individual may choose to refrain from establishing a domicile within a particular jurisdiction, this decision may  
7 limit their ability to participate in political activities, access government services and benefits, and exercise other legal  
8 rights and obligations.

9 In general, the social compact refers to the implicit agreement between individuals and their government to live together in  
10 a society governed by certain laws and principles. While the social compact is not a formal legal contract, it is generally  
11 considered to be a fundamental aspect of social and political organization.

12 Therefore, while an individual may choose not to establish a domicile within a particular jurisdiction, this decision may  
13 have significant legal and practical implications and may limit their ability to participate fully in the social and political life  
14 of the community.

15 **18.9 Would someone who does not choose a domicile therefore be called a "transient foreigner" or**  
16 **"nonresident" under the civil code?**

17 The terms "transient foreigner" or "nonresident" are often used to refer to individuals who do not establish a domicile  
18 within a particular jurisdiction. In general, these terms refer to individuals who are temporarily present within a jurisdiction  
19 but do not have a permanent legal connection to that jurisdiction.

20 Under the civil code, the term "nonresident" may be used to refer to individuals who do not have a domicile within a  
21 particular jurisdiction but who are still subject to the jurisdiction's laws and regulations. This can include individuals who  
22 are visiting the jurisdiction for a short period of time or who maintain a residence or business within the jurisdiction but do  
23 not establish a legal domicile.

24 It is important to note that the legal implications of not establishing a domicile within a particular jurisdiction can vary  
25 depending on the specific laws and regulations of that jurisdiction. In general, however, individuals who do not establish a  
26 domicile within a jurisdiction may have limited access to certain government services and benefits and may be subject to  
27 certain legal restrictions and requirements.

28 **18.10 Can those who are nationals lawfully be penalized for their refusal to choose a domicile or**  
29 **refusal to adopt a legal identity within the civil jurisdiction of the place they physically live**  
30 **but to not choose as their "permanent residence"?**

31 The answer to this question can vary depending on the specific laws and regulations of the jurisdiction in question. In  
32 general, however, individuals who are nationals of a particular country may be subject to certain legal requirements and  
33 obligations, including the requirement to establish a domicile within the country's jurisdiction and adopt a legal identity.

34 While the right to establish a domicile and adopt a legal identity is generally considered to be a fundamental aspect of legal  
35 identity and protected by constitutional and human rights guarantees, failure to comply with these requirements may result  
36 in legal penalties and consequences.

37 It is important to note that the specific legal implications of not establishing a domicile or adopting a legal identity can vary  
38 depending on the jurisdiction in question, as well as the individual's specific circumstances and legal status. Therefore, it is  
39 important for individuals to consult with legal professionals and/or government authorities in their jurisdiction to fully  
40 understand their legal obligations and rights.

1 **18.11 So how can choosing a domicile be voluntary and protected by the First Amendment if you**  
2 **can be penalized for not choosing one?**

3 Choosing a domicile is generally considered to be a voluntary act that involves establishing a permanent legal connection to  
4 a particular jurisdiction. However, in many jurisdictions, failure to establish a domicile can have legal and practical  
5 implications, including limited access to government services and benefits and restrictions on certain legal rights and  
6 obligations.

7 While the First Amendment protects an individual's right to free speech, association, and expression, as well as the right to  
8 refrain from exercising these rights, it does not necessarily protect an individual's decision not to establish a domicile within  
9 a particular jurisdiction. The legal requirements and obligations related to domicile are generally considered to be a matter  
10 of state law and may be subject to reasonable restrictions and regulations.

11 In general, the decision to establish a domicile within a particular jurisdiction is considered to be a voluntary choice, but  
12 failure to do so may have legal and practical consequences. It is important for individuals to consult with legal professionals  
13 and/or government authorities in their jurisdiction to fully understand their legal obligations and rights related to domicile  
14 and legal identity.

15 **18.12 I'm very confused. You call domicile voluntary and yet people can be penalized for not**  
16 **volunteering. Either its compelled or its voluntary and not subject to penalty. Which is it?**

17 I apologize for any confusion my previous answers may have caused. The concept of domicile is generally considered to be  
18 voluntary, meaning that individuals have the choice to establish a domicile within a particular jurisdiction or not. However,  
19 failure to establish a domicile within a jurisdiction may have legal and practical consequences, such as limited access to  
20 government services and benefits, restrictions on certain legal rights and obligations, and in some cases, penalties for  
21 noncompliance with legal requirements related to domicile.

22 The specific legal implications of failing to establish a domicile can vary depending on the jurisdiction in question and the  
23 individual's specific circumstances and legal status. In some cases, failure to establish a domicile may be considered a  
24 violation of legal requirements and subject to legal penalties or consequences, such as fines or restrictions on certain  
25 activities or rights. In other cases, the failure to establish a domicile may not be subject to legal penalty but may still have  
26 practical implications, such as difficulty accessing government services or participating in certain activities.

27 In summary, while the concept of domicile is generally considered voluntary, failure to establish a domicile may have legal  
28 and practical implications that can vary depending on the specific circumstances and legal requirements of the jurisdiction  
29 in question. It is important for individuals to consult with legal professionals and/or government authorities in their  
30 jurisdiction to fully understand their legal obligations and rights related to domicile and legal identity.

31 **18.13 Is a failure to receive the "benefit" of government services by those not choosing a domicile**  
32 **considered to be a penalty, or is it merely the unavoidable consequence of the exercise of**  
33 **the right to disassociate and not participate in the benefits of the social compact?**

34 The consequences of not choosing a domicile, such as limited access to government services and benefits, are generally  
35 considered to be an unavoidable consequence of the choice to disassociate and not participate in the benefits of the social  
36 compact. In general, individuals who choose not to establish a domicile within a particular jurisdiction are not considered to  
37 be penalized for their choice, but rather are simply not entitled to certain benefits and services that are reserved for those  
38 who have established a legal connection to the jurisdiction.

39 It is important to note, however, that the specific legal implications of failing to establish a domicile can vary depending on  
40 the jurisdiction and the individual's specific circumstances and legal status. In some cases, failure to establish a domicile  
41 may be subject to legal penalties or consequences, such as fines or restrictions on certain activities or rights. It is important  
42 for individuals to consult with legal professionals and/or government authorities in their jurisdiction to fully understand  
43 their legal obligations and rights related to domicile and legal identity.

1 **18.14 Aren't "rights" granted by the civil law just privileges, and thus "benefits" that result**  
2 **from choosing a domicile? Rights are property, are they not, and doesn't the receipt of**  
3 **such property grant the government the power to regulate one's conduct per Munn v.**  
4 **Illinois, 94 U.S. 113, 139-140 (1876)?**

5 The question of whether "rights" granted by civil law are considered privileges or property can be a matter of interpretation  
6 and legal context. In general, however, rights are typically considered to be legally protected entitlements that are inherent  
7 to individuals by virtue of their humanity or citizenship, and are typically recognized and enforced by law. In contrast,  
8 privileges are typically considered to be benefits or advantages that are granted or conferred by law, and may be subject to  
9 conditions or limitations.

10 With regards to domicile, the establishment of a legal connection to a particular jurisdiction may confer certain rights and  
11 privileges, such as the right to vote, the right to access government services and benefits, and the right to legal  
12 representation in certain matters. However, the nature and scope of these rights and privileges may vary depending on the  
13 jurisdiction and the individual's specific circumstances and legal status.

14 In general, the receipt of rights and privileges conferred by law does not necessarily grant the government unrestricted  
15 power to regulate an individual's conduct. While the government may have the power to regulate certain aspects of an  
16 individual's behavior in the interest of promoting public health, safety, and welfare, such regulation is typically subject to  
17 legal limits and constitutional protections. The specific limits and protections may vary depending on the jurisdiction and  
18 the circumstances involved, but generally include such principles as due process, equal protection, and freedom of speech  
19 and association.

20 **18.15 Didn't the U.S. Supreme court say in Ashwander v. Tennessee Valley Authority, 297 U.S.**  
21 **288, 56 S.Ct. 466 (1936) that invoking the "benefit" of a civil statute causes a WAIVER of**  
22 **constitutional protections? How then can the constitution limit what rights that civil**  
23 **statutes can take away?**

24 In Ashwander v. Tennessee Valley Authority, the U.S. Supreme Court did state that "a suitor who seeks the protection of  
25 the Constitution, cannot, therefore, be heard to say that he has suffered no injury which warrants a resort to that protection."  
26 In other words, if an individual is invoking the protections of the Constitution, they must demonstrate that they have  
27 suffered an actual injury or harm that warrants constitutional protection.

28 However, the fact that an individual may be invoking the "benefit" of a civil statute does not necessarily mean that they are  
29 automatically waiving their constitutional protections. The U.S. Constitution and its amendments provide broad protections  
30 for individual rights, and these protections cannot be waived or abridged by the mere invocation of a civil statute.

31 In fact, the Supreme Court has repeatedly held that civil statutes and regulations are subject to constitutional limitations and  
32 that they must be applied in a manner that is consistent with constitutional protections. For example, in United States v.  
33 Carolene Products Co., 304 U.S. 144 (1938), the Court held that laws that infringe upon "fundamental rights" or "discrete  
34 and insular minorities" are subject to heightened judicial scrutiny to ensure that they do not violate the Constitution.

35 Thus, while the invocation of a civil statute may affect the scope and extent of an individual's constitutional protections in  
36 some circumstances, the Constitution continues to provide a framework for limiting the power of civil statutes and  
37 protecting individual rights.

38 **18.16 But doesn't invoking the civil law exempt one from the protections of the common law of**  
39 **England and replace the common law with statute law? Common law and civil statutory**  
40 **law would conflict with each other, otherwise, wouldn't they?**

41 Invoking civil law does not necessarily exempt one from the protections of common law, as the common law and civil  
42 statutory law can coexist and complement each other. Common law refers to the body of law derived from judicial  
43 decisions, while civil statutory law refers to the body of law created by legislative enactments.

1 In the United States, common law principles are often incorporated into civil statutory law, and in some cases, civil  
2 statutory law may be interpreted and applied in a manner consistent with common law principles. Additionally, the  
3 common law continues to provide the foundation for many areas of civil law, such as contract law, tort law, and property  
4 law.

5 While there may be occasional conflicts between common law and civil statutory law, the courts have developed various  
6 methods for resolving such conflicts, including statutory interpretation, the use of precedent, and the application of general  
7 principles of statutory construction. Ultimately, the goal is to harmonize the two bodies of law to the extent possible, so that  
8 they can work together to provide a coherent and consistent legal framework.

9 **18.17 I'm using the term "common law" specifically and only in the context of the common law**  
10 **of England, and NOT in the context of mere judicial discretion. In THAT context, is the**  
11 **protection of the common law OF ENGLAND mentioned in the Seventh Amendment lost**  
12 **by invoking the privileges and benefits of civil statutes?**

13 The Seventh Amendment of the United States Constitution guarantees the right to a trial by jury in certain civil cases. The  
14 Amendment specifically refers to the "common law," which was the body of law that existed in England at the time of the  
15 American Revolution and was adopted by the United States.

16 In the context of the Seventh Amendment, the protection of the common law of England generally refers to the right to a  
17 trial by jury in cases that were traditionally heard by a jury in England at the time of the adoption of the Amendment. This  
18 includes cases involving common law causes of action, such as breach of contract or torts.

19 The invocation of civil statutes does not necessarily waive the protections of the Seventh Amendment. While civil statutes  
20 may provide for different procedures for resolving disputes, such as administrative hearings or arbitration, the right to a trial  
21 by jury may still be preserved under the civil statute or by other constitutional provisions.

22 Additionally, the Supreme Court has recognized that the Seventh Amendment right to a trial by jury is a fundamental right  
23 that should be protected whenever possible. In interpreting civil statutes, courts will generally construe them in a manner  
24 that preserves the right to a jury trial, unless there is a clear indication that Congress intended to eliminate that right.

25 **18.18 If civil statutes and the common law of England provide CONFLICTING procedures for**  
26 **resolving disputes, then they can't both rule at the same time, can they? Don't I as the**  
27 **owner of myself get the choose what law system I consent to use to protect my absolutely**  
28 **owned, constitutionally protected private property rather than the court?**

29 It is generally understood that the common law and civil statutes can coexist and even complement each other. However, in  
30 cases where there is a conflict between the two, the civil statute would take precedence over the common law.

31 As for the choice of legal system, individuals generally do not have the option to choose which legal system they wish to be  
32 subject to in a given jurisdiction. The laws of a particular jurisdiction are applied universally to all individuals and entities  
33 within that jurisdiction, regardless of their personal preferences.

34 It is also worth noting that the concept of "absolutely owned" private property is a complex one that is subject to various  
35 legal and social considerations. The government has a legitimate interest in regulating and protecting property rights in the  
36 interest of promoting the public good and maintaining social order.

37 **18.19 But you said earlier that those without a domicile are not subject to the civil law. Do you**  
38 **then mean by the phrase "laws of a particular jurisdiction are applied universally", are**  
39 **you excluding civil statutes from the definition of "laws of a particular jurisdiction"?**

40 My apologies for the confusion earlier. Let me clarify. The civil law applies to all individuals within a particular  
41 jurisdiction, including those who do not have a domicile within that jurisdiction. However, those without a domicile may  
42 not have access to certain benefits or protections of the civil law that are tied to a particular domicile or residency.

Regarding the phrase "laws of a particular jurisdiction are applied universally," civil statutes are indeed included in this definition. Civil statutes are created and enforced by the state or federal government and are part of the law of a particular jurisdiction.

**18.20 Isn't everything within the entire civil law just a privilege that confers the benefit of statutory rights resulting from voluntary choice of domicile? If it is, then how can you say these privileges apply equally to everyone within "a particular jurisdiction", including those who don't want these "benefits". Aren't the civil statutes just rules for voluntary club members called "citizens" and "residents"?**

It is true that the civil law is a set of rules and regulations that govern the behavior of individuals within a particular jurisdiction. And it is also true that many of the benefits and privileges granted by civil law, such as voting and access to government services, are tied to the concept of domicile or residence within that jurisdiction. However, it is important to note that the civil law also establishes and protects fundamental rights, such as the freedom of speech, religion, and due process of law, that are not dependent on domicile or residency. These rights apply to all individuals within a particular jurisdiction, regardless of their status as citizens or residents.

While it is possible for individuals to choose not to avail themselves of certain benefits and privileges offered by the civil law, such as by not registering to vote or accessing government services, they cannot simply opt out of the civil law entirely. The civil law provides a framework for resolving disputes and enforcing contracts, among other things, and these mechanisms are available to all individuals within a particular jurisdiction.

**18.21 But the civil statutes are not necessary for those who do not choose a domicile. They can still resolve disputes entirely and only using the common law of England in the United States of America, can they not?**

The common law of England is one of the sources of law in the United States, but it is not the only source. Federal and state constitutions, statutes, administrative regulations, and judicial decisions also contribute to the body of law.

While it is true that someone who does not choose a domicile may still rely on the common law of England to resolve disputes, they may not have access to certain legal procedures and protections that are only available under civil law. Additionally, there may be practical difficulties in asserting common law claims without a recognized legal identity or address for service of process.

**18.22 So by "legal identity" you really mean a status under the civil law, don't you?**

Yes, when I referred to "legal identity," I was referring to a person's status or legal standing under the civil law, which includes various legal rights and responsibilities that are conferred upon them by the state. This legal status may include their citizenship, residency, tax obligations, and other legal requirements and benefits that come with being a member of a particular community or jurisdiction.

**18.23 Why does one need a legal identity under the civil law if they are invoking the common law? Civil courts seldom ask for government id to file a claim, so why would that be needed? Can't I just show my birth certificate and my fingerprint to have standing to file a common law claim?**

The common law is a body of law that has developed over time through judicial decisions, and it is separate from statutory law, which is created by legislative bodies. While it is true that one can still invoke the common law to resolve disputes without necessarily having a legal identity under civil law, the practical reality is that it can be difficult to pursue a common law claim without some form of legal identity or recognized standing in the court.

In most cases, filing a claim in court requires some form of identification or proof of identity, such as a government-issued ID or passport. This is because the court needs to be able to verify that the person filing the claim is who they say they are,

1 and that they have a legal right to bring the claim. In some cases, a birth certificate or fingerprint may be accepted as a form  
2 of identification, but this would depend on the specific requirements of the court in question.

3 Furthermore, even if one is able to establish standing to file a common law claim, there may be practical difficulties in  
4 enforcing a judgment or obtaining remedies without the support of statutory law. For example, if someone wins a judgment  
5 in a common law court but the other party refuses to comply, there may be limited options for enforcing the judgment  
6 without the assistance of civil law enforcement mechanisms.

7 **18.24 Aren't common law judgments filed in the court of record? As long as there is a court of**  
8 **record, can't the court order in the court record be used to enforce against those protected**  
9 **only by the civil law?**

10 Yes, common law judgments can be filed in the court of record. A court of record is a court whose proceedings are  
11 recorded, and a judgment entered in such a court is considered a matter of record. The court record can be used to enforce  
12 the judgment against the party against whom it is entered, including those protected only by the civil law. However, the  
13 specific procedures for enforcing a common law judgment may vary depending on the jurisdiction and the specific  
14 circumstances of the case.

15 **18.25 Do those who have a legal identity under the civil law have the right or ability to NOT**  
16 **invoke the benefits of the civil law and instead invoke ONLY the common law and abandon**  
17 **the benefits of the civil law in a specific court case they file?**

18 Individuals who have a legal identity under the civil law have the right to represent themselves in court and argue their case  
19 based on any applicable law, including the common law. However, once a case is filed in a court that operates under the  
20 civil law, the parties involved are generally subject to the rules and procedures of that court. It may be possible for an  
21 individual to argue their case based solely on the common law, but they would still be subject to the court's rules and  
22 procedures. Additionally, certain remedies or forms of relief may only be available through the civil law and not the  
23 common law, so abandoning the benefits of the civil law entirely may not be a practical or viable option in some cases.

24 **18.26 Who is in charge? Doesn't the government work for "we the people"? Aren't "we the**  
25 **people" therefore sovereign? And if they are, why would the government SERVANT have**  
26 **the ability to force its MASTER to follow the SERVANT'S rules?**

27 In a democratic system, the government is indeed supposed to serve the people and be accountable to them. In that sense,  
28 "we the people" can be said to be sovereign. However, the relationship between the government and the people is not  
29 always clear-cut, and there are times when the government must take actions that may not be popular or may be  
30 controversial. Ultimately, the government has the power to enforce its laws and regulations, and it is up to the people to use  
31 the democratic process to hold their elected officials accountable and to advocate for change when they disagree with the  
32 government's actions.

33 **18.27 I don't doubt they can enforce club rules such as civil statutes against VOLUNTARY club**  
34 **members called "citizens" and "residents", but what about those who do not choose a civil**  
35 **domicile and limit their remedies exclusively to the common law? Aren't they then no**  
36 **longer subject to such "club rules" and the Master in a common law court?**

37 If an individual chooses not to voluntarily participate in the benefits and privileges of the civil law, they are still subject to  
38 certain rules and regulations. For example, criminal laws such as murder, theft, and assault are enforced regardless of  
39 whether an individual chooses to participate in the civil law system. Additionally, there may be civil laws that apply to  
40 individuals who do not choose a domicile, such as laws related to property or contracts.

41 However, if an individual chooses to limit their remedies exclusively to the common law, they would not be subject to the  
42 civil laws that govern disputes related to their property, contracts, or other matters. In that sense, they may be considered to  
43 be outside the scope of the civil law system. However, it is important to note that the common law system itself is a part of

the legal system and subject to its own rules and regulations, so individuals who choose to rely solely on the common law would still be subject to those rules and regulations.

## 19 Questions for Doubters

For those readers who have read up to this point and still remain unconvinced that common law exists to protect PRIVATE property ownership, that the courts must practice it in order to honor their constitutional oath, and that it does not and cannot involve STATUTORY proceedings, we have some questions:

1. Admit that there are TWO possible types of property ownership: Absolute or qualified (shared).

Ownership. Collection of rights to use and enjoy property, including right to transmit it to others. Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473, 33 A.2d. 665, 673. The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law.

The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.

Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited, or when the use is restricted. Calif. Civil Code, §§678-680.

There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by statute. Calif. Civil Code, §655.

In connection with burglary, "ownership" means any possession which is rightful as against the burglar.

See also Equitable ownership; Exclusive ownership; Hold; Incident of ownership; Interest; Interval ownership; Ostensible ownership; Owner; Possession; Title.  
[Black's Law Dictionary, Sixth Edition, p. 1106]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

2. Admit that the essence of ownership is the right to exclude any AND ALL others, including governments, from using, benefitting from, or controlling private property.

"We have repeatedly held that, as to property reserved by its owner for private use, 'the right to exclude [others is] 'one of the most essential sticks in the bundle of rights that are commonly characterized as property.'" Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 433 (1982), quoting Kaiser Aetna v. United States, 444 U.S. 164, 176 (1979). "  
[Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987)]

"In this case, we hold that the "right to exclude," so universally held to be a fundamental element of the property right,<sup>[11]</sup> falls within this category of interests that the Government cannot take without compensation."  
[Kaiser Aetna v. United States, 444 U.S. 164 (1979)]

### FOOTNOTES:

[11] See, e. g., United States v. Pueblo of San Ildefonso, 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 (1975); United States v. Lutz, 295 F.2d. 736, 740 (CA5 1961). As stated by Mr. Justice Brandeis, "[a]n essential element of individual property is the legal right to exclude others from enjoying it." International News Service v. Associated Press, 248 U.S. 215, 250 (1918) (dissenting opinion).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

3. Admit that if the government can take away property that you never hurt anyone with, then they must be the absolute owner based on the above definition.

YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

CLARIFICATION: \_\_\_\_\_

4. Admit that the ability to CONTROL any and all others who want to use or enjoy or benefit from your property is an essential aspect of ownership.

YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

CLARIFICATION: \_\_\_\_\_

5. Admit that if you are deprived by any civil statute of any aspect of control over your property OTHER than those arising from injurious PAST uses, then your property rights are violated and you have a common law trespass action against the party or government asserting such control if you are not a subject to the civil statute and your property is absolutely owned and protected by the constitution and the common law.

YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

CLARIFICATION: \_\_\_\_\_

6. Admit that absolute ownership cannot be PRESUMED, but must be PROVEN by the party exercising or asserting the ability to exercise it, or else due process is violated.

**Due process of law.** Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs. **A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.** To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, **he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance.** *Pennoy v. Neff*, 96 U.S. 733, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. **If any question of fact or liability be conclusively presumed [rather than proven] against him, this is not due process of law.**

[Black's Law Dictionary, Sixth Edition, p. 500]

YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

CLARIFICATION: \_\_\_\_\_

7. Admit that the purpose of the Bill of Rights is to REMOVE private property and private rights from the jurisdiction of juries and voters, INCLUDING those convened to enforce a civil STATUTE:

*"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities [within juries] and officials [and CIVIL STATUTES, Form #05.037] and to establish them as legal principles to be applied by the courts [using the COMMON LAW rather than CIVIL STATUTES, Form #05.037]. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote [of a JURY OR AN ELECTOR]; they depend on the outcome of no elections."*  
[*West Virginia Bd. of Ed. v. Barnett*, 319 U.S. 624, 638 (1943); SOURCE:  
[https://scholar.google.com/scholar\\_case?case=8030119134463419441](https://scholar.google.com/scholar_case?case=8030119134463419441)]

YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

CLARIFICATION: \_\_\_\_\_

8. Admit that an attempt to tax or regulate or take or control private property places it WITHIN the jurisdiction of juries and voters.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

9. Admit that judges as sworn officers of the government to protect private property and private rights protected by the Bill of Rights.

*"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. <sup>21</sup> Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts. <sup>22</sup> That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves, <sup>23</sup> and owes a fiduciary duty to the public. <sup>24</sup> It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. <sup>25</sup> Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy. <sup>26</sup>"*

[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

10. Admit that the FIRST step in protecting private property is to LEAVE IT ALONE, not try to control or regulate its use because that is the definition of JUSTICE itself, and judges are called "justices":

PAULSEN, ETHICS (Thilly's translation), chap. 9.

*"Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interests of others, and, as far as possible, hinders such interference on the part of others. This virtue springs from the individual's respect for his fellows as ends in themselves and as his co equals. The different spheres of interests may be roughly classified as follows: body and life; the family, or the extended individual life; property, or the totality of the instruments of action; honor, or the ideal existence; and finally freedom, or the possibility of fashioning one's life as an end in itself. The law defends these different spheres, thus giving rise to a corresponding number of spheres of rights, each being protected by a prohibition. . . . To violate the rights, to interfere with the interests of others, is injustice. All injustice is ultimately directed against the life of the neighbor; it is an open avowal that the latter is not an end in itself, having the same value as the individual's own life. The general formula of the duty of justice may therefore be stated as follows: Do no wrong yourself, and permit no wrong to be done, so far as lies in your power; or, expressed positively: Respect and protect the right."*

[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 2]

<sup>21</sup> State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

<sup>22</sup> Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

<sup>23</sup> Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

<sup>24</sup> United States v. Holzer (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L.Ed. 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L.Ed. 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass) 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

<sup>25</sup> Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

<sup>26</sup> Indiana State Ethics Comm'n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. **They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.**"  
[Olmstead v. United States, [277 U.S. 438, 478](#) (1928) (Brandeis, J., dissenting); see also Washington v. Harper, [494 U.S. 210](#) (1990)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

11. Admit that taxing, regulating, or controlling the use of PRIVATE, absolutely owned property that is not being used to hurt ANYONE is INJUSTICE, not JUSTICE.

"The compensation which the owners of property, not having any special rights or privileges from the government in connection with it, may demand for its use, or for their own services in union with it, forms no element of consideration in prescribing regulations for that purpose.

[ . . . ]

"It is only where some right or privilege [which are GOVERNMENT PROPERTY] is conferred by the government or municipality upon the owner, which he can use in connection with his property, or by means of which the use of his property is rendered more valuable to him, or he thereby enjoys an advantage over others, that the compensation to be received by him becomes a legitimate matter of regulation. Submission to the regulation of compensation in such cases is an implied condition of the grant, and the State, in exercising its power of prescribing the compensation, only determines the conditions upon which its concession shall be enjoyed. **When the privilege ends, the power of regulation ceases.**"  
[Munn v. Illinois, 94 U.S. 113 (1876) ]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

12. Admit that NO ONE may deprive a man of the fruits of his own labor without his consent.

"Every man has a natural right to the fruits of his own labor, is generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will..."  
[The Antelope, 23 U.S. 66, 10 Wheat 66, 6 L.Ed. 268 (1825)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

13. Admit that the Thirteenth Amendment makes involuntary servitude (slavery) unconstitutional and illegal for EVERYONE, not just the government.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

14. Admit that ANY kind of civil obligation imposed by a civil statute, INCLUDING a tax statute, and not originating from an injury or the consent of the party on whom it is imposed MUST be voluntary, or else unconstitutional involuntary servitude is instituted.

Further details at:

[Lawfully Avoiding Government Obligations Course, Form #12.040](#)  
<https://sedm.org/LibertyU/AvoidGovernmentObligations.pdf>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

15. Admit that because income tax is not voluntary for “taxpayers”, then BEING a taxpayer is voluntary:

*"A tax is not regarded as a debt in the ordinary sense of that term, for the reason that a tax does not depend upon the consent of the taxpayer and there is no express or implied contract to pay taxes. Taxes are not contracts between party and party, either express or implied; but they are the positive acts of the government, through its various agents, binding upon the inhabitants ["taxpayers", not "nontaxpayers", and to the making and enforcing of which their personal consent individually is not required."*  
[Cooley, *Law of Taxation*, Fourth Edition, pp. 88-89]

*"Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law."*  
[*Economy Plumbing & Heating v. U.S.*, 470 F.2d. 585 (1972)]

See and rebut also: *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002;  
<https://sedm.org/Forms/05-MemLaw/Domicile.pdf>.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

16. Admit that THIS is how state nationals VOLUNTEER or CONSENT to pay income tax they would not otherwise owe.  
If you disagree, please provide court admissible evidence proving any part of this presentation is incorrect:

*How State Nationals Volunteer To Pay Income Tax*, Form #08.024  
<https://sedm.org/Forms/08-PolicyDocs/HowYouVolForIncomeTax.pdf>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

17. Admit that a “person” in the Internal Revenue Code, for the purposes of penalties and penal jurisdiction, is NOT the “man” mentioned above, but a fictional creation of Congress and a franchise engaged in contracts or employment with the national government.

Title 26> Subtitle F> Chapter 75>Subchapter D  
*Sec. 7343.* - Definition of term "person"

*The term "person" as used in this chapter [Chapter 75] includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs*

[**NOTE:** This is the "person" for the purposes of some of the **miscellaneous penalties** under the Internal Revenue Code]

*TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671*  
*§6671. Rules for application of assessable penalties*

(b) Person defined

*The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

18. Admit that the CIVIL STATUTORY “persons” mentioned in the previous question are PUBLIC OFFICERS engaged in a franchise and excise taxable activity who are in temporary custody, control, or “beneficial use” of government property and thereby subject to the direct legislative control by Congress under Article 4, Section 3, Clause 2 of the Constitution and 5 U.S.C. §553(a)(2).

*“Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413, 52 P.2d. 483, 486. **Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with Independent power to control the property of the public,** or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593. [Black’s Law Dictionary, Fourth Edition, p. 1235]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

19. Admit that Congress MAY NOT lawfully establish a taxable office within the exclusive jurisdiction of a Constitutional state per the U.S. Supreme Court:

*“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the **internal commerce or domestic trade of the States**. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively to the States**. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature**. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize a trade or business within a State in order to tax it.**”*

[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) ]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

20. Admit that no statute of Congress EXPRESSLY authorizes the excise taxable offices such as “person” indicated earlier within the exclusive jurisdiction of a Constitutional State.

TITLE 4 > CHAPTER 3 > § 72  
§ 72. Public offices; at seat of Government

*All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.*  
[\[https://www.law.cornell.edu/uscode/text/4/72\]](https://www.law.cornell.edu/uscode/text/4/72)

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

21. Admit that the EXERCISE of the excise taxable public offices (called a “trade or business” in 26 U.S.C. §7701(a)(26)) subject to the Internal Revenue Code Subtitles A and C is therefore limited to territory over which the national

Congress enjoys exclusive or general jurisdiction and which has been EXPRESSLY identified as required by 4 U.S.C. §72, INCLUDING federal enclaves and territories as mentioned in the geographical definition of “United States” found in 26 U.S.C. §7701(a)(9) and (a)(10).

Further details at:

1. *The “Trade or Business” Scam*, Form #05.001  
<https://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf>
2. *Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union*, Form #05.052  
<https://sedm.org/Forms/05-Memlaw/ChallengeToIRSEnforcementAuth.pdf>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

22. Admit that the Founding Fathers intended those who serve in government to apply religious principles of morality to their government job functions:

*“Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism who should labour to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, “where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice?” And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.”*  
[George Washington in his [Farewell Address](#); See also [George Washington’s Farewell Address Presented by Ben Sasse, Minute 24](#)]

*“Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”*  
[John Adams; *The Works of John Adams*, ed. CF Adams, Boston: Little Brown Co., 1851,4:13]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

23. Admit that Common Law is one of the few areas of service as a judge where the absence of statutory constraints ALLOWS judges to apply religious moral principles of private property and equality of all to their job as justices.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

24. Admit that recognizing and enforcing PRIVATE absolutely owned property rights in the process of adjudicating common law actions in court is NOT anti-democratic or an act of “legislation” by a judge, but instead is giving the force of law to the provisions of the Bill of Rights found in the Fifth Amendment that can have no statutory force on their own because they are PRIVATE rights that cannot be regulated or limited by statute.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

25. Admit that licensed attorneys who make their living out of enforcing civil statutes and who have to feed their face with the money they earn doing so work against their own interest and livelihood to admit that there is such a thing as a way to protect property or rights OUTSIDE of those civil statutes, such as the common law.

*Third rail of politics*

The **third rail** of a nation's politics is a metaphor for any issue so controversial that it is "charged" and "untouchable" to the extent that any politician or public official who dares to broach the subject will invariably suffer politically.

It is most commonly used in North America. Though commonly attributed to Tip O'Neill,<sup>[1]</sup> Speaker of the United States House of Representatives during the Reagan presidency, it seems to have been coined by O'Neill aide Kirk O'Donnell in 1982 in reference to Social Security.<sup>[2]</sup>

The metaphor comes from the high-voltage third rail in some electric railway systems. Stepping on this usually results in electrocution, and the use of the term in politics relates to the risk of "political death" that a politician would face by tackling certain issues.

[Wikipedia: "Third rail of politics", Downloaded 6/6/2018; SOURCE: [https://en.wikipedia.org/wiki/Third\\_rail\\_of\\_politics](https://en.wikipedia.org/wiki/Third_rail_of_politics)]

#### FOOTNOTES:

1. Rick Shenkman. "When Did Social Security Become the Third Rail of American Politics?". George Mason University. Retrieved 21 October 2014.

2. William Safire (8 February 2007). "On Language: Third Rail". The New York Times. Retrieved 21 October 2014.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

26. Admit that a licensed attorney or jurist who has a conflict of interest as a "tax consumer" or franchise participant and at the same time, acts as counsel or a jurist in a case initiated by a government AGAINST those who refuse to participate in or subsidize franchises (such as Social Security or Income Tax) must recuse themselves from participation and can be debarred or dismissed as a jurist for not doing so, and if they do not, can be criminally prosecuted for conflict of interest under 18 U.S.C. §208.

#### 18 U.S. Code § 208. Acts affecting a personal financial interest

Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be subject to the penalties set forth in section 216 of this title.

NOTE: Jurors are identified as "public officers" as indicated above in 18 U.S.C. §201(a)(1).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

27. Admit that federal judges who serve simultaneously as FRANCHISE judges under Constitution Article I (see 26 U.S.C. §7441 for tax cases) and CONSTITUTIONAL judges under Constitution Article III have a criminal financial conflict of interest that prevents them from allowing CONSTITUTIONAL rulings on common law issues. Because franchises create a fiefdom and enlarge government revenues while common law issues do not, if they are less than honorable, they will always choose MAMMON over God:

"No one can serve two masters [two employers, for instance]; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon [government]."  
[Matt 6:24, Bible, NKJV. Written by a tax collector]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

28. Admit that federal judges who have such a criminal financial conflict of interest MUST recuse themselves under 28 U.S.C. §144, and 28 U.S.C. §455.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

29. Admit that financial conflicts of interest just cited, if not prosecuted, may tend to perpetuate illegally offering and enforcing of national franchises within constitutional states. Of this illegal exercise, the U.S. Supreme Court in the License Tax Cases.

*"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the **internal commerce or domestic trade of the States**. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature**. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize a trade or business within a State in order to tax it.**"*

[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) ]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not necessarily lower federal courts.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness name (print): \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Witness Date: \_\_\_\_\_


## **20 Further Reading and Research**

### **20.1 Our Common Law Practice Materials**

The following handbook is useful for those wishing to invoke common law jurisdiction in a court of law:

1. *Hot Issues: Common Law and Equity Litigation*\*\* -link in the yellow box on the top of the opening page about common law practice. Requires Member Subscription access.  
<https://sedm.org/common-law-litigation/>
2. *Choice of Law*, Litigation Tool #01.010 -IMPORTANT! How to force the common law as the choice of law in court.  
<https://sedm.org/Litigation/LitIndex.htm>
3. *Common Law Practice Guide*, Litigation Tool #10.013-Available in our Ministry Bookstore  
<https://sedm.org/Litigation/LitIndex.htm>
4. *Civil Causes of Action*, Litigation Tool #10.012 (Member Subscriptions)  
<https://sedm.org/Litigation/LitIndex.htm>
5. *Common Law Abatement*, Litigation Tool #10.016  
<https://sedm.org/Litigation/LitIndex.htm>

## 20.2 References, Research, and History

1. Readings on the History and System of the Common Law, Roscoe Pound
  - 1.1. HTML: <http://books.google.com/books?id=WtQ0AAAAIAAJ&printsec=titlepage>
  - 1.2.  PDF (15 MB)  
[https://famguardian.org/Publications/ReadOnHistSystCommLaw/Readings\\_on\\_the\\_History\\_and\\_System\\_of\\_th.pd](https://famguardian.org/Publications/ReadOnHistSystCommLaw/Readings_on_the_History_and_System_of_th.pd)
2. *Legal Research Sources*, Section 2: Common Law  
<https://famguardian.org/TaxFreedom/LegalRef/LegalResrchSrc.htm>
3. *SEDM Subject Index*, Section 13: Common Law  
[https://sedm.org/Search/SubjectIndex.htm#Common\\_Law](https://sedm.org/Search/SubjectIndex.htm#Common_Law)
4. *SEDM Forum 6.5*: Litigating Under the Common Law  
<https://sedm.org/forums/forum/6-litigation-support-member-subscriptions-only/65-litigating-under-the-common-law/>
5. *SEDM Forum 7.2*: Authorities: Common Law  
<https://sedm.org/forums/forum/7-legal-research-member-subscriptions-only/72-authorities-common-law/>

## 20.3 Third-Party Common-Law Practice Guides

The following free books are available for those wishing guidance on how to invoke the common law in court:

1. *Sovereignty and Freedom Page*, Section 10.4: Common Law (OFFSITE LINK)- Family Guardian Fellowship  
[https://famguardian.org/Subjects/Freedom/Freedom.htm#Common\\_Law](https://famguardian.org/Subjects/Freedom/Freedom.htm#Common_Law)
2. *Sovereignty and Freedom Page*, Section 9.4: Practice Guides (OFFSITE LINK)- Family Guardian Fellowship  
[https://famguardian.org/Subjects/Freedom/Freedom.htm#Practice\\_Guides](https://famguardian.org/Subjects/Freedom/Freedom.htm#Practice_Guides)

## 20.4 Format of Common Law Pleadings

Common law pleadings use conventions described in the following free resources available through the Family Guardian sister website:

1. *Handbook of Common Law Pleading*, Benjamin Shipman (48 MB)-  
[http://famguardian.org/Publications/CommonLawPractice/Hand\\_book\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Hand_book_of_Common_law_Pleading.pdf)
2. *Handbook of Common Law Pleading*, Joseph Koeffler (4.8 MB).  
[http://famguardian.org/Publications/CommonLawPractice/CL\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/CL_Pleading.pdf)
3. *Principles of Common Law Pleading*, John McKelvey (3.5 MB)  
[http://famguardian.org/Publications/CommonLawPractice/Principles\\_of\\_Common\\_law\\_Pleading.pdf](http://famguardian.org/Publications/CommonLawPractice/Principles_of_Common_law_Pleading.pdf)
4. *Pleadings and Practice in Actions At Common Law*, Martin Burks (90.3 MB)  
[http://famguardian.org/Publications/CommonLawPractice/Pleading\\_and\\_Practice\\_in\\_Actions\\_at\\_Comm.pdf](http://famguardian.org/Publications/CommonLawPractice/Pleading_and_Practice_in_Actions_at_Comm.pdf)