Freemen

Armageddon s
Prophets of Hate
And Terror

(Third Edition June 1999)

The Kitsap County Prosecuting Attorney s Office

Presentation On

Freemen

Armageddon s Prophets of Hate And Terror

A Washington Association of Prosecuting Attorneys Lecture
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ABOUT THE AUTHORS

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PamPam clerked for Judge Robert W. Winsor (Ret.) of the Court of AppealPam clerked for Judge Robert W. Winsor (Re KitsapKitsap CKitsap County ProKitsap County Prosecutor s Office in 1988. From 1991 to 1998, Pam was assigned to the ap Pam is currently splitting her time between her duties at WAPA and the Kitsap County Prosecutor s Office.

AA local Freeman hasA local Freeman has statA local Freeman has stated that Pam is well known to the Constitutional her &active role in bringing charges against Patriots in various courts.

JEFFREYEFFREY J. JAAHNS. Jef Jeff received his undergraduate degree from the University of Puget Sound in 1978 and his law degree from the University of Puget Sound School of Law in 1981.

JeffJeff was a partner in the law firm ofJeff was a partner in the law firm of Kindig & Jahns in TJeff was a partner in the law an associate in the Port Orchard, Washington law firm of Ronald D. Ness & Associates from 1987 to 1994.

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Part I
Introduction

A NEW GOVERNMENT AT ANY COST

> LitigantsLitigants such as Mr. Greenstreet should not be underestimated. They are oftLitigants such as Mr. Greenstreet andand know how to work the sysand know how to work the system. and know how to work the system. Unfortuna resresult.result. Tactresult. Tactics such as declaring oneself a sovereign, turning to common law courts, challengingchallenging the jurisdiction of state and federal trial challenging the jurisdiction of state and federal tri reservereserve notes are not legal tender arreserve notes are not legal tender arereserve notes are not legal tende however, are time consuming for courts to process and routinely futile.

U.S.U.S. v. Greenstreet, 912 F.Supp. 224, 230 (N.D 912 F.Supp. 224, 230 (N.D. Tex. 912 F.Supp. 224, 230 (N.D. Tex. 1996) (HomeHome Administration for declaratory and injunctive relief in response to UCC-1 Home Administration for declaratory a byby borrowerby borrowersby borrowers against federal employees who were named as debtors by Common Law court b borrowersborrowers were never provided with lawful money under the origiborrowers were never provided with lawful m gold or silver; Held: financing statements fraudulent and void ab initio).

Preface to Third Edition

ThereThere is a community scattered among us with its own law, its own courtThere is a community scattered among militias.militias. This community rejects the power of the courts of the federal and state government over the Sovereign Sovereign Citizens of this separate community. This community, though, cla Sovereign Citizens of this sepa (should(should we interfere with its citizens in some way proscribed by (should we interfere with its citizens in some way p ourour judges and government officials. They call their law Commonour judges and government officials. They call descendentdescendent of the God-given unalienable rights found in the Bible, the Magna Carta, the Declaration of Independence,Independence, the United States Constitution and its BIndependence, the United States Constitution and discussion.

AA significant number of members in this community are armA significant number of members in this community ar rightsrights as conceived in their law and others have brights as conceived in their law and others have been killed orights as law but their own. In the name of their law, the community is willing to risk death as well as murder.

WeWe became aware of Freemen[1] i ideo ideology and criminal activity through our 1995 and 1996 prosecutions ofof David Carroll, Stephenson (*State v. Stephenson,* 89 Wn.App. 794, 950 89 Wn.App. 794, 950 P. 89 Wn.App. 794, 95 Wn.2dWn.2d 1018 (Div. 2 1998) and Veryl Edward, Knowles (*State v. Knowles,* 91 Wn.App. 367, 9 91 Wn.App. 367, 957 P.2d *reviewreviewreview denireview denied*, 136 Wn.2d 1029 (1998)). The *Stephenson* and *Knowles* cases, along with subseque proprosecprosecutionsprosecutions of other Freemen forced us to pay attention to this phenomenon since we were deluged with documentsdocuments and lien-filing activities that made absolutely no sense to us. Mudocuments and lien-filing activities t includedincluded in this manual and stemmed from the Stephenson and Knowles actions. For thincluded in this manual and sten anan ironic thank you for helping to make us aware of the high potential for dangerousness in the criminal Freemen movement.

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1 We use the term Freemen throughout these materials to describe members of the Common Law anti-government movement. We reject the terms Patriots, Constitutionalists, or other similar misnomers to describe this group. Their actions and beliefs have nothing to do with patriotism or the United States Constitution as we define those terms. The following quote is often cited by members of this group to describe themselves

> **Freeman.** A person in the possession and enjoyment of all the civil and political rights accorded to the people under a free government.
>
> In the Roman law, it denoted one who was either born free or emancipated, and was the opposite of slave. In feudal law, it designated an allodial proprietor, as distinguished from a fassal or feudal tenant...In old English law, the word described a freeholder or tenant by free services; one who was not a villein. In modern legal phraseology, it is the appellation of a member of a city or borough having the right to suffrage, or a member of any municipal corporation invested with full civic rights.

BLACK S LAW DICTIONARY 793 (4th ed. 1968).

Stephenson s,Stephenson s, Knowles and subsequeStephenson s, Knowles and subsequent criminal Stephenson s, Know
abilitieabilitiesabilities to reseabilities to research and understand their Sovereign Citizen and Common Law theories.
understandingunderstanding of the Freemen movement and their beliefs expanded, though, we came to realizeunderstanding o
failurefailure of prosecutors to respond to initial Freemen criminal activity resultedfailure of prosecutors to respond to initial F
response by Freemen against public employees.

WeWe are pleased to note that sWe are pleased to note that since We are pleased to note that since our office made
necessarynecessary to prosecute Freemen who chose to commnecessary to prosecute Freemen who chose to commit crimin
newnew threats or lien filings against public servants (of which we are aware, anyway). Thnew threats or lien filings
Freemen with whom we currently engage is but a handful, and their identities are well known to us.

WeWe certainly did not know at the time that ouWe certainly did not know at the time that our proseWe certainly did not
ourour preparation of any manual on Freemen, much less lead us tour preparation of any manual on Freemen, much less le
withwith many different groups of public employees, including the Washington prosecutor s association,
WashingtonWashington auditor s association, WashinWashington auditor s association, Washington assWashington audito
legislative committees, and court personnel.

WeWe are amazed with the pervasiveness of contacts members of tWe are amazed with the pervasiveness of contacts m
havehave had with Freemen sympathizers. It ihave had with Freemen sympathizers. It is obvious that thave had with Freem
ofof in Washington State, and will continue to be a criminal threat requiring a respoof in Washington State, and will
excessive amounts of public servant time and taxpayer s dollars.

TheThe vast majority of Washington s govThe vast majority of Washington s goveThe vast majority of Washing
assessor)assessor) are eleassessor) are elected to theiassessor) are elected to their posts by the citizenry, who expect the departme
ddedicatedded icated staffdedicated staff. The Freemen movement s decision to target public employees to further their agend
nothingnothing snothing short of a nothing short of a direct attack on the citizenry s democratically elected government. Whil
certainlycertainly entitled to their religioucertainly entitled to their religious and pocertainly entitled to their religious and polit
tolerated.tolerated. Wtolerated. We tolerated. We will continue to be ever vigilant against this threat, and will assist you in an
your similar efforts.

Freemen Prosecutions in Kitsap County

OverOver the past three years, our county Over the past three years, our county has experiOver the past three years, our co
totto their law as the only legitimate law. We have prosecuted Freemen defendantto their law as the only legitimate law.
myriad of crimes, including

> theft (purchasing a $40,000 vehicle with a document appearing to be a check that was drawn off a non-existent debt allegedly owed to the defendant by the federal government), Defendant convicted;[2]
>
> intimidating a judge (documents issued from one supreme Court of Washington, Kitsap County, indicating the judge would be in contempt of their court and a $300 million fine levied and secured by a lien to be filed against judge s property if Defendant not released from custody and theft charges were not dismissed, and threatened the judge with prosecution under 42 USC § 1983), Defendant convicted;[3]
>
> intimidating a public servant ($7,914,100.00 in liens and UCC-2 fixture filings filed against judges

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2 A somewhat humorous description of a Seattle area Freemen couple using a similar fraudulent check scam is made in the book DALE AND CONNIE JAKES WITH CLINT RICHMOND, FALSE PROPHETS THE FIRSTHAND ACCOUNT OF A HUSBAND-WIFE TEAM WORKING FOR THE FBI AND LIVING IN DEEPEST COVER WITH THE MONTANA FREEMEN (Dove Books 1998), at 175-76. Dubbed the Odd Couple, the book describes how the couple bragged to Montana Freemen followers about their new Ford crew-cab pickup obtained with fraudulent checks. The Freemen were not impressed with the pushy and brazen girlfriend, which is not surprising given their views that they could barely tolerate vocal women in general. One of the Montana Freemen believed that the woman might have been a witch since she claimed to be a clairvoyant who could read the Freemen s auras. As the book notes, this far-right, far-out Samantha tormented the Montana Freemen while she was at the Freemen complex.

3 Division II affirmed the intimidating a judge conviction in *State v. Knowles,* 91 Wn.App. 367, 957 P.2d 797, *review denied,* 136 Wn.2d 1029 (Div. 2 1998). The court held that the retaliation prong of the crime does not violate the First Amendment

and prosecutors properties due to their failure to dismiss 1993 theft charges), Defendant convicted;[4]

obstructing a public servant (traffic infraction defendant who repeatedly falsely gave his name as *Brown v. Texas*, 443 U.S. 47, 61 L.Ed.2d 357, 99 S.Ct. 2637 (1979)), Defendant convicted;

intimidating a public servant (threat to shoot officers if they tried to enter home made during fresh pursuit after traffic law violations); Defendant convicted;

barratry (traffic infraction defendant who served officer with lengthy documents that compelled a response from the officer under threat of monetary judgment), case dismissed, pending appeal with oral argument held in Division II on June 15, 1999. *See State v. Timothy Charles, Duffey,* COA No. 23602-8-II.;

barratry (writ of habeas corpus from ecclesiastical court requiring Kitsap County Superior Court to transfer theft prosecution to common law court), Defendant convicted;

unlawful practice of law (attempting to represent child in juvenile court proceedings both in court and through filed pleadings despite repeated admonitions from court), Defendant acquitted;

malicious prosecution (defendant filed citizen complaint under CrRLJ 2.1(c) attempting to charge both Jeff and Kitsap County Prosecutor Russell D. Hauge with unlawful practice of law in retaliation for charges brought against defendant), Defendant convicted;

tax evasion (prosecution under city code for chiropractor s refusal to pay city taxes because the city lacked jurisdiction over him and his business), Defendant convicted;

unlawful practice of law for filing habeas corpus writ on behalf of girlfriend who was being detained pending trial on felony drug charges and represented by a public defender, Defendant acquitted; and

unlawful possession of a machine gun (AR-15 that was modified with M-16 parts to allow full automatic fire) by gun shop owner who also teaches NRA gun courses, case is pending.

DealingDealing withDealing with FrDealing with Freemen defendants takes an extraordinary amount of a prosecutor s tim FreemenFreemen goal. Their modus operandi is to file as much paperwork as possFreemen goal. Their modus operandi is to asas permitted in an effort as permitted in an effort toas permitted in an effort to bring our system to a screeching halt by giving cancan be an especially effective strategy in a court of limited jurisdiction that is trying its best to deal with highhigh volume caseloads. Freemen refuse representathigh volume caseloads. Freemen refuse representationhigh volume c mandatorymandatory membership in a bar association of a politicmandatory membership in a bar association of a political ent authority over them.

JudgesJudges who have not dealt with such defendants are likely to try to understand Judges who have not dealt with such questionsquestions of the Freeman defendant. This inevitquestions of the Freeman defendant. This inevitablyquestions o plethoraplethora of questions to the judge. Important court time is often reduced to a plethora of questions to the jud dialoguedialogue between the Freeman defendant and the dialogue between the Freeman defendant and the courtdialogue betv resultresult of this through-the-looking-glass experience is that the prosecution is result of this through-the-looking-glass experi ofof of particulars since this appears to be what the Freeman defendant is seeking. At the next couof particulars since this ap this process begins anew.

[4] Division II affirmed the intimidating a public servant convictions in *State v. Stephenson,* 89 Wn.App. 794, 950 P.2d 38, *review denied,* 136 Wn.2d 1018 (Div. 2 1998). The court held that the intimidating a public servant statute was not unconstitutionally overbroad and did not violate free speech protections of the First Amendment, and that superior court judges were public servants within the meaning of the statute.

Why Care About Freemen?

OverOver 100 Common Law couOver 100 Common Law courts Over 100 Common Law courts have been established a
liens,liens, set up cliens, set up commoliens, set up common law juries, ordered the United States government and Roman Catho
$93$93 trillion for 150 years of plundering (a Texas group called $93 trillion for 150 years of plundering (a Te
convicted,convicted, and issued execution warrants for public officialsconvicted, and issued execution warrants for public of
LawLaw courts against government employees with whom Law courts against government employees with whom Freemer
attemptedattempted to be enforced through the filing of liens, use of the militia to seize property or attempted to be enforced th
creditor s filing of an involuntary bankruptcy against the judgment debtor.

FrFreemeFreemenFreemen consist of a loose coalition of many groups. It is unfair to paint a particular member in this
coalitioncoalition with one brush scoalition with one brush since eaccoalition with one brush since each group often rejects s
ppersonspersons certainly do not advocate violence nor the politics of hate. Yet, one only needs persons certainly do no
newspapernewspaper to learn of bombings, armed battles with governmnewspaper to learn of bombings, armed battles
indictments of Freemen sympathizers to quickly recognize the increasingly violent nature of this coalition.

WhileWhile membership is probably smaWhile membership is probably small, it is a mWhile membership is probably sm
widespreadwidespread geographical area witwidespread geographical area within awidespread geographical area within a r
anonymous method of instantaneous communication.

WeWe do not pretend to be experts in their law. There are many parts oWe do not pretend to be experts in their l
understand.understand. It is complex, and so divergent from conventional legal doctrunderstand. It is complex, and so diverg
in law is often an impediment to our understanding.

OurOur research oOur research of Our research of their law, which is permeated with racism, anti-Semitism and to a less
RomanRoman Catholicism, reveals a biblical calling to an especially violent responseRoman Catholicism, reveals a bibl
officials.officials. Their law is both personally and professionally frightening. While we are coofficials. Their law is both person
isis doomed in our system, we believe that prosecutors cannot ignore the potential fis doomed in our system, we believe that
of their law who are seeking martyrdom through often violent means.

AsAs the Freemen movement evolves, it is becoming increasingly complex andAs the Freemen movement evolves, it
bebeginningbeginning to take the form of a government in which different branches of the movement perform separate
tasks.tasks. Common Lawtasks. Common Law cotasks. Common Law courts have joined forces with the militias for the obvio
courtscourts to hand out judcourts to hand out judgments and secourts to hand out judgments and sentences and the militias to
their system are not prison terms, but death sentences.

Freemen Actions Nationally You Better Pay Attention!

WhileWhile we hope that we are simply over-rWhile we hope that we are simply over-reacting to a teWhile we hope that
than peaceful resolution as we approach a new millennium. Examples include

Gordon Kahl s death in a shoot-out with FBI and U.S. Marshal agents on June 3, 1983 (Kahl and police officer dead, after two federal marshals and state officer killed in shoot-out with Kahl two and a half years earlier wherein Kahl escaped), depicted in the film DEATH AND TAXESG ORDON KAHL S STORY and discussed in JAMES CORCORAN, BITTER HARVEST, GORDON KAHL AND THE POSSE COMITATUS: MURDER IN THE HEARTLAND (New York: Viking Penguin, 1990).

Robert Jay Matthews December 8, 1984 death in a fire started by FBI flares after a 35-hour standoff on Whidbey Island near Seattle. Matthews was the leader of The Order, a Christian Identity group engaged in a series of bombings, robberies from armored cars ($4 million taken) and attacks on federal officers modeled after THE TURNER DIARIES, *infra*.

Randy Weaver s siege with the FBI and ATF at Ruby Ridge, Idaho in August 1992 (14 year old son, and wife Vicki Weaver who was shot on August 22,1992, dead).

Rocky Mountain Rendezvous, October 22, 1992, with 160 attendees (a virtual Who s Who of the radical Right, including the Montana Militia, the Aryan Nations, tax protesters, mainstream Baptist and Mennonite fundamentalists, gun rights followers, and Christian Identity believers) of various groups

who would never normally sit down together met to discuss the Weaver incident, and left with an understanding of a common enemy the federal government. And a common goal a new Christian government. This meeting may have been the birthplace of the modern Freemen movement.

David Koresh and the Branch Davidian siege and conflagration in Waco, Texas involving FBI and ATF, from February through April 19, 1993 (80 dead).

July 20, 1993 bombing of an NAACP office in Tacoma by three white supremacists as part of an aborted series of commando raids planned by the neo-Nazi group Church of the Creator. The next targets the trio had planned were rap music figures Ice-T and Ice Cube.

Timothy McVeigh, Terry Nichols and the April 19, 1995 Murrah Federal Building bombing in Oklahoma City, in which some of the ATF and FBI officials involved in the Waco incident had their offices (in response to death sentence ordered by Common Law court for deaths of its followers in Waco?) (168 dead, over 500 injured).

Justus[5] Township s 81-day standoff from March 25 through June 13, 1996 between the FBI and the Montana Freemen, who had issued Common Law bounties, indictments, liens, fraudulent checks and various execution warrants, including one for Nickolas Murnion, the part-time prosecutor in Garfield County, Montana.

Murnion sMurnion s first experience with the Freemen was a $500 million lien owed and paMurnion s first experience silver.silver. Shortly after the lien, Murnion found his name posted on lsilver. Shortly after the lien, Murnion found his million bounty for his arrest. The posters read

> TheThe sum of one million dollars The sum of one million dollars oThe sum of one million dollars of money personperson who sperson who succ essfperson who successfully causes the arrest and subsequent conviction of the fo suspects.

AlsoAlso named Also named in Also named in the poster was the Garfield County Sheriff, who along with Murnion were foreclosureforeclosure of the Freemen s property. While the poster did not mforeclosure of the Freemen s property. inquiry disclosed that upon capture both men were to be hanged.

LeRoyLeRoy LeRoy Schweitzer, leader of the Montana Freemen, and his disciples gave birth to the modern FreLeRoy Schw movement.movement. Schweitzer taught his antigovernment stumovement. Schweitzer taught his antigovernment studer upup Common Law courts, and create pseudup Common Law courts, and create pseudo-bankingup Common Law justicejustice into casjustice into cash. It is beljustice into cash. It is believed that over 1800 people attended Schwe coursecourse and took their newfound wisdom back to their own communities where it icourse and took their newfound toto still more people today. Forto still more people today. For an excellent to still more people today. For an excellent *see* DALE AND CONNIE JAKES WITH CLINTLINT RICHMOND, FALSE PROPHETST HE FIRSTHAND ACCOUNT OFOF A HUSBAND-WIFE TEAM WORKING FOR THE FBI AND LIVING IN DEEPEST COVOVER WITH THOVER WITH THE MONTANA FREEMEN (Dove Books 1998).

MurMurnionMurnion received the prestigious 1998 John F. Kennedy Profile in Courage Award on May 29Murnion receiv forfor enforcing the law despite death threats from antigovernment militants. Garfield County has a prosecutor,prosecutor, Murnion, his secprosecutor, Murnion, his secretaryprosecutor, Murnion, his secretary, the Sheri judicialjudicial subcommittee in 1998 on crime: I think there s a greater chance that the Unjudicial subcommittee in 19 sendsend 20,000 troops to help the people of Bosnia than that I get any help to protect the people of my county. *See* Appendix, at 3-5 for articles about Murnion.

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5 Although the media perpetuated the myth that the Montana Freemen were a bunch of dimwitted but harmless Bubbas by citing to the Freemen s perceived misspelling of Justice, the name Justus had a far more serious meaning.

The name Justus was symbolic to the Freemen cause. Justus was an obscure biblical character in *Colossians* 4:11. He was a follower of Christ. Because his name was also Jesus, he took the name Justus, which means righteous in Hebrew. The man was also a converted Jew.

The Freemen misinterpreted the verse, though. They thought that this person was Christ. A careful reading of this passage makes it clear that Justus was another biblical figure entirely. Ironically, the anti-Semitic Freemen actually named their capital after a converted Jew. But they liked the sound of the name Justus and referred to their township as just-us.

April 29, 1996, a pipe-bomb goes off outside the Spokane City Hall set by Chevie Kehoe and Daniel Lewis Lee.

In May 1997, a six-day siege between Texas law enforcement and a Freemen group called the Republic of Texas ended in the arrest of leader Richard McLaren and five of his followers. More than 100 officers surrounded the remote compound at Fort Davis after the group shot at a neighbor s home and kidnapped the man and his wife (to be tried by a Common Law court?) for their protests of years of paper terrorism and threats of violence against citizens in the resort community. One armed insurrectionist was killed and another escaped. Indictments alleging $1.8 billion in bank and mail fraud were returned against the Republic of Texas members.

July 1997 arrest of nine members of the Washington State Militia on explosives and conspiracy charges.

July 1997 convictions of Charles Barbee, Robert Berry, and Verne Jay Merrell for twice robbing a U.S. Bank branch (April 1 and July 12, 1996) and for bombing a Planned Parenthood abortion clinic in the Spokane area. The men left literature about the Phineas Priesthood (a description used by some white supremacists based on a skewed reading of various biblical passages justifying violence against Jews and minorities) at each crime scene, signed with the capital letter P superimposed on a cross.

AfterAfter After an April 1997After an April 1997 hung jury (one juror), the three were convicted at their second trial in Ju Barbee sBarbee s defense in the second trial was that he read a book detailingBarbee s defense in the second trial was convertedconverted tconverted to thconverted to the Christian Identity doctrine. All three men are members of the Idaho m associationsassociations with Amassociations with America s Passociations with America s Promise Ministries (APM), Idaho.

May 14, 1998 dismissal (pending appeal) by U.S. District Court Judge Edward J. Lodge of involuntary manslaughter charges filed by the Boundary County, Idaho special prosecutor (after the Justice Department concluded no prosecutable offenses were committed) against Lon Horiuchi, the FBI sharp-shooter who shot and killed Vicki Weaver on August 22, 1992 at Ruby Ridge, Idaho. Judge Lodge ruled that the agent was properly performing within the scope of his duties and accordingly was constitutionally protected from prosecution. The effect of this ruling on Freemen followers is unknown, but likely will be considered further proof of the need for Freemen action against an unholy government which has declared war on the Chosen People.

On July 1, 1998, Jason McVean and Alan Monte Pilon were seen near Montezuma Creek, Utah after months of hiding in the southeast Utah desert after their alleged killing in a blaze of automatic gunfire on May 29, 1998 of Dale Claxton, a Cortez, Colorado police officer, during the officer s stop of a stolen water truck outside town. They and a third man, Robert Mason, reportedly wounded sheriff s deputies as they fled into a maze of canyons along the Colorado-Utah border. Mason killed himself a week later after wounding a Utah deputy near the town of Bluff, Utah, about 20 miles from where McVean and Pilon were seen. The two men are both wilderness survivalists with Freemen views and are believed to be living off provisions stashed in desert caches.

On July 8, 1998, a federal jury convicted LeRoy Schweitzer and three top comrades (Dale Jacobi, Daniel Petersen, and Russell Landers) of conspiracy and bank fraud for a massive scheme involving issuing billions of dollars in bogus checks. Twelve defendants were charged in a 41 count indictment with a total of 126 charges including conspiracy to commit bank fraud, mail and wire fraud, theft, false claims to the IRS, interstate transportation of stolen property, threatening to murder a federal judge, armed robbery of two television news crews, and firearms violations. The jury deadlocked on 63 other charges. The remaining counts were streamlined and retried in November, 1998, with guilty verdicts on 36 counts delivered against nearly all involved.

ProsecutoProsecutorsProsecutors called the conspiracy a fraud of epic proportions saying the Freemen created and issuePr 3,4323,432 bog3,432 bogus checks totaling $15.5 billion on a Norwest Bank Butte Anaconda savings account 3,432 bo

nevernever contained more than $116. Losses from those checks totaled $724never contained more than $116. Losses fr
losses from the conspiracy to disrupt the nation s banking system totaled $1.8 million..

OnOn March 16, 1999, U.S. District Court Judge John CoughenoOn March 16, 1999, U.S. District Court Judge John Cou
prisonprison for 25 convictions. Peterson, Skurdal and Jacobi also received lengthy sentences. Coughprison for 25 convic
explainedexplained that the explained that the seexplained that the sentences reflected the crimes seriousness and send
those who pass this hatred and ugliness around....Be forewarned, your personal liberty is at stake.

The Kehoe Gang of Colville, Washington. Father Kirby Kehoe, and sons Chevie and Cheyne, have

been convicted of multiple federal offenses for their scheme to overthrow the federal government and set up a whites-only nation in the Pacific Northwest. An article on the family from the INTELLIGENCE REPORT is in the Appendix, at 6-14.

KirbyKirby was sentenced on July 21, 1998 to 51 months in prison by U.S. DiKirby was sentenced on July 21, 1998
WhaleyWhaley after Kehoe pleaded guilty to possessing a short-barrel riflWhaley after Kehoe pleaded guilty to possessin
gun.gun. Kehoe has Argun. Kehoe has Arkansagun. Kehoe has Arkansas charges pending for conspiracy to revolt against t
createcreate a whites-only nation. Defense cocreate a whites-only nation. Defense counsel,create a whites-only nation. D
uniqueunique individual who had adopted an isolated 18th century lifestyle unique individual who had adopted an
landland without electricity. Assistant U.S. Attornland without electricity. Assistant U.S. Attorney Ealand withou
arrangedarranged boobarranged booby trapsarranged booby traps around his home to trigger if law enforcement officers ar
the weapons cache was to be used for a movement against the United States government.

ChevieChevie and Cheyne first came tChevie and Cheyne first came to the natChevie and Cheyne first came to the natio
policepolice was cpolice was caughtpolice was caught on videotape and broadcast nationwide. There was a second exch
with other officers minutes later. Both brothers have been sentenced.

OOnOn May 10, 1999, Chevie was given three life sentences without the possibility of parole for tOn May 10, 1999, Chev
murdersmurders of an Arkansas family as part of a scheme to overthrow the federmurders of an Arkansas family as part of
AryanAryan People s Republic in the PaAryan People s Republic in the Pacific NorthweAryan People s Republic in the
theirtheir 8 year old daughter were suffocated with plastic bags, weighted down with rocktheir 8 year old daughter were suf
westernwestern Arkansawestern Arkansas bayou fowestern Arkansas bayou following a robbery. A week earlier, co-defend
ofof racketeering,of racketeering, conspirof racketeering, conspiracy and three counts of murder. Jurors rejected the dea
defendants. Both mothers testified against the co-defendants.

ProsecutorsProsecutors argued that the enterprise to overthrow tProsecutors argued that the enterprise to overthro
WashingtonWashington couple Washington couple JiWashington couple Jill and Malcolm Friedman; the 1995 murder o
robberyrobbery of Mueller; the 1996 robbery and murderobbery of Mueller; the 1996 robbery and murders of the Muell
SpokaneSpokane City Hall; the August 1996 murder in Idaho of Jon Cox ofSpokane City Hall; the August 1996 murd
murders of police officers Robert Martin and Rick Wood in a February 15, 1997 shootout in Ohio.

TheThe Southern PoverThe Southern Poverty LThe Southern Poverty Law Center s website (visited May 17, 1999) <htt
huhundredshundreds of incidents of hate crimes and hate group activities occurring throughout the Unithundreds of incide
Since hate activities are often not reported, the listing understates the true level of bias incidents.[6]

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[6] The 1998 incidents occurring in Washington listed by community are

Auburn "June 19, 1998
A 16-year-old was arrested for arson and harassment after a car was burned and a note with racial slurs was left at an interracial couple s residence.

Bellingham "May 21, 1998
National Socialist Vanguard and Aryan Nations literature was distributed to high school students.

Everett "February 1998
A threatening, racist flier was posted on a bulletin board at Everett Community College.

Everett "Feb. 12, 1998
Racist, threatening fliers were posted on bulletin boards at Everett Community College.

Everett "July 2, 1998

TheThe Southern Poverty Law Center web siteThe Southern Poverty Law Center web site lists severThe Southern Pove

Aryan Nations member Michael R. Nelson, 35, surrendered to police on a first-degree murder charge after being sought for allegedly murdering a man in June.

Everett "Sept. 24, 1998
Donald Richards, a 44-year-old white man, was charged with malicious harassment for allegedly scrawling the letters "KKK" on the car of a white woman who was dating a black man. He was convicted in December of malicious harassment and ordered to perform 120 hours of community service.

Issaquah "June 8, 1998
White Aryan Resistance literature was allegedly sent to a white woman who was dating a black man.

Lamont "March 18, 1998
A swastika and the letters "KKK" were written on a minister s car door.

Langley "Dec. 5, 1998
Two swastikas were burned outside a residence.

Medina "Feb. 19, 1998
World Church of the Creator literature was sent to several residences.

Pullman "Feb. 17, 1998
Swastikas were scrawled on a Black History Month display at Washington State University.

Pullman "Feb. 22, 1998
Anti-Semitic graffiti was written at a residence hall at Washington State University.

Pullman "March 18, 1998
A racial slur was spray-painted on a car owned by a man of Chinese descent. Christopher J. Bean, 15, was charged with malicious harassment.

Rosalia "March 18, 1998
A Native American woman was allegedly threatened and run off the road by three men who wore Klan-like outfits.

Seattle "Sept. 28, 1998
National Socialist Movement and European American Educational Association literature was mailed to a man s residence.

Spokane "Oct. 24, 1998
A Gonzaga University gay activist allegedly received a threatening letter.

Spokane "Dec. 5, 1998
A lynched doll was left at a black family s residence.

Vancouver "March 17, 1998
Reported white supremacist Mathew M. Bracken, 25, was arrested on suspicion of auto theft, possessing explosives and being a felon in possession of a loaded firearm after being pulled over at a rest area. Police found bomb-making materials in the car.

Wallace "June 18, 1998
Alleged white supremacist Edward D. Pope, 43, was arrested for allegedly assaulting a police officer, burglary, being a felon in possession of a firearm and destruction of jail property. Pope had Aryan Nations literature in his possession during the arrest.

Yelm "Nov. 7, 1998
A 21-year-old white man was charged with malicious harassment for allegedly placing a cross in an interracial couple s yard.

In January and February, 1999, magazines targeting blacks and Jews have been found in Issaquah and Bellevue mailboxes.

From March through June, 1999, white supremacist fliers have been found in the Enumclaw area inviting white residents to Enumclaw City Hall for a White Power rally on July 4, 1999. The purpose, one flier reads, is to fight for the survival of our white heritage, the purity of our white families.

In early May, 1999, Lonnie Joe Goolie, at 15 year old, was being detained and charged with burning a cross in the yard of a multiracial family in Spokane. Goolie is one of three juvenile males identified by police as participants in cross burnings February 14 and April 13, 1999 at the same northeast Spokane home. A married black man and white woman with three children live at the home. Goolie, who has a Nazi swastika cared into his arm, told authorities that he was a member of the white-supremacist Aryan Nations.

existexist in texist in the United Stateexist in the United States. Washington State currently has 12 known active Patriot Appendix, at 15-16, for a listing by state of the SPLC s Active Hate Groups in the United States in 1998.

TheThe Southern PoThe Southern PovertyThe Southern Poverty Law Center web site also lists 17 Washington hate grou 1998.[8] A ma A map of the active hate groups in the United States taken from the Southern Poverty Law Center s INTELLIGENCE REPORT, Winter 1999 (Issue 93), at 38-39, is included in the Appendix to these materials.

LawLaw enforcement and government agencies may subscribe to thLaw enforcement and government agencies may subs costcost by contacting the SPLC at Southern Poverty Law Center, P.O. Box 548, Montgomery,cost by contacting the SPLC 0548.

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7 The Intelligence Project identified 523 "Patriot" groups that were active in 1997. Of these groups, 221 were militias, 53 were "common-law courts" and the remainder fit into a variety of categories such as publishers, ministries, citizens groups and others. Generally, Patriot groups define themselves as opposed to the "New World Order" or advocate or adhere to extreme antigovernment doctrines. Listing here does not imply that the groups advocate or engage in violence or other criminal activity. The list was compiled from field reports, Patriot publications, the Internet, law enforcement sources and news reports. When known, groups are identified by the city, town or county where they are located. The following Washington groups were identified

Citizens for Liberty, Bellingham
Lake Chelan Citizens Militia, Chelan
Washington State Constitutional Rangers, Chelan
National Citizens Alliance, Mountlake Terrace
Citizens for a Constitutional Washington, Puyallup
Washington State Unorganized Militia, Republic
Populist Party of Washington State, Seattle
Right Way L.A.W., Seattle
Jural Society, Snohomish County
Populist Party of Washington State, Tacoma
Wenatchee Minutemen Militia, Wenatchee
Yakima County Militia, Yakima County

8 The following Washington groups were identified

World Church of the Creator, Bremerton
Christian Israel Covenant Church, Colville
World Church of the Creator, Everett
World Church of the Creator, Federal Way
National Socialist Vanguard, Goldendale
Remnant of Israel, Opportunity
Nation of Islam, Seattle
Northwest Knights of the Ku Klux Klan, Seattle
World Church of the Creator, Seattle
National Socialist White People s Party, Spokane
World Church of the Creator, Spokane
World Church of the Creator, Sumas
Northwest Knights of the Ku Klux Klan, Tacoma
World Church of the Creator, Tacoma
International Keystone Knights of the Ku Klux Klan
Machine Skinheads

ACKNOWLEDGMENTS

WhileWhile we have spent hours reading anWhile we have spent hours reading and reWhile we have spent hours re seminar materials would not be possible without information from the following works

The website on links to extremist websites, with over 400 links. *The Militia Watchdog* (visited June 5, 1999) <http://www.militia-watchdog.org>

The Southern Poverty Law Center web site (visited June 5, 1999) <http://splcenter.org>

Susan P. Koniak, *When Law Risks Madness*, CARDOZO STUDIES IN LAW AND LITERATURE, spring/summer 1996 (vol. 8, no. 1)

JOEL DYER, HARVEST OF RAGE: WHY OKLAHOMA CITY IS ONLY THE BEGINNING (Westview Press 1997)

DALE AND CONNIE JAKES WITH CLINT RICHMOND, FALSE PROPHETSTHE FIRSTHAND ACCOUNT OF A HUSBAND-WIFE TEAM WORKING FOR THE FBI AND LIVING IN DEEPEST COVER WITH THE MONTANA FREEMEN (Dove Books 1998)

Institute for Jewish Policy Research, *Antisemitism in the World Today: the United States of America* (visited June 5, 1999) <http://www.jpr.org.uk/antisem/americas/usa/index.html>

Kingdom Identity Ministries, *Doctrinal Statement of Beliefs* (visited June 5, 1999) <http://www.kingidentity.com/doctrine.htm>

The World Church of the Creator Homepage (visited June 5, 1999) <http://www.creator.org>

The Order website on the 14 Word (We must secure the existence of our people and a future for White children.) Press Homepage (visited June 5, 1999) <http://www.14words.com>

America s Promise Ministries (located in Sandpoint, ID) Homepage (visited June 5, 1999) <http://amprom.org>

The Right Way ... l.a.w. (learn and win!), a continuing legal education project (visited June 5, 1999) <http://www.rightwaylaw.org> (Members receive discounts on seminars and materials on Common Law topics; membership is $150 per year)

The Civil Rights Task Force for the people of the united States of America (visited June 5, 1999) <http://www.crtf.org> (a Pacific Northwest study and activist group and members of The Right Way ... l.a.w study club). The CRTF, in conjunction with The International Bar Association, North American Chapter, conducts continuing legal education seminars in the Pacific Northwest by instructors and tutors recognized by The International Bar Association. This website has a pretty useful links section.

Mission to Israel (visited June 5, 1999) <http://www.missiontoisrael.org>. The website includes discussion on Israel s Modern Identity, The Jewish Question, The Antichrist, The Two Seedline Issue, Miscegenation, The Phinehas Priesthood, Ruby Ridge, Waco, Oklahoma City Bombing, The Women s Liberation Movement, Communism, and The New World Order.

Hebraic Heritage Ministries Int l (visited June 5, 1999) <http://www.geocities.com/Heartland/2175/babylon.html>. The website includes discussion on Hebraic/Jewish Roots and the Babylon Mystery (The Illuminati, Trilateral Commission, Federal Reserve, Smart Cards, One World Government, Constitution for the Federation of the Earth, One World Religion, The Pope and One World Religion/Government, Ecumenicalism Between Catholics and Protestants, The Babylonia Worship Day From Sabbath to Sunday, Babylonian Holidays of Christmas and Easter, multiple topics

on the Catholic Church, and the Mark of the Beast).

Patrick Minges, *Apocalypse Now! The Realized Eschatology of the Christian Identity Movement, Paper Presented at the March 1994 Meeting of the Mid-Atlantic Region of the American Academy of Religion (March 1994), reprinted on the internet* (visited May 18, 1999) <http://www.cc.columbia.edu/~w127/aarlong.html>

J. Gordon Melton, Director of the Institute for the Study of American Religion, *The Identity Movement* (visited June 5, 1999) <http://www.americanreligion.org/cultwtch/identity.html>

Devin Burghart and Robert Crawford, *Vigilante Justice: Common Law Courts,* CovertAction Quarterly (visited June 5, 1999) <http://caq.com/CAQ/CAQ57 ComnLaw.html>

Kevin Korsmo, Senior Deputy Prosecuting Attorney, Spokane County, RALJ Brief from *In re the Citizen Complaint of Tim Buchanan, Jr.,* Spokane County Superior Court Cause No. 98-2-02547-1 (June 1998)

Massachusetts LawyerViews, *Lawyer Views Legal History* (visited June 5, 1999) <http://www.lawyerviews.com/lawsite/history.html>

The Billings Gazette Online (visited June 5, 1999) <http://www.billingsgazette.com>

SinceSince our materials are not intended to be the treatise on the FreemeSince our materials are not intended to be the eveneven possible), we have chosen to not heavily footnote or endnote the authorities for the statements even possible), we ha herein.herein. If you are interested in a morherein. If you are interested in a more in-herein. If you are interested in a sources and visiting your favorite bookstore and/or the internet.

Part II
Their Theories

FREEMEN ROOTS E CONOMIC CRISIS

A Synopsis of Their World

OurOur examination of and experience with the Freemen movement has shownOur examination of and experience with th anan entirely different world than we do. From our world, thean entirely different world than we do. From our world, th centralcentral tenet of that law is that their members are Freemen or Sovercentral tenet of that law is that their members are lacklack any jurilack any jurisdiction. A fundlack any jurisdiction. A fundamental move in this group s practice is the filing ourour system against those in our system who are charged with vour system against those in our system who are charged conceivedconceived by their law. While our cconceived by their law. While our courts uniconceived by their law. While our filingfiling of further liens, the burden on our system is tremendous. Infiling of further liens, the burden on our system is t activities look bizarre, but in their world these actions make logical sense.

TheThe connection is the land. To become a Sovereign Citizen one files a Quiet Title Action The connection is the la court.court. The person must appear and present a birth certificate showing court. The person must appear and present a birth thethe the union and not Washington, D.C., which is considered under the legitimate control of the fethe union and no government.

InIn our legal system, a In our legal system, a quiet In our legal system, a quiet title action is an action brought by the ow onon the title. It declares property, not people, free from the holon the title. It declares property, not people, free from the h intointo a method of setting people free suggests a strong identifinto a method of setting people free suggests a strong ident existence.existence. existence. Additionallexistence. Additionally, the use of liens to penalize those who deny the group s identification.

InIn our world, these liens are viewed as troubling nuisanceIn our world, these liens are viewed as troubling nuisa prosecuprosecutorsprosecutors who are cprosecutors who are called upon by our government officials to do something about t hashas labeled these liens soft or paper terrorism, but there is reason to believe has labeled these liens soft or paper liens are much more potent and accordingly we believe prosecutors should avoid describing them as soft.

An Historical Perspective The 1980 s Farm Crisis

BeforeBefore we discuss the specific beliefs and tenets of their world, an historical background is iBefore we discuss the WhileWhile Norman Rockwell s version of rural America is dead, if it evWhile Norman Rockwell s version of rural America ofof tof the Unof the United States denominated as rural is massive poverty and despair. For decades, farmers and their familiesfamilies families have families have pleaded for help with little if any response from our government. As we shall neglect provided a perfect vacuum which was filled by Freemen and their beliefs.

InIn the 1970 s, the Department of Agriculture, bankers and university extension offices told farmers that theythey must get big or get out. The rate othey must get big or get out. The rate of inthey must get big or get out. Th banksbanks and government lenders were encouraging farmers to banks and government lenders were encouraging farme additionaladditional farmland. As a direct result of this new money enteradditional farmland. As a direct result of thi skyrocketedskyrocketed askyrocketed as farmerskyrocketed as farmers tried to outbid each other. Lenders would actually call far eveneven more money because many lenders were at the time beieven more money because many lenders were at the time they could loan.

ButBut all this chBut all this changed But all this changed in 1979. Federal Reserve Chairman Paul Volcker decided that in control,control, and madecontrol, and made the deccontrol, and made the decision to shrink the money supply by raising in heights. He succeeded in halting runaway inflation, but there was a side effect the farm crisis.

FarmlFarmlandFarmland property Farmland property values collapsed at the same time the interest rates on farmers loans c sight.sight. Bankers began to take a more realistic look at the value of a farsight. Bankers began to take a more realistic look thethe items would bring at auction. Ththe items would bring at auction. The farthe items would bring at auction. The farm

lostlost everythinglost everything wlost everything when the loans were called, often prior to any default by the farmer unde
Commercial Code (more on the UCC later).

AtAt the peak of this crisis in 1986-1987, nearly 1 million people were forced At the peak of this crisis in 1986-1987, ne
twelvetwelve month period. Yeartwelve month period. Years before antwelve month period. Years before and since have b
fromfrom their land annually. The number offrom their land annually. The number of disfrom their land annually. The numb
simplysimply less farmers. For the roughly 20 percent of tsimply less farmers. For the roughly 20 percent of the Unitesimpl
this continuing loss is a crisis that compares with the Great Depression.

FarmersFarmers had but two lawful options leave voluntarily or proceed through bankruptcy. EiFarmers had but two la
shamedshamed any farmer, and ended in the same results the loss of the family farm oshamed any farmer, and ended in the s
generations, and a loss of a way of life.

ForFor a farmer, losing the land is much more than For a farmer, losing the land is much more than an econom
identity. identity. It is his connection with identity. It is his connection with God identity. It is his connection with
totto his children. Not surprisingly, the suicide rate among farmers during this crisis was a staggering three
timestimes the rate of the general population. Many of the suicides in rural America are a reflection of times the rate of the gene
cultureculture and belief system. A farmer who killed himself to allow hiculture and belief system. A farmer who killed him
save the farm is often thought to be honorable in the subculture of rural America.

TheThe loss ofThe loss of the family farm was cultural and spiritual as well as economic. At such moments,The loss of th
seekseek out new understandings, and new interpretations of reality to make sense of this experience. Rural
farmersfarmers would often rather die than give up the farm to evil forces that hafarmers would often rather die than give up the
Many will kill before they give it up.

AnAndAnd not only farmers and ranchers have been effected by the globalization of the United States
economy.economy. Industries such as mining, oil, and timber economy. Industries such as mining, oil, and timber have
governmentgovernment regulation and dwindling resources at home have made it more profitable for government regu
multinationalmultinational corporations to take their business to Thirmultinational corporations to take their business to Third
smallsmall businesses in rural towns have withered asmall businesses in rural towns have withered away, often beinsmall
largelarge discount store. This trend of conlarge discount store. This trend of consolidation hlarge discount store. This t
with tremendous suffering, anxiety and depression for rural Americans.

TheThe psychological effeThe psychological effect of foreThe psychological effect of foreclosure and the concurrent
underestimated.underestimated. Foreclosure often takes monthsunderestimated. Foreclosure often takes months.underestima
possiblepossible to save the farm. Working harder and more hours for months on end, it is only a matpossible to save the far
beforebefore the pressure and stress of fighting the inevitabefore the pressure and stress of fighting the inevitable lobefore
violence, and death by heart attack or stroke significantly increased in rural America.

AA 1989 Nebraska study of 500 farmers determined thatA 1989 Nebraska study of 500 farmers determined that the ave
thinkinthinking,thinking, judging type, whereas the typical farm woman was introverted, sensing, feeling, and judging. thinking,
the known sixteen personality types, farm people scored as the most conservative and hardworking.

WhatWhat better place for a message of thWhat better place for a message of the What better place for a message o
destructiondestruction was avoidable? And worse, the message includes a belief that this destruction wasdestruction was avoidal
pplaplannedplanned and orchestrated by an evil force that has taken over our government. Why not convict bankers,
judges,judges, prosecutors and police with crimes since they caused the financial stress that resuljudges, prosecutors and police w
thethe farm by our system s liens, quiet title actions and bankruptcies, and the death of the farmer by suicides,
heartheart attacks and other illnesses? Our government officials who caused this death are viewed as
murderers. Quite naturally, their courts should sentence these criminals with death by hanging.

The Land

TheThe FreeThe Freemen message was carried into rural America by extremist apostles who called themselThe Freem
Christians,Christians, Patriots, Constitutionalists, and Freemen. As we will see, their message is anti-Semitic, racist,
andand haand hateful. It was ludicrous, but some farmers listened. Sure the message was crazy, but was iand hateful. It
crazier than the cataclysmic events destroying the farmer s world?

AndAnd the message had one centralizing tenet the land. It is natural to find that the quiet title action is transformedtransformed into a patransformed into a path to ftransformed into a path to freedom. It makes sense that liens, the ca and a tool of the bankers, are seen as a powerful weapon to be turned against one s enemies.

ForFor their community, foreclosureFor their community, foreclosures, clouded tFor their community, foreclosures, cloud worldworld and the new. But what this grworld and the new. But what this group caworld and the new. But what this grou liens cannot be understood without steppinginto their world.

InIn our world, these legal devices are not sIn our world, these legal devices are not similarlIn our world, these legal divide in their world, these tools have real meaning backed by divine guidance.

The Posse Comitatus

Today sToday s Common Law court system is an expanded version of the PToday s Common Law court system is an power power of the county) system created in the 1970 s and 198 power of the county) system created in the 19 antigovernmentantigovernment groups to incorporate Common Lantigovernment groups to incorporate Common Lawantigovern LawLaw philosophy on a combination of old English common law, the Magna Carta, and a belief that pLaw philosophy on a are born with certain God-given rights.

TheThe core of the Posse belieThe core of the Posse belief was that The core of the Posse belief was that the supreme powe onlyonly legal law enforcement office in the United States. The sherifonly legal law enforcement office in the United State whichwhich is based upwhich is based upon a which is based upon a particular county s local custom and precedent. If performperform his or her duties under the Common Law, it was the Posse s duty to remove the sheriff and/or enforce the Common Law.

AnyAny government official who attempted to enforce unconsAny government official who attempted to enforce uncon waswas subject to arrest by the Posse and trial by a Citizens jury. This jury was to bwas subject to arrest by the Posse and trial sheriffsheriff from sheriff from citizens of the local jurisdiction because the present method of impaneling juries by the Courts was unlawful and was to be repudiated.

InIn the Posse s court system, no crime had been committed unless there was In the Posse s court system, no crime had bee waswas free to do anythingwas free to do anything he or swas free to do anything he or she pleased provided another s person or waswas injured (trespassed against) [note reference to The Lord s Prayer], the complaining perswas injured (trespassed agai totoo the Sheriff and sign a formal Complaint against the perpetrator, thereby to the Sheriff and sign a formal Complaint SheriffSheriff was then to take this sworn Complaint to a juSheriff was then to take this sworn Complaint to a judge Complaint upon the person who committed the trespass.

AtAt this point, the Common Law could compel the trespasser to answer. The pAt this point, the Common Law coul ComplaintComplaint had two choices defend or confess. If the party knew he was guilComplaint had two choices defend o demurdemur and suffer demur and suffer the civil pdemur and suffer the civil penalties, or he could confess and subject hims trial,trial, the perpetrator had to be proven guilty by the evidence alone. He could not be compelltrial, the perpetrator had to (see(see the 5(see the 5th Amendment). The Sheriff could do nothing without a sworn Complaint signed by the inj(see the 5th party.

OnOn the one hand, the Posse system would eliminate our On the one hand, the Posse system would eliminate offensesoffenses involving drugs, alcohol, and droffenses involving drugs, alcohol, and driving. Buoffenses involving drugs, al of violence and abuse.

TheThe Posse s courts met infrequently in only a few staThe Posse s courts met infrequently in only a few states and earlyearly Common Law courts would send out arrest warrants to public officials who theyearly Common Law courts would se of a crime (usually related to farm foreclosure), but that was the extent of it.

TheThe sentences given out by the CThe sentences given out by the Christian IdentThe sentences given out by the Christ carriedcarried out. The Posse s code of carried out. The Posse s code of justicecarried out. The Posse s code of justice, laid ou THE BLUE BOOK, spelled out the basic se spelled out the basic sen spelled out the basic sentence for nearly all crimes He s

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9 For a more detailed discussion of the Posse Comitatus movement, *see Roots of Common Law, An Interview With An Expert On The Posse Comitatus,* INTELLIGENCE REPORT, Spring 1998 (Issue 90), at 29-31, a copy of which is in the Appendix, at 17-20.

toto the most pto the most populated intersection of streets in the township and at high noon hung by the neck, the body remaining until sundown as an example to those who would subvert the law.

Today sToday s Common Law courts are difToday s Common Law courts are different Today s Common Law courts TheyThey are consiThey are considerably moThey are considerably more widespread, in great part due to LeRoy Schweitzer s t disseminationdissemination of information over the internet. Common Law courts have added a new function unknown toto the Posse s system the grant of sovereignty to citizens. Common Law practitioners claim thato the Posse s system t theirtheir courts grant sovereign status to someone, that person can legally stop patheir courts grant sovereign status to someon state laws, and act in essence as if he or she was a separate sovereign entity.

OurOur experience shows that theOur experience shows that the Posse Our experience shows that the Posse s justic world, albeit with some fine tuning.

Gordon Kahl, a Posse Hero

GordonGordon Kahl was a farmer. He fought in World War II, eaGordon Kahl was a farmer. He fought in World Wa medals,medals, a presidential umedals, a presidential unit cmedals, a presidential unit citation, nine battle stars and two Purpl ChristianChristian Identity movement in the 1950 s. He joined the Constitutional Party in North DakoChristian Identity mov tthatthat advocatethat advocated Common Law principles. In 1967 he wrote to the Internal Revenue Service to inform it that he could no longer pay tithes to the Synagogue of Satan &.

InIn 1973, Kahl joined Posse Comitatus. He thereafter reclaimed his In 1973, Kahl joined Posse Comitatus. He th driver sdriver s license and his airplane pilot s license. In 1976 Kahdriver s license and his airplane pilot s license. In 1976 payingpaying taxes. Notpaying taxes. Not surprisinpaying taxes. Not surprisingly, the IRS thereafter charged Kahl with willf forfor 1973 and 1974. Kahl refused to enter a plea of guilty ofor 1973 and 1974. Kahl refused to enter a plea of guilty jurisdictionjurisdiction over him. Nonetheless, his lawyer contended that Kahl wajurisdiction over him. Nonetheless, h expressedexpressed his views on television about the income tax and not for his failure to file. Kahl was convexpressed his vie Addressing the court before it imposed sentence, Kahl spoke the language of martyrdom

> II felt I had a choice to make. I realized I could be cast into prison here or I cI felt I had a choice to make. I realize anan eternityan eternity in thean eternity in the Lake of Fire. It seems to me that the choice of the two would have to be whatever punishment I have to receive here. That s all I have to say.

WithWith those words, Kahl pronounced the With those words, Kahl pronounced the supreWith those words, Kahl pronou StateState vioState violence to kill off his law. It is the martyr at prayer that these words suggest, the martyrState violenc very submission to State violence mocks State law by demonstrating its inability to coerce compliance.

KahlKahl was sKahl was sentenKahl was sentenced to one year in prison and five years probation. While his case was KahlKahl transferred ownership of his farm to Gospel Doctrine Church of Jesus Christ, AlterKahl transferred ownership of h Kahl, Kahl, an attempt to fend off State law (the income tax) with State law (the exemption froKahl, an attempt to fend of religious institutions).

ThisThis move is somewhat more intThis move is somewhat more intelligible in ouThis move is somewhat more into recognizesrecognizes that the exemption relied upon is relevant to the question of State lawrecognizes that the exemption re mustmust pay taxes. However, the ideamust pay taxes. However, the idea that indimust pay taxes. However, the idea that in is different enough from State doctrine to lead to the obvious result that such an exemption does not exist.

Nonetheless,Nonetheless, the move was nonviolent, as was Kahl s reaction to thNonetheless, the move was nonviolent, a conviction. He entered Leavenworth prison where he served eight months of his sentence.

Kahl sKahl s martyrdom began to change when he learned that a friend, following Kahl s advice from televistelevision,television, had simtelevision, had similarly been imprisoned for tax evasion and died of a heart attack in prison. thatthat the government had induced the heart attack to silence the law both he and his friend would speak. Kahl the martyr made the transition to rebel.

AfterAfter his release from prison, Kahl continued to refuse tAfter his release from prison, Kahl continued to refuse to pa hehe do so. In 1981, the IRS seized his land. The Ihe do so. In 1981, the IRS seized his land. The IRS then tried to sei WhileWhile law enforcement officers do not usually respond to misdemeanor warrants (thiWhile law enforcement officers do

parole),parole), Kahl sparole), Kahl s open dparole), Kahl s open defiance of State law generated a typical response from the time Kahl escaped capture.

AA trap was finally set for Kahl on a road outA trap was finally set for Kahl on a road outside Medina,A trap w officers,officers, Kahl and his adult son and two friends chose to fight. A shoot-out ensued, with Kahl s son aofficers, Kahl and state officer wounded, and two federal marshals killed. Kahl somehow escaped capture.

KahlKahl managed to elude arrest for two aKahl managed to elude arrest for two and a halKahl managed to elude a suggestesuggestedsuggested suggested that State force can be overcome. Kahl, eventually though, was found. This time the Stat all-outall-out in confronting Kahl who was inside a building. Shots were fall-out in confronting Kahl who was inside a building.building. Kahl was shot and died before the fire, but he claimed one more victim thebuilding. Kahl was shot and Kahl died from shots received from Kahl during the last seconds of Kahl s life.

Kahl sKahl s funeral was attended by over 250 people cKahl s funeral was attended by over 250 people comiKah likenelikenedlikened Kahl to various American heroes, including Patrick Henry. Kahl s story has become legend amonlikened K thethe Freemen community. Tales about Kahl s alleged actions are as an importthe Freemen community. Tales about K hihistoryhistory as George Washington s bravery is to our history. Unlike Washington s tale, though, Kahl history as Ge mythologymythology celebrates and affirmmythology celebrates and affirms the umythology celebrates and affirms the use o validityvalidity of the community s vision that the State is despotic. The tales also teach that validity of the community s visi has a terrible price.

OfOf course, in our world, the fact thOf course, in our world, the fact that these talOf course, in our world, the fac wannabeswannabes is frightening. As the Oklahoma Cwannabes is frightening. As the Oklahoma City bombing wannabes is shatter our world.

The Posse Comitatus in Our World 13 USC § 1385

WhileWhile Posse adherents do not directly link their theories with the Posse CWhile Posse adherents do not directly link WashingtonWashington case law has discussed the Act. Since FrWashington case law has discussed the Act. Since Free DICTIONARY for many of their proposition for many of their propositions, and o for many of their propositions, and ComitatusComitatus under our common lawComitatus under our common law, the fComitatus under our common law, the f Posse-based arguments.

> PossePosse comitatus constitutePosse comitatus constitutes thPosse comitatus constitutes the power or force of the populationpopulation of the county apopulation of the county above the age population of the county above t assistanceassistance in certain cases, for exaassistance in certain cases, for examassistance in certain cases, for examp arrestingarresting felons. BLACK S LAW DICTIONARY 1046 (5th ed. 1979); Furman, *ReRestrictiRestrictions UUponUpon Use of theUpon Use of the Army Imposed by the Posse Comitatus Act,* 7 Military L.Rev. 85, 87 (1960).

CityCity of Airway Heights v. Dilley, 45 Wn.App. 87, 95, fn. 1, 724 P.2d 407 (Div. 3 1986) (use of Air Force technician to administer breathalyzer test to civilian did not violate Posse Comitatus Act).

OurOur court system has summarized the purpose of the PosOur court system has summarized the purpose of the Posse law enforcement as follows

> RespondingResponding to appareRespondin g to apparent abuseResponding to apparent abuses in the use of the mili Congress adopted the Posse Comitatus Act in 1878 which, as since amended, reads:
>
> > Whoever,Whoever, except inWhoever, except in caseWhoever, except in cases and under circu authorizauthorizedauthorized by the Constitution or Act of Congress, willfully uses anauthorized by the Co partpart of thepart of the Army or the Air Force as a posse comitatus or otherwise to executeexecute the laws shall be fined not more than $10,000 or iexecute the laws shall be fined not mo not more than two years, or both.
>
> 1818 USC § 1385. No Washington case has dis18 USC § 1385. No Washington case has discussed the18 US WitWithinWithin the last 10 years, however, this act has been used in a variety of factual situatioWithin the last 10 ye ininin both state and federal courts by defendants seekinin both state and federal courts by defendants seeking obtainedobtained in violation of the statute. There are no cases foobtained in violation of the statute. There are no

excludedexcluded evidencexcluded evidence becausexcluded evidence because of a violation of the statute. Nor is prosecutionprosecution was pursued for violation of the act. In applying the statute, we must examineexamine whether a violation occurred and, if so, whether evidence examine whether a violation occurred and, evidence.

InIn determining what military involvement is forbidden, we look to the historical underpinningsunderpinnings of the act. Cunderpinnings of the act. Congressunderpinnings of the act. Congress excessiveexcessive use oexcessive use of federalexcessive use of federal troops to preserve order and maintain RepRepublicanRepublican carpetbaggers in the southern states. While protecting civilians from beRepublican carpet subjectsubject tsubject to the exercise of regulatory or proscriptive military authority, the act also subject to the aimed to protect the military from overuse by local civil law enforcement authorities.

InIn *Casper,* [*United StatesUnited States United States v. Casper,* 541 F.2d 1275 (8th Cir. 1976), *cert. denied,* 430 U.S.U.S. 970U.S. 970, 97 S.Ct. 1U.S. 970, 97 S.Ct. 1654, 52 L.Ed.2d 362 (1977)] the court had to determine whe militarmilitarymilitary involvement in law enforcement activities during the 1973 Wounded Kmilitary involvemer uprisinguprising violated the act. Setting a standard to deteuprising violated the act. Setting a standard to determi had occurred, the court stated at 1278:

> WereWere Army or Air Force personnel used by the civilian law enforcementenforcement officersenforcement officers enforcement officers at Wounded Knee in such a militarymilitary personnel subjected the citizens to the emilitary personnel subjected the citizens to th powpowerpower wpower which was regulatory, proscriptive, or compulsory in nature, either presently or prospectively?

Accordingly,Accordingly, when these concepts are evaluated Accordingly, when these concepts are evaluat militarymilitary involvement does not vmilitary involvement does not violate themilitary involvement does no regulates,regulates, forbids, or cregulates, forbids, or compels soregulates, forbids, or compels some conduct on the pa furnishingfurnishing military personnel, cameras and planes to fly surveifurnishing military personnel, cameras adviceadvice to those dealing with the disorder does not connote the active participation proscribed by the act.

BasedBased upon the langBased upon the languagBased upon the language, history and apparent purposes of the whichwhich is to have local authorities handwhich is to have local authorities handle local matwhich is to have local particularlyparticularly in policing state elections, andparticularly in policing state elections, and to pparticularly power,power, power, we find no violation of the act here. Officer Anderson transported Mr. Dilley to thethe Fairchild Air Fothe Fairchild Air Force Basthe Fairchild Air Force Base front gate for testing because Fairchil mostmost convenient place to administemost convenient place to administer the exmost convenient place to ad BreathalyzerBreathalyzer test in the same way a civilian technician would haveBreathalyzer test in the same way a civi notnot force Mr. Dilley to take thenot force Mr. Dilley to take the test. not force Mr. Dilley to take the test. Thus, it cann waswas violated, given the practically nonexistent military fwas violated, given the practically nonexistent military bebe wrong to engage military force to enforce civilian law, enbe wrong to engage military force to enforce civ alonealone dalone does alone does not violate the act. Since Airman Garcia was merely operating the machine andand not forcing Mr. Dilley to take the and not forcing Mr. Dilley to take the test, her conand not forcing Mr dispositivedispositive of the issue, hence we do not address whether evidence seized in violation of the act must be suppressed.

Dilley, 45 Wn.App. at 89-92. (Citations omitted.) *See* also

State v. Short, 113 Wn.2d 35, 38-40, 775 P.2d 458 (1989) (Naval Investigative Service agent, while acting undercover in Kitsap County, purchased drugs from defendants. Court held that even if the Posse Comitatus Act was violated, it only applies to Army and Air Force personnel, and not to Navy personnel.)

State v. Valdobinos, 122 Wn.2d 270, 276-77, 858 P.2d 199 (1993) (even if Posse Comitatus Act violated by national guardsmen s search, the preferred remedy under the Act is a fine and not suppression).

Ruby Ridge, the Rocky Mountain Rendezvous, Waco and Oklahoma City

TheThe historical significance of these places and events was discusseThe historical significance of these places and even alongalong witalong with the bombialong with the bombing that rocked the Atlanta Olympic Games (seen as proof of a one world thethe arson fthe arson firesthe arson fires against black churches, and violence at abortion clinics, send a clear message. The Fr movementmovement and its followers are not afraid to advocate and usemovement and its followers are not afraid to advocate biblical support.

THE CONSPIRACY
A ONE WORLD GOVERNMENT

One World Government

TheThe antigovernmentThe antigovernment movemeThe antigovernment movement has been in existence for decades. Chris suchsuch as the Ku Klux Klan first appsuch as the Ku Klux Klan first appearedsuch as the Ku Klux Klan first appeared in the BirchBirch Society came along in the 1950 s, followed by Posse Comitatus in the 1970 s. But until the last few years, these groups, predicting that the sky was falling, existed in relative obscurity with few members.

ButBut then the sky did fall for farmers in the 1980 s. But then the sky did fall for farmers in the 1980 s. And RubBut th TheThe scenario prophesized by these unsuccessful gThe scenario prophesized by these unsuccessful groups fiThe scenario p events.events. With events. With the lackevents. With the lack of a better explanation, many converted to and became ant WhileWhile the groups have new names, the conspiracy theorieWhile the groups have new names, the conspiracy theories antigovernment dogma are being created and carefully controlled by the radical leaders of the old guard.

ParamountParamount to toParamount to today s Freemen movement is the rather complex nature of the one world govern theory.theory. The roots of a one world government conspiracy theory can be traced directly to the Bible. theory. The roots of a one OldOld and New Testaments contain many prophecies that haOld and New Testaments contain many prophecies that have b thethe end of the world will be the result othe end of the world will be the result of the end of the world will be Antichrist. The Freemasons and Illuminati are such perceived examples.[10]

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10 Adam Weishaupt, a Catholic priest, joined the Freemasons in Germany in the late 1770 s hoping to create a powerful secret organization to support him in the conflict with his adversaries and in the execution of his rationalistic schemes along ecclesiastical and political lines. Upon closer inquiry, though, Weishaupt determined that a new secret society would be needed, and in 1776 organized the Illuminated Freemasons in Ingolstadt, Bavaria. The Illuminati, as they were known, propagated a new religion and a universal democratic republic wherein man would be enlightened through secret tutelage to outgrow the religious and political needs of the Church and nation state. These secret schools of wisdom would lead to the fall of princes and nations so that the human race would become one family. This redemption of mankind by the restoration of the original freedom and equality through illumination and universal charity, fraternity, and tolerance could only be accomplished, though, to members who progressed through various degrees of teachings.

In 1783, though, the anarchistic tendencies of the order provoked public demonstrations which led the Bavarian government in 1789 to ban the order and any recruitment by its members, upon penalty of death. Some in the order claimed responsibility for the French Revolution in 1789, but the claims lack proof and often conflict with known facts. Weishaupt renounced all secret societies in 1787 and reconciled with the Catholic Church by his death on November 18, 1830.

Source: *The Catholic Encyclopedia, Illuminati* (visited June 4, 1999) <http://www.knight.org/advent/cathen/07661b.htm>.

Freemen claim, though, that Weishaupt was funded by international bankers and started the Illuminati as a satanic plot in order to establish a one world government. The order, which exists today, is allegedly composed of wealthy Jews whose main goal is to own all the land and wealth in the world, relegating everyone else to slavery in one form or another. Churches would also be transformed into synagogues. The Illuminati is alleged by some in the Freemen movement to have taken over the American government, banks and legal system. The sect is also credited with creating the conspiracy that led to the French Revolution.

Weishaupt s plan of operation required the Illuminati to perform the following tasks to accomplish their purpose

1. Monetary and sex bribery was to be used to obtain control of men already in high places in the various levels of all governments and other fields of endeavor. Once influential persons had fallen for the lies, deceits, and temptations of the Illuminati, they were to be held in bondage by application of political and other forms of blackmail, threats of financial ruin, public exposure, and physical harm, even death to themselves and loved members of their families.
2. The Illuminati who were on the faculty of colleges and universities were to cultivate students possessing exceptional mental ability and who belonged to well-bred families with international leanings, and recommend them for special training in Internationalism. Such training was to be provided by granting scholarships, like the Rhodes Scholarship, to those selected by the Illuminati. All such scholars were to be first persuaded and then convinced that men of special talent and brains had the right to rule those less gifted on the grounds that the masses do not know what is best for them physically, mentally, and spiritually.
3. All influential people who were trapped to come under the control of the Illuminati, plus the students who had been

ThisThis one world biblical theory has been enhancedThis one world biblical theory has been enhanced through
meansmeans for interpreting the very Bible from whimeans for interpreting the very Bible from which the themeans for interp
and conspiracy are inseparable.

OneOne must not ignore the real forces, though, such One must not ignore the real forces, though, such as bOne m
playingplaying a role in this saga of rural restrplaying a role in this saga of rural restructuringplaying a role in this saga of
whichwhich are almost obscured by the conspiracy beliefs religion, the Constitution, the mowhich are almost obscured by th
control, international trade agreements, monopolies, and morality.

The Bible

HowHow did the old guard of the antigovernment movement turn rural Americans against a governmHow did the old g
thatthat rural Americans had heretofore staunchly supported? The Bible. The most sacred document of rural
AmericaAmerica was brilliantly used by twiAmerica was brilliantly used by twistiAmerica was brilliantly used by twisting it in
thethe movement, a losing economic war was transfothe movement, a losing economic war was transformed into a the move
soul.

StudiesStudies have shown that over Studies have shown that over 80 percent oStudies have shown that over 80 perce
RuralRural America is predominately Christian, with strong leanings towards Protestant Christianity. The
ffounfoundationfoundation for this Christian influence has been laid by our history and supported by such customs as recital
oofof the of the Pledge of Allegiance (&one nation, under God &) and the Lord s Prayer. Given this background,
it only makes sense that when the world is crashing down, a Christian explanation is needed.

VariousVarious factions, iVarious factions, includVarious factions, including David Koresh and the Branch Davidians, h
thethe Bible justifies or even demands that they rebel against the current Americanthe Bible justifies or even demands that
thatthat the Bible demands rebellion compels these rural warriors to see themselves as an armythat the Bible demands rebellion
ratherrather than as a treasonous force attempting a coup. They believerather than as a treasonous force attempting a coup. T
and that a proper understanding of its prophecies leaves true Christians with little choice but to fight.

PeoplePeople are being tPeople are being taught tPeople are being taught that our founding fathers intended the country to b
theythey wrote the God-inspired Constitution with that in mind. Some groups teach that the Constitution was
derivedderived directly from the Bible and is therefore a sacred document. Recruitsderived directly from the Bible and is the
SecondSecond Amendment (the right to keep and bear arms) for an important reasonSecond Amendment (the right to keep an
werewere to be used to force the government back towards a godly couwere to be used to force the government back towar
its Christian underpinnings. Many in their world believe that now is the time for this armed insurrection.

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specially educated and trained, were to be used as agents and placed behind the scenes of all governments as experts and specialists. They would advise the top executives to adopt policies which would, in the long run, serve the secret plans of the Illuminati s one world conspiracy, and bring about the destruction of the governments and religions they were elected or appointed to serve.

4. They were to obtain absolute control of the press so that all news and information could be slanted to convince the masses that a one world government is the only solution to our many and varied problems. They were also to own and control all the national radio and TV channels.

Source: *Thirst for Justice A Satanic Plot for a One World Government. The World Conspirators: the Illuminati* (visited June 4, 1999) <http://www.prolognet.qc.ca/clyde/illumin.htm>.

THE TRIBULATION 2,000 A.D.?

[In[In response to the disciples questions about signs[In response to the disciples questions about signs that[In resp
and the end of the world, Jesus said]

*For nation will rise against nation, and kingdomFor nation will rise against nation, and kingdom against kingdom,For n
there will be famines and earthquakes.*

But things are merely the beginning of birth pangs.

*ThenThen they will deliver you to tribulation, and will kill you, anThen they will deliver you to tribulation, and wil
nations on account of My name.*

*AndAnd at that time many will fall away and will deliver up one anoAnd at that time many will fall away an
another.*

And many false prophets will arise, and will mislead many.

And because lawlessness is increased, most people s love will grow cold.

Matthew 24:7-12

The End of the World

IsIs the TriIs the Tribulation at hand?Is the Tribulation at hand? It is certain that a holy war is blazing across Americ
terrterroristterrorist bombings in places like Oklahoma City, Atlanta, Los Angeles, Spokane, and Dallas. Wterrorist bombings in
holyholy war iholy war is the oholy war is the one described in the Bible or the one started by people who decided the Bible v
taking too long to get here does not really matter. The death and destruction are real.

Bible-influencedBible-influenced Freemen groups believe that Jesus will one day return to earth. They also beBible-influenc
thethe closer we getthe closer we get to that dathe closer we get to that day, the more we will experience pestilence, famine,
summary of one interpretation[11] of the meaning of *Revelation* 20 is as follows

ThisThis is all part of the Tribulation a time many Christians believe will be defined by
thethe appeathe appearance of the appearance of new technologies; by the mark of the Beast (the symbolic numbe
666)666) being put on the bodies of those wor666) being put on the bodies of those worshiped Sa666) being pu
creationcreation ofcreation of a one world government headed by the Antichrist; and by the persecution creation of a o
murder of Christians.

ItIt It is at the end of this period of tribulation that the Battle of Armageddon the final
battlebattle between Jesus forces of gbattle between Jesus forces of goodbattle between Jesus forces of good and S
byby Christians. Satan will be imprisoned in a bottomless pit, ushby Christians. Satan will be imprisoned in a
periodperiod of peace known as the Millenniperiod of peace known as the Millennium. period of peace known as the
martyrsmartyrs (the dead souls who had been beheadmartyrs (the dead souls who had been beheaded fmartyrs (the d
SatanSatan nor accepted his mark) willSatan nor accepted his mark) will comSatan nor accepted his mark) will com
Millennium.Millennium. The rest of thMillennium. The rest of the dead sMillennium. The rest of the dead
Millennium.

AtAt the conclusion of the Millennium, Satan will be released and attempAt the conclusion of the Millennium, Sat
nationsnations and people, and gather an army of followers. Thisnations and people, and gather an army of followe
tthethe living saints. A fire will come down from Heaven, though, and consume Satanthe living saints. A fire
followers,followers, and God will cast Satan into followers, and God will cast Satan into a lake followers, and
forever.

Then,Then, all the dead souls reThen, all the dead souls remaining willThen, all the dead souls remaining will stan
ofof Life will be opened and the dead souls will be juof Life will be opened and the dead souls will be ju

11 We recognize that there are several different interpretations of the end times as described in *Revelation.* The summary we provide appears to us to be the most common.

WhoeverWhoever Whoever is not written in the Book of Life will be cast along with death and hell intWhoever is not w lake of fire (the Second Death) for eternity.

AtAt some point during this tribulation process, many Christians believe rapturAt some point during this tribulation proces thethe redeemed) will take place. The rapture is the simultaneous ascension of all Christians who arthe redeemed) will take pla thethe time of Christ s second coming. Most funthe time of Christ s second coming. Most fundamentalist Chthe time of momemomentmoment without any warning a Christian driving down the road will suddenly disappear, leaving tmoment witho to careen out of control.

ChristianChristian teachers have been warning their foChristian teachers have been warning their follChristian teachers ha theirtheir doomsday messages have escalated for a number of reasons. First we are their doomsday messages have escalated fo ofof a century. Historians have noted that apocalyptic scenarios always escalate beof a century. Historians have noted that apo and not just among Christians.

AnotherAnother Another reAnother reason for the increase in end-of-the-world thinking is that the media have made the d ofof apocalyptof apocalyptic infof apocalyptic information easier, faster, and more profitable. Christian authors have created sciencscience,science, not to mention a pretty good living out of their final chapter interpretations of biblical prophecscience, by citing to current events as proof of the coming Tribulation.

ItIt should come as no surprise that when televangalists preachIt should come as no surprise that when televangalists peoplepeople that the government is epeople that the government is evil/speople that the government is evil/satanic, the mess movement.movement. After movement. After all, these prmovement. After all, these preachers are trusted by rura antigovernment conspiracy theories as the Freemen.

RuralRural America believes in following the precept of one nation under God. If the current govemment isis being influenced by the supernatural forces of the Antis being influenced by the supernatural forces of the Antichrist ag faithful follower not join this divinely-inspired movement which quotes scripture?

HowHow radical these followers eventually become depends to a large extentHow radical these followers ever interpretations ofbiblical prophecy in *Revelation*.

TheThe vast majority of Christians fall into one of three campThe vast majority of Christians fall into one of three cam tribulation.tribulation. Pre-trib Christians believe that if alive at the second coming, they will be ctribulation. Pre-trib Chris byby the rapture before the Tribulation begins.[12] Consequently, th Consequently, they ar Consequently, they are not likely to nownow is the time for a holy war. Mid-trib and post-trib Christians, now is the time for a holy war. Mid-trib and pos livelive thlive through part or alive through part or all of the Tribulation before they will be raptured.[13] They are thus left to facultiesfaculties to determine at what point thfaculties to determine at what point they have entefaculties to determine at w poverty,poverty, the loss of a farm, or any opoverty, the loss of a farm, or any other devastpoverty, the loss of a farm, Tribulation has started and, of course, that now is the time for an all-out holy war.

WhileWhile pre-trib Freemen believers are just as strongly opposed to thWhile pre-trib Freemen believers are just a post-trib post-trib brethren, they are more likely to exhibit that opost-trib brethren, they are more likely to exhibit that opp defiance against the unholy government, such as Common Law courts, refusing to pay taxes, etc.

ForFor the mid- and post-trib Freemen followers, though, there isFor the mid- and post-trib Freemen followers, thou governmentgovernment and establishing a Christgovernment and establishing a Christian tgovernment and establishing a Chr hashas arrived, they believe that it is a sin nohas arrived, they believe that it is a sin not to fight on behalf ohas arrived, they b staystay alive until the rapture. Otherwise, once dead and assuming one is listed in tstay alive until the rapture. Otherwise, willwill have to wait until the conclusion of the 1,000 yearwill have to wait until the conclusion of the 1,000 year Millennium rathe rapture.

InIn their view, the government is already under the control of the demon Jews who are seekIn their view, the gover establishestablish a one world government, perhaps through the United Nations or establish a one world government, perhaps t

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12 The recently released $5 million film REVELATION...THE BOOK HAS BEEN OPENED (independent Canadian film 1999) starring Jeff Fahey, Nick Mancuso and Carol Alt provides a look at the Tribulation after a pre-trib rapture takes place.

13 An example of a post-trib rapture is provided in C.S. LEWIS, THE CHRONICLES OF NARNIA THE LAST BATTLE (1956).

inin their view, this is not some intellectual, political or spiritual war in their view, this is not some intellectual, political or s
real war of guns, assassinations, bombs, and death.

The Tribulation and Freemen Recruiting Techniques

Today sToday s Freemen have become especially successful at converting eToday s Freemen have become especially suc
theirtheir fold. They work the their fold. They work the ctheir fold. They work the crowds at foreclosure sales, telling people
planplan to control the food supply of Christians. They tell people that the Conplan to control the food supply of Christians.
toto pay income tto pay income tax. They promise farmers their land can be recovered even after it is sold at auction. They
describedescribe how the government took the United Sdescribe how the government took the United Stdescribe how the gow
wealth.

TheThe movement has had great success witThe movement has had great success withThe movement has had grea
membershipmembership with strategies using other religious/political debates involving abortimembership with strategies u
schooling, and doctor-assisted suicide.

TheThe movement carefully constructs its message to convince people who are alreadThe movement carefully constructs it
overover these issues thover these issues that thover these issues that these religious and political issues of the day are all part
governmentgovernment to desensitize them to perversion and murder, steps necessary to eventually enthrone the
Antichrist during the Tribulation.

OneOne of the movement s most successful recruitOne of the movement s most successful recruitiOne of the movemen
groupsgroups that oppose the government are ovegroups that oppose the government are overflowinggroups that oppose the
becambecamebecame frustrated with what they perceived to be mainstream pro-life s less than radical approabecame frustr
stoppingstopping the murder of children. Pro-life factionstopping the murder of children. Pro-life factions enter th
understandingunderstanding that theunderstanding that there understanding that there is no room for compromise. It is the w
thesethese factions no choice but tthese factions no choice but to pursue thethese factions no choice but to pursue their ulti
thatthat will treat abortion as murder and strike down any statutes that contradict their intethat will treat abortion as murder and
law.

GivenGiven the success of the conversion of the anti-abortion contingent, the Freemen will likely aGiven the success of
andand all anti groups, targeting the breakeand all anti groups, targeting the breakers of hand all anti groups, targeti
andand other and other minoand other minorities; doctors who perform abortions; people in mixed race marriages; proponents
relireligionsreligions such as Islam, Buddhism, Hinduism, and New Age believers; manufacturers of products deemreligions suc
toto be offensiveto be offensive (especiallyto be offensive (especially involving pornography); and media personnel whose r
blasphemous.

THE CHRISTIAN IDENTITY MOVEMENT A.K.A. C HRISTIAN AMERICA, C HRISTIAN ISRAEL, KINGDOM OF GOD

Introduction America is the Promised Land of Israel

Whil WhileWhile Freemen pleadings and Common Law court opinions often do not provide or recWhile Freemen ple underlyingunderlying nature of the impact of Christian Ideunderlying nature of the impact of Christian Identity beunderlyi impact of these beliefs on Freemen would be a great mistake.[14]

FewFew court opinions or pleadings in our system recount the tale of our RevFew court opinions or pleadings in our syst surroundingsurrounding the adoption of the Csurrounding the adoption of the Constsurrounding the adoption of the Constitutio basicbasic and central underpinnings for granted. Indeed, an opinion that recounts these basic and central underpinnings for gra signalssignals either that an extraordinary challenge to our system has been made or that a nosignals either that an extraordinary to be sanctioned by our courts, which seek to legitimize the move by tying it back to basics.

Therefore,Therefore, despite the fact that most of the CommoTherefore, despite the fact that most of the Common ChristianChristian Identity story in full, we are prepared to call the storyChristian Identity story in full, we are prepared to ca the Freemen movement.

TheThe fused Common Law Christian Identity sThe fused Common Law Christian Identity story dividThe fused Commo tthethe damthe damned. That division predicts the division of American citizenry into two classes Common Law/Sovereign Citizenship and 14th Amendment Citizenship.

SovereignSovereign Citizenship, which belongs to their members as a matter of birthright, guarantees freedom fromfrom tfrom tyranny (the exercise of jurisdiction by federal and state illegal governments and courtfrom tyranny (th recrecognirecognizesrecognizes one s God-given unalienable rights. Fourteenth Amendment citizenship is not only less ennoblingennobling but is akin to the mark of Cain, a badge of slavery, made for lesennobling but is akin to the mark of Cai AmericansAmericans and others considered non-white. The other United States, our wAmericans and others considered non- AmendmentAmendment slave as opposed to theirAmendment slave as opposed to their unitedAmendment slave as opposed TheThe ChrisThe Christian Identity story dictates just such a distinction a distinction between the Chosen People and the misbegotten others that populate the earth.

TheThe The story The story also locates the group in relation to the government. It suggests that the State has somehow beenbeen corrupted and is exercising power unjustly over God s Chosen People. The story provides meaning forfor the odd moves made by Freemen, like for the odd moves made by Freemen, like divestfor the odd moves made taxes, moves needed to reclaim one s birthright as a free and Sovereign being.

MostMost importantly, the story not only unites tMost importantly, the story not only unites the peoplMost importantly, t groupgroup in group in relation to others, it fuses the group s identity with the land. The land is what God promisegroup in re ChosenChosen People, according to the Bible. The quiet title action,Chosen People, according to the Bible. The quiet title a fusesfuses identity with land. The Christian Identity story gives added meaning to the filing of lfuses identity with land.

[14] We believe that a thorough understanding of the Christian Identity movement and their beliefs is critical to an appreciation of the potential seriousness and dangerousness of the Freemen movement. We do not pretend to be experts in Christian Identity theology or the Bible. Nor do we claim to be trained scholars who can provide a point/counterpoint response from a Judeo-Christian perspective. It is not our intent in any way to offend anyone s spiritual faith or understanding of these topics. If our discussion of these topics has inadvertently offended, we sincerely apologize and ask forgiveness for our ignorance.

enemiesenemies of thenemies of their group. Those who are not God s Chosen People can never have clear title to the landenem
most,most, those people may occupy the lanmost, those people may occupy the land so lmost, those people may occupy the l
People. Liens give expression to that message, clouding title precisely as the story suggests is just.

ItIt is easy to trivialize the rhetorical excess of the Christian Identity movement and disIt is easy to trivialize the rhetorical
element.element. However, it is important to note that Christian Identity numbers have grown from perhaps 2,000
toto 5,000to 5,000 in 1986 to more than 30,000 today. Apart from the regular membership in the churches,to 5,000 in 198
estimated that today there are nearly a quarter of a million people who may be Christian Identity followers.

TheThe Christian Identity movement ties young to old, aThe Christian Identity movement ties young to old, anThe Chris
thethe white supremacist movement into a coherent ideological force. Propthe white supremacist movement into a coherent i
racialracial holy war, guided by a destiny in which God s pracial holy war, guided by a destiny in which God s pu
understandingunderstanding themselves as part of an historical tradition, Christian Identiunderstanding themselves as p
surprisingly effective.

WhileWhile one can be lulled into a false sense of security in thinking that the Christian Identity s percWhile one can be lu
warwar is over, in reality it has yet to begin. Christian Identity advocates wait patiently andwar is over, in reality it has yet t
WhileWhile still secretly holding onWhile still secretly holding on to their While still secretly holding on to their identity
becomebecome a partbecome a part of our systebecome a part of our system, and betray it from within. Many more quietly wait
areare called upon to become a warrior and strike a blow for their are called upon to become a warrior and strike a blow
them on the shoulder and tells them it is their time.

Christian Fundamentalists v. Christian Identity Believers

MostMost of the people in the Freemen world fall into two Most of the people in the Freemen world fall into two
ChristianChristian Christian fundamenChristian fundamentalists (composed of mainstream mostly Protestant denominations)
adhereadhere to some or all of the teachings of Christian Identity. Both camps believe in a newadhere to some or all
government,government, with the Cgovernment, with the Chrigovernment, with the Christian Identity believers seeking t
accordance with their unique biblical interpretations.

TheThe religious terminology used by both fundamentalists and Identity believers at first blush aThe religious terminolo
similar. Nothing could be further from the truth.

FundamentalistsFundamentalists view Identity beliefs as heresFundamentalists view Identity beliefs as heresyFundament
mimisledmisled Jew-misled Jew-loving traitors. The Identity movement relies heavily on its interpretation of the Old Testament
toto justify its beliefs that white people are the true nation of Israel, that to justify its beliefs that white people are the true n
that other minorities are soulless animals.

FundamentalistsFundamentalists believe that Jews are the true nation of Israel an idea that infurFundamentalists b
believers andbelievers and that all people regardless obelievers and that all people regardless of race and gebelievers
makemake no argument to justifmake no argument to justify racimake no argument to justify racism while Identity-influenced g
Klux Klan attempt to do so biblically, thereby justifying their supremacist and/or separatist ideas.

AA further comparison of these two groups reveals that IdentityA further comparison of these two groups reveals that
TheirTheir white supreTheir white supremacisTheir white supremacist and/or separatist theology practically demands violence
thatthat they are God s enforcement arm, thereby oblithat they are God s enforcement arm, thereby obligated to punisthat th
ofof the Old Testament s of the Old Testament s laws, of the Old Testament s laws, which frequently require death u
TestamentTestament compels death foTestament compels death for a multiTestament compels death for a multitude of sexua
aduladulteryadultery (Leviticus 20:10), homosexuality (Leviticus 20:13), and bestiality (Leviticus 20:15-16). Identity
followersfollowers feel compelled to execute followers feel compelled to execute this death followers feel compelled to execut
andand for those having bestial sexuaand for those having bestial sexual relatiand for those having bestial sexual
soulless animals).

TheThe theology of the Non-IdenThe theology of the Non-Identity Freemen gThe theology of the Non-Identity Free
followers,followers, but there are efollowers, but there are exceptions. followers, but there are exceptions. How dangerous a gr
leadersleaders interpret biblical prophecies. Within leaders interpret biblical prophecies. Within bothleaders interpret biblical
thethe belief that the violence-filled period described by the Bible andthe belief that the violence-filled period described b

approachingapproaching or has already arrived. Since the end of the world is fast approaching, they believeapproaching or has havehave nothing to lose. Many Common Law couhave nothing to lose. Many Common Law courts are meethave nothing to ofof their government is then expected to carry out the senof their government is then expected to carry out the sentence a the Bible.

WhileWhile some fundamentalists and Identity believers disagree with manWhile some fundamentalists and Identity be ththesethese groups have been increasingly able to set aside their disagreements to fulfill their one these groups have bee goal agoal a new Cgoal a new Chrgoal a new Christian government. The theological differences will be sorted out once the existing democratic regime.

TheThe racism that had long been the chief barrier to Identity recruiting effortThe racism that had long been the chief bar de-emphasizedde-emphasized by the Freemen, at least until a new member s ade-emphasized by the Freemen, at least u mmovement smovement s long-held concept of a white America has now been given a new, more acceptable monmovement s such as Christian America or Christian Israel.

Christian Identity Expansion

HowHow did Freemen ever provide the unifying ideology to explain Gordon Kahl, Ruby Ridge, aHow did Freemen otherother current events for the diother current events for the diverother current events for the diverse coalitions that Christian Identity teachings.

ItIt has become commonplace for IdenIt has become commonplace for Identity membIt has become commonplace for Id congregation,congregation, and slowly over time begin to insert their Identity doctrines into meetings. Bcongregation, and slow ppastorspastors of the infected congregations figure out what is going on, it is too late. Either the pastor is pastors of the in converted,converted, the pastor is rconverted, the pastor is removed, or a sconverted, the pastor is removed, or a siza believers.

PastorsPastors have also been recruited direcPastors have also been recruited directlyPastors have also been recruited direc WhileWhile some pastors leave when the Identity message is taught, many others stayWhile some pastors leave when th teachings to their congregations.

TheThe Identity movement s techniques for spreading its message are working surprisingly well. A great dealdeal of its recent success can be deal of its recent success can be attributedeal of its recent success can be attributed to its thethe guise of the antigovernment evil enemy theme, Identity followers can now interact with non-Identity pepeoplepeople for lpeople for long periods of time. Given the Identity s explanation of who is destroying rural America, their successsuccess is understandable considering the percepsuccess is understandable considering the perception that rusuccess is suchsuch modern agendas as affirmative action, the environmental movement, global such modern agendas as affirmative a abortion, gun control, school prayer, flag burning and pretty much any other cause taken up by the ACLU.

AsAs IdentAs Identity spreads, so does the promotion of violence by the Freemen movement. For that reason, it is critical to carefully examine the beliefs of Identity adherents.

A History of Christian Identity Theology

FromFrom tFrom the very bFrom the very beginning of colonialism, American Christians have considered themselves chosenchosen nation. They see themselves set above the rest of humanichosen nation. They see themselves set above the fulfillmentfulfillment of biblical propfulfillment of biblical prophecy. Oufulfillment of biblical prophecy. Our history is replet thethe United States is the culmination of God s unfolding plan for the Manifest Destiny of all nthe United States is the culm EnglishEnglish Reformation, the settlement of North America, the wars against the French and the IEnglish Reformation, th American Revolution, and even the Civil War established that God was powerfully at work in our midst.

ThisThis nativist thought arising out of the econoThis nativist thought arising out of the economic aThis nati increasinglyincreasingly defined evil as those who were non-white, non-Protestant, and non-native born. In increasingly defined e America, evil did not exist as an abstract force but in a very real world personification.

AnAnti-RomanAnti-Roman Catholicism. In the early nineteenth century, the nativist movement focused upon the massivemassive influx of Roman Catholic immigrants, especially the Irish, as a threat to America s internal secsecurity.security. Anti-Catholic sentiments viewed the Catholic Church as the Whore of Babylon, the *Revelation*

1717 description of the great ha17 description of the great har17 description of the great harlot living on the blood of ChristiansChristians astray intoChristians astray into idolatry for tChristians astray into idolatry for the Antichrist. A monastery CatholicCatholic riots erupted in New York and Philadelphia (where a seminary and two churches weCatholic riots erupted i andand an anti-Catholic party, the American Party, swept large numbers into political offand an anti-Catholic party, the Ameri CivilCivil War. Following the CivCivil War. Following the Civil WCivil War. Following the Civil War, the American Protect dangersdangers of Romanism, limit immigration, and protect the pubdangers of Romanism, limit immigration, and protec parochial system.

Anti-AfricanAnti-African Anti-African AmericAnti-African Americanism The Ku Klux Klan. Following the Civil W thethe nativist movement began to re-frame ethe nativist movement began to re-frame evthe nativist movement began to re-f THEHE NEGRO A BEAST exemplified this mo exemplified this movement. Car exemplified this movement. Carroll argued that A beastly,beastly, and without a soul. Arisinbeastly, and without a soul. Arising beastly, and without a soul. Arising out danger ofrace-mixing, the Ku Klux Klan was founded in Pulaski, Tennessee on Christmas Eve, 1865.

TheThe official aThe official application for The official application for charter membership to the KKK establishes that one thethe tenets of Christianthe tenets of Christian rthe tenets of Christian religion, the maintenance of white supre clannishness, and the principles of pure Americanism.

WhyWhy Good FreeWhy Good Freemen Drive FoWhy Good Freemen Drive Fords The Jewish Conspiracy. century,century, nativist thought combined religious and racial supremacy into a single component and focused uponupon the Jew as the locus of evil in American society. Automotive tycooupon the Jew as the locus of evil in newspapernewspaper THE DEARBORN INDEPENDENT, edited by William J. Cameron, gained notoriety in the 19edited by Will withwith a seven year campaign against what Ford termed the international Jew. The newspaper with a seven year campa anti-Semiticanti-Semitic conspiracy theories about Jews contanti-Semitic conspiracy theories about Jews controllinganti JewishJewish fueled communism) exploitJewish fueled communism) exploiting theJewish fueled communism) exploiting the O asas aas an evil religiouas an evil religious force out to destroy Anglo-Saxon America. Within Ford s work are the alleged detai ofof the High Jewish Council s (the Sanhedrin) and the Masonic Order s quest for totalof the High Jewish Council s (the S based on the conspiracy book THE PROTOCOLS OF THE MEETINGS OF THE LEARNED ELDERS OF ZION.[15]

PROTOCOLS promoted a one world gover promoted a one world government co promoted a one world government consp whowho sought to seize world power by manipulating and ultimately taking over the wowho sought to seize world power by ma supplysupply through a cabal of bankers, puppet politisupply through a cabal of bankers, puppet politicians, and thesupply t Christian Identity literature.

BritishBritish Israelism. The most profound i The most profound in The most profound influence upon the formatio thethe theological movement from the nineteenth century known as Anglo-Israelism othe theological movement from th Anglo-IsraelismAnglo-Israelism places the nations of Europe as descendants of the Ten Lost Tribes of Israel. In 1871, Identity sIdentity s founder, Edward Identity s founder, Edward Hine,Identity s founder, Edward Hine, published and sold IDENTIFICADENTIFICATIONDENTIFICATION OF THE BRITISH NATION WITH LOST ISRAEL. This bestseller was brought to the U States during the latter years of the nineteenth century by Rev. W. H. Poole of Detroit.

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15 One website asserts that it provides an exact reprint of the original PROTOCOLS OFZION referred to in the late 1700 s and published in the early 1800 s. The website includes Protocols No. 1 through No. 24, and includes the following subheadings

Gold	Jewish Super-State	Gentiles Are Stupid
Right Is Might	Christian Youth Destroyed	Gentiles Are Cattle
We Are Despots	Our Goal World Power	We Demand Submission
We Shall End Liberty	Poison of Liberalism	We Shall Be Cruel
Destructive Education	We Name Presidents	We Shall Change History
Poverty Our Weapon	We Shall Destroy	We Shall Destroy The Clergy
We Support Communism	We Are Wolves	Government By Fear
Jews Will Be Safe	We Control The Press	We Shall Destroy Capital
We Shall Destroy God	Free Press Destroyed	We Cause Depressions
Masses Led By Lies	Only Lies Printed	Gentile States Bankrupt
Monopoly Capital	We Deceive Workers	Tyranny Of Usury
We Shall Enslave Gentiles	We Shall Forbid Christ	King Of The Jews
Universal War	Secret Societies	

Protocols of the Learned Elders of Zion (visited June 5, 1999) <http://www.ptialaska.net/%7Eswampy/illuminati/zion.html>.

Ford sFord s conspiracy theories andFord s conspiracy theories and the popular imFord s conspiracy theories and the pop
hhand hand of Jewish conspirators influencing history. Following World War II and the Holohand of Jewish consp
widwidesprewidespreadwidespread audience that had previously accepted this hidden hand message began to wane. But th
movement continued.

AfterAfter World War II. Dr. Wesley Dr. Wesley Swift, Dr. Wesley Swift, an ordained Alabama Methodist
IdeIdentityIdentity theology, especially Anglo-Israelism, into Christian Defense League rhetoric. In 1946, SIdentity theolo
foundedfounded the Church of Jesus Christ Christian, which is still in operation in Hayden Lake, Idafounded the Church of Jesu
Swift,Swift, a former Ku Klux Klan Kleagle, who was to sprSwift, a former Ku Klux Klan Kleagle, who was to spread the te
KKK and neo-Nazis in the early 1960 s under the auspices of his Church of Jesus Christ Christian.

SwiftSwift expanded on his Identity beliefSwift expanded on his Identity beliefs by asserSwift expanded on his Identity
thethe movement and to help establish itthe movement and to help establish its goathe movement and to help establish its
RangersRangers in the early 1960 s; a group that formed the core of late 1960 s revolutionarRangers in the early 1960 s; a gr
ThTheThe Minutemen were arrested in 1968 after blowing up a police station and attempting to rob several bThe Minutemen wer
OneOne of its members, and a member of One of its members, and a member of Swift s churchOne of its members, and a memb
aa plot to bloa plot to blow up Mara plot to blow up Martin Luther King at the Hollywood Palladium. Other Swift follow
message throughout the United States.

WhenWhen Swift died in 1970, a SwWhen Swift died in 1970, a SwifWhen Swift died in 1970, a Swift-recruit and
PresbPresbyterianPresbyterian who received his ordination through the mail) and a handful of his congregation Presbyterian
IdahoIdaho near Hayden Lake tIdaho near Hayden Lake toIdaho near Hayden Lake to establish a Promised Land a whites-o
andand continueand continued Identity teacand continued Identity teachings. As a follower of Butler puts it, You have Detroi
we llwe ll have the Northwe ll have the Northwest for ourwe ll have the Northwest for our Aryans. From this central churc
gospelgospel of Christian Identity would be used to consolidate the splinter groups of the hgospel of Christian Identity would b
army of God against the evil United States government a.k.a. ZOG Zionist Occupation Government.

RubyRuby Ridge s Randy Weaver is an associate of Richard Bulter and Kevin HarrisRuby Ridge s Randy Weaver is an
Kahl since high school.

FreemeFreemenFreemen commonly use the word Usurers to describe Jewish bankers whom they claim are ruFreemen co
our country through ZOG.

Christian Identity Beliefs 101

ChristianChristian Identity, which is also known as Christian America, Christian Israel, British IsraChristian Identity, which
Identity,Identity, Anglo-Israelism, or Kingdom of GIdentity, Anglo-Israelism, or Kingdom of God, does not Identity, Anglo-I
butbut rather believes itself to be a group of orthodox Christians who acceptbut rather believes itself to be a group of orth
hencehence literally true Word of God. While affirming their belief in God, Jesus, and the Holy Spirit, they
gengenerallygenerally stop generally stop short of belief in the Trinity. Their belief in the literal truth of the Bible is manifested
firmfirm belief in the biblical account of creation afirm belief in the biblical account of creation as described in *GGenesis*, the
returnreturn of Jesus to earth, and the final battle to be fought between the Israel of God and the enreturn of Jesus to earth, and
FollowingFollowing the tradition of free church Protestantism, two ordinanFollowing the tradition of free church P
communion are practiced. *See* the Appendix, at 21-23, for a Christian Identity church s statement of beliefs.

SomeSome Christian Identity groups have also adopted both sabbatharianism and sacreSome Christian Identity groups
fromfrom Adventism. Joe Jeffers, head of the Kingdom of Yahweh, was possibly the first person to combine a
beliefbelief in the Identity hypothesis with the keeping of the Sabbath on Saturday and thbelief in the Identity hypothesis with
of the Hebrew names of the Creator and His Son (Yahweh and Yahshua) in place of God and Jesus.

ChristChristianChristian Identity is most at variance with the larger body of Christian theology with its belief thaChristian Id
Anglo-Saxon,Anglo-Saxon, CelAnglo-Saxon, Celtic, ScanAnglo-Saxon, Celtic, Scandinavian, Germanic, and related peoples (oft
thethe direct racial descendantsthe direct racial descendants of the tribethe direct racial descendants of the tribes of Israel and
thethe true identity of the Jews. As such direct descendants, Christian Identity fthe true identity of the Jews. As such direc
be God s Chosen People, the heirs of all God s biblical promises to Abraham and his progeny.

TheThe ten lost tribes The ten lost tribes of IsraeThe ten lost tribes of Israel, the former northern kingdom, are sharply
ancientancient southern kingdom centered around ancient southern kingdom centered around Jerusalemancient southern kingdo
somesome Levites. Christian Identity sees Israel first of all as asome Levites. Christian Identity sees Israel first of all as a
BritainBritain andBritain and the Britain and the United States possess what God decreed Israel was to possess, and are doin
waswas to do. Christian Identity makes a sharp distinction between present dwas to do. Christian Identity makes a sh
Israelites) and present day Jews (Judah).

TheThe New Covenant first mentioned by the prophet Jeremiah was made with Israel, and Jesus Christ
camecame to confirm that covenant and hence to redeem Iscame to confirm that covenant and hence to redeem Israel.
betweenbetween Israel and God that was broken at between Israel and God that was broken at the time just pribetween Israel
Kings 17.

ChristianChristian Identity s roots come from its reading of *GGenesiGenesis.* Identity teaches that God s first creation
producedproduced the beasts of the field or mud people along with the other soulless animals and produced the beasts o
TheseThese beasts lived outside thThese beasts lived outside the GarThese beasts lived outside the Garden of Eden. Th
common with beasts than men.

GodGod then created whitGod then created white Adam inGod then created white Adam in his own image. Adam was n
EveEve was thereafter created from one of Adam s ribs.Eve was thereafter created from one of Adam s ribs. SinEve was
from from scratch like Adam, females must be subordinate to males. The true from scratch like Adam, females must be
patriarchs and those Godpatriarchs and those God called his Chosen People, are the people of Western Europe. The people know
todaytoday as Jews are actually an Asian race, the today as Jews are actually an Asian race, the Khazars (Ashktoday a
SatanSatan (the serpent) which was planted in Eve s womb when she was seduced by Satan (who waSatan (the serpent) which
asas a white man) and the Forbidden Fruit in the Garden of Eden. (Jewish Talmud, *YebamotYebamoth* 1 103a-103b, the
serpent copulated with Eve &)

EveEve first gave birth to Cain, the spawn of Satan, and then Adam s white son Abel. Cain, inEve first gave birth to C
firstfirst effort to eliminatefirst effort to eliminate whites, slfirst effort to eliminate whites, slew Abel after God rejected Cain s
set a mark upon Cain so that no one would kill him.

CainCain Cain theCain then ran away to live and inter-breed with the subhuman non-whites. Some blacks and other non-
whiteswhites are descenwhites are descendantwhites are descendants of the seed of Satan through Cain. Eve then gave birth
Seth, thereby ensuring survival ofGod s white race.

TheThe heirs of Satan and Cain created Baal, which Freemen use as an interchangeable description for the
currentcurrent govemment. Thus, all who serve as government employees are deemcurrent government. Thus, all who serv
mixing prophets of Baal. *See Numbers* 25:1-18, and *Baal Worship and the Phineas Priesthood*, *infra*.[16]

TheThe direThe direct descendants of Cain, the people called Jews today, crucified Jesus. Throughout the histThe direct d
ofof of humanity, the descendants of Satan/Cain have attempted to eradicate the progeny of Adam. Tof humanity, the descendar
aa history of this struggle. The Revelation to John, or the Apocalypse, is the pra history of this struggle. The Revelation to J
this struggle between whites (good) and evil (Jews, Blacks, minorities, Roman Catholics).

AccorAccordingAccording to ChrisAccording to Christian Identity, the white race is biblical Israel. Isaac s white sons (S
thethe Caucasus Mountains hundreds of years before the birth of Jthe Caucasus Mountains hundreds of years before th
formingforming British Israel, where the Chosen People eventually received God s Magna Carta. This

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16 Montana Freemen LeRoy Schweitzer s Common Law course materials give clear direction on what to do about the prophets of Baal. Seize the prophets of Baal; let not one of them escape &and kill them there! &Prophets of Baal represent our so-called congress and/or state legislators &Satans of today, creating and passing manmade laws, regulations, codes, rules and polices, under color of law &

Once the modern-day Satans are removed, Schweitzer taught that a de jure government must be established pursuant to the Holy Scriptures. This de jure government was ordered by God, and was therefore superior to state or federal governments, which are termed foreign governments.

These de jure governments would constitute a Trinity of government as follows the national branch (God) would be headed by the supreme judiciary branch; the state government (Son) would be headed by the executive branch; and the county government (Holy Spirit) would be headed by the legislative branch.

migrationmigration to the British Isles occurred around 975 B.C., when the ten northern tribes of migration to the British Isles oc andand taken into captiviand taken into captivitand taken into captivity by the Assyrians. Two of the ten tribes, Ephraim and M intactintact through the Caucasus Mountains into northwestern Europe. Ephraim was to become aintact through the Caucasus nations the British Commonwealth.

TheThe second son of Joseph, Manasseh, was to become a great nation the UnitedThe second son of Joseph, Manas teachesteaches that the Manasseh tribe crossed the Atlantic aboard the Mayflower to America. Inteaches that the Manasseh tr gavegave them such sacred docugave them such sacred documengave them such sacred documents as the Declaration of Ind Rights.Rights. Thus, the unitRights. Thus, the united StaRights. Thus, the united States of America is the holy country of the H settledsettled it are entitled to the country thsettled it are entitled to the country through divisettled it are entitled to the countr fathersfathers are considered sacred and stand in continuity with the covenant ofathers are considered sacred and stand in conti respondrespond to this highrespond to this higher law andrespond to this higher law and morality as defined in the Bible and writings of our founding fathers.

InherentInherent in Identity thInherent in Identity thought is a dualiInherent in Identity thought is a dualism. A mytholo Israel,Israel, the highest expression of good, must also construct an evil. Israel, the highest expression of good, must also constr formform of the faform of the false children of Israel what we call Judaism. As the Assyrians were transporting the NNorthernNorthern tribes of Israel in the eighth century B.C., the Southern tribes of Judah were conquered byNorthern tribes BabyloniansBabylonians and transported into exile. It is during this period that the Identity movement seeBabylonians and trans separatingseparating itself from its Old Testament backgrounseparating itself from its Old Testament background anseparatin JuJudahJudah fell under the influence of pagan beliefs and were introduced to the black magic of Satan. ThJudah fell und productproduct of thisproduct of this period is the Babylonian Talmud, one of the central documents of the Jewish religion apr the foundation of Rabbinical Judaism.

InIn addition, the people of Judea fell into even greater desertion of their faith.In addition, the people of Judea fell into benevolentbenevolent King Cyrus and the Persians, the people obenevolent King Cyrus and the Persians, the people of Jud rebuildrebuild the Holy Temple of Solomon. During this period, therebuild the Holy Temple of Solomon. During this period, with the Edomites (Africans) and began to take on the dark features of the native Africans.

AllAll people not of NortAll people not of Northern EurAll people not of Northern European extraction are lumped subhumanssubhumans called mud people. When the people subhumans called mud people. When the people of thsub people, they committed a crime against God by having intercourse with beasts. *Leviticus* 20:15-16.

InIn order for the second coming of Christ to occur,In order for the second coming of Christ to occur, God s laIn order fo aa great batta great battle between goa great battle between good and evil, Armageddon. In this battle, the forces o Israelites will Israelites will b Israelites will be pitted aga Israelites will be pitted against the armies of Satan, re governgovernmengovernment.government. Identity followers will wage an all-out war against ZOG, race traitors, and anyone e standsstands in the way of their effort to establish a Christian Identity goverstands in the way of their effort to establish a Chr battlebattle is close at hand, Identity adherents advocate keeping a well-sbattle is close at hand, Identity adherents advocat survival gear.

JustJust as with tJust as with the earlJust as with the earlier nativist movement, a shift occurred from a religious conce racialracial one. It is the consracial one. It is the construction oracial one. It is the construction of evil in starkly racial t personperson recognizes his or her identity as a member of the Nation of Israelperson recognizes his or her identity as a me actact in a manner consistent with this ideology. Inact in a manner consistent with this ideology. In the apocact in a ma biblically destined to come, the Identity movement offers salvation. A salvation by race alone.

IdentityIdentity (which rejects rapture) also condemns the Rapture Hoax as being sponsored by state supportedsupported (those churches rsupported (those churches receivsupported (those churches receiving tax-free sta marshmallow marshmallow Christianity into a false s marshmallow Christianity into a false sense of sec marshmallow C fromfrom having actifrom having active concerfrom having active concern about the immediacy and even the necessity of the imp thisthis sense of necessitythis sense of necessity that this sense of necessity that pushes the Identity movement into viol governmentgovernment to pgovernment to precipitate a rgovernment to precipitate a race war. Since there is no rapture, Id fulfilled in their midst because evidence of the Tribulation is so clear.

TheseThese are theThese are the end-These are the end-times and the signs are everywhere apparent to those who have WhileWhile tWhile the thrWhile the threat from Jews, minorities, gays, etc. is very real to Identity believers, the greatest thr

fromfrom city-living white Christians and do-gooders who have fought for the rights of these groups. from city-living white whowho have succumbed to Judeo-Christianity are beingwho have succumbed to Judeo-Christianity are being led bwh blindness of the threat that is posed by a Satanic conspiracy to end the white race.

TheThe Jesus oThe Jesus of the IdentiThe Jesus of the Identity faith is a member of the House of David and of the true Nat unitedunited States of America. united States of America. Ounited States of America. One must remember that Jesus is distin extremist,extremist, a paramilitarist, a racist, and a Jeextremist, a paramilitarist, a racist, and a Jew-hater whose onextremist, a Nation of Israel. *Matthew* 15:24.

TheThe responsibility for the salvation oThe responsibility for the salvation of tThe responsibility for the salvation of the strugglestruggle to endure and overcome the Tribulation. Identity gospel teaches that those who overcome evil and survivesurvive Rahowsurvive Rahowa (tsurvive Rahowa (the racial holy war) will be the Elect of the new Kingdom of God. T soldier soldier saviors who have pr soldier saviors who have prepared f soldier saviors who have prepared for the Tr sstockpilingstockpiling weapons and supplies, and educating themselves regarding their identity and its ensuing responsibility. As Identity Pastor Richard Butler preached from his pulpit in Hayden Lake

> TheThe white youth of this nation shall utilize everThe white youth of this nation shall utilize every method aThe toto neutralize and, quto neutralize and, quite poto neutralize and, quite possibly, engage in the wholesale extern non-Aryannon-Aryan pnon-Aryan peoples fnon-Aryan peoples from the face of the North American continent. Men children, without appeal, who are of non-Aryan blood shall be terminated or expelled.

RichardRichard Butler, quoted in Simon WincheRichard Butler, quoted in Simon Winchester anRichard Butler, quoted i Tense 14: no. 4, May/June, 1987, at 10.

Life sLife s complexities are rendered negligible within thLife s complexities are rendered negligible within this ideolog controlledcontrolled and manipulated by this hidden and powcontrolled and manipulated by this hidden and powerfucontrol ofof the Bof the Bible of the Bible and the coming Battle of Armageddon between good and evil as described in *Revelat* vvirtuallyvirtually devirtually demands a prompt and holy response. Anyone, regardless of intellect, can grasp this simple explanation. That is the appeal of the Identity movement.

Baal Worship and the Phinehas Priesthood

TheThe Priests of Phinehas (also spelThe Priests of Phinehas (also spelledThe Priests of Phinehas (also spelled Phinea veryvery radical fringvery radical fringe of tvery radical fringe of the movement. The priesthood group is highly fanatical, e eveneven beyond the wildeseven beyond the wildest tenets oeven beyond the wildest tenets of Identity. The Priests especially may well be involved in bombings of abortion clinics and black churches.

TheThe most vile of all evils to a Phinehas Priest is to be bioloThe most vile of all evils to a Phinehas Priest is to b (who(who alone are the true Israelites) mixing bloodli(who alone are the true Israelites) mixing bloodlines with(w copulation.copulation. Priests of Phinehas bcopulation. Priests of Phinehas believe thatcopulation. Priests of Phineha stopping.

TheThe name for the brotherhood comes from the Old Testament in *Numbers* 2 25:1-18. 25:1-18. Moabites and Midianites[17] worshipped their worshipped their pagan worshipped their pagan god Baal.[18] Women from these tribes offered th menmen ofmen of Israel. Along with the pleasures, the women strongly influenced, if not required tmen of Israel. Alon participateparticipate in their evil worship of Baal of Peor.[19] They committed open acts of phys They committed open acts proof proof of t proof of their allegiance to Baal as required by that god. For their obscene open acts and worship of Baal, bothboth carnal and spiritual whoredom, God severely punished Israel for being easily seduced into leaving their spiritual allegiance to Yahweh to adopt the sensual pagan religion of Baal.

AnAn Israelite priest named Phinehas, the son An Israelite priest named Phinehas, the son of Eleazar, An Israelite priest ofof God from fof God from further plague byof God from further plague by driving a spear with one mighty thrust throug membermember of the tribe and at the same time through the belly of a Midianite wommember of the tribe and at the copulcopulaticopulatingcopulating in their tent after purposely fornicating at the door of the tabernacle in full view of Moses an thethe whole Israelitethe whole Israelite commuthe whole Israelite community. Phinehas act resulted in God stopping Israelites, but only after 24,000 had died through battles with other clans.

GodGod was pleased wGod was pleased with Phinehas zeal and told Moses of this good act. God promised an everlastin priesthood for Phinehas and his descendents.

PhinehasPhinehas Priests bePhinehas Priests believe that the Midianite woman killed by Phinehas was black because the MidiMidianiteMidianite to them Midianite to them is a code-word for midnight (and dark skin). And they believe that th resresponsiresponsibilityresponsibility for cleansing the races by killing those who mix races. The modern Priests of Phineh organization is the heir to that covenant.

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17 Lot, Abraham s nephew, impregnated his eldest daughter who gave birth to Moab (from my father) and his descendants the Moabites. *Genesis* 19:37.

Midian was one son by Abraham and Keturah. *Genesis* 25:1-2. Midian s descendants, the Midianites (Madianites), were a nomadic tribe who moved their flocks from Southern Arabia to Egypt and the Dead Sea. (Moses sought refuge with the Midianites when he was fleeing from Egypt, and ultimately took a Midian wife, Zipporah. *Exodus* 2:15-22).

Shortly before Israel s final advance for Palestine, the Moabites had been deprived of some of their territory. Moab s king, Balak feared and hated the Israelites because of their numbers and Israel s recent victory over the Amorites. So, Balak contacted the elders of Midian to form a temporary alliance against the Israelites. Balak hired Balaam to curse the Hebrew tribes. Balaam failed in his attempts, and the expected curses were divinely changed into blessings. *Numbers* 22-24.

After Balaam s failed attempts, Balak developed a successful plan to use the daughters of Moab and Midian to entice the Israelite men to participate in the obscene worship of Baal. *Numbers* 25.

18 Baal (Hebrew Ba al), or the plural Baalim, is a word which belongs to the ancient Semitic peoples, and primarily means lord or owner. So in Hebrew a man is styled baal of a house, of a field, of cattle, of wealth, or even of a wife.

Baal was also used to describe innumerable ancient local deities controlling fertility of the soil and the forces of nature, and often was discussed in relationship to geographic locations such as Baal of Tyre, Baal of Harran, Baal of Tarsus, or Ball of Lebanon. Since the various baals were not everywhere conceived as identical, they may not be regarded as local variations of the same deity. A general belief existed, though, that every tract of ground owed its productivity to a supernatural being, or baal, that dwelt there.

Worship practices included burning of incense and perfumes, consumption of libations, sacrifices of oxen and other animals, and perhaps not infrequently children of both sexes were burned in sacrifice to Baal. In several shrines, long trains of priests clad in special attire performed the sacred function of shouting to Baal, dancing around the alter, and in their frenzied excitement cut themselves with knives until they were all covered with blood. In the meantime, lay worshippers prayed, kneeled, and paid their homage by kissing images or symbols of Baal.

At several shrines, in honor to Baal (as the male of reproduction) and his mate, the Canaanite goddess Asherah, worship demanded public copulation and prostitution at the alter with much sensuality to ensure fertility of the land for crops, fruit and cattle. Sacred wooden poles (asherot) were erected in Asherah s honor, along with the erection of stone pillars (masseb ot) in honor of Baal. Both were placed near the alter in a Canaanite shrine. *See Exodus* 34:13 ; *Judges* 6:25,28.

Sources: *Baal: The Pagan God of Fertility* (visited June 5, 1999) <http://giraffe.rmplc.co.uk/eduweb/sites/sbs777/snotes/notel112.html>; *The Catholic Encyclopedia Baal, Ballim* (visited June 5, 1999) <http://www.knight.org/advent/cathen/ 02175a.htm>; JOHN R. HINNELLS, A NEW DICTIONARY OF RELIGIONS (Penguin Books Ltd. 1995), at 37-38, 381-82.

19 Baal-peor (or Beelphegor or variations thereof) was the baal of Mt. Phogor, or Peor, a mountain of Moab. Baal-peor was the god of the fertility of the soil and the increase of the flocks. *The Catholic Encyclopedia Beelphegor* (visited June 5, 1999) <http://www.Knight.org/advent/cathen/023886b.htm>.

TheThe Priests defense for their taking violent The Priests defense for their taking violent action aThe Priests
governmentgovernment refuses to stop is tgovernment refuses to stop is that being tgovernment refuses to stop is that being the p
God-givenGod-given right to violently act as did Phinehas agaGod-given right to violently act as did Phinehas againstGod-gi
worthy of judgment.

WWhenWhen the civil authority fails to execute righteous judgment that is, uphold biblical lWhen the civil authority f
givengiven these Priests the authority to execute that judgmegiven these Priests the authority to execute that judgment, i.e. th
unlawful.unlawful. Thounlawful. Though not advocating outright taking of the lives of the ungodly, their writings strongly imp
that such action by select private individuals is authorized directly by God.

TheThe Priesthood is divThe Priesthood is dividThe Priesthood is divided into two schools of thought those who believe
oneone to becomeone to become a member; and those who believe that only men of Phinehas lineage from Aaron maone
becomebecome such a priest. Lineage followers concede that there is no way for onebecome such a priest. Lineage follow
Aaron,Aaron, but such a minor problem does not seem to matter. UAaron, but such a minor problem does not seem to ma
upon sanction of death if one attempts to leave the brotherhood.

TheThe Phinehas Priest movement is apparently of the PhinehasThe Phinehas Priest movement is apparently of
priesthood,priesthood, the hpriesthood, the hipriesthood, the highest order in the Phinehas brotherhood, a member h
Phinehas killPhinehas kill a woman or man who indulged in race mixing, homosexualityPhinehas kill a woman or man
list of mortal sins.

WhetherWhether the story of Phinehas proves as Phinehas Priests claim thaWhether the story of Phinehas proves as Phi
totto act unlto act unlawfully by the sword is certainly subject to debate. Mainstream faiths believe that Phinehasto act unlawfu
notnot acting unlawfully, but rather was acting lawfully as a member of a group specifnot acting unlawfully, but rather was
Moses to kill the transgressors.

WhiWhileWhile While many in the Christian Identity movement reject the Phinehas Priesthood,[20] most believe that
BaalBaal worship is rampant in our sex crazed wBaal worship is rampant in our sex crazed world. IdentitBaal worship
ttoto make any effort to curb various biblical sins of morality[21] (or for government leader (or for government leaders to ac
involvedinvolved in such activities) for which Israel was punished duinvolved in such activities) for which Israel was punished
aa severe divine punishment. And conspiraa severe divine punishment. And conspiracy followa severe divine punis
government that must be rejected.

SuchSuch a debate will be left foSuch a debate will be left for anotSuch a debate will be left for another forum. Be assu
totto save Christian Israel, they are entitlto save Christian Israel, they are entitled to mto save Christian Israel, they are entitled
who commit blood-mixing with Anglo-Saxons.

The Washington Monument?

IdentityIdentity followers offer the Washington Monument as proof that our governmIdentity followers offer the Washing
by Rome (i.e. Roman Catholics), who are the Antichrist s agents. Here is their theory

> RomanRoman law overlays the land and is the law ofRoman law overlays the land and is the law of the
> documentsdocuments of God s law and of the founding fathers. Thdocuments of God s law and of the found
> punctuatedpunctuated by the erpunctuated by the erection of the obelisk in Washington s name, a phallic obelisk th
> copiescopies the one in St. Peter s Square, Rome. Thecopies the one in St. Peter s Square, Rome. The Wacopies
> byby Rome, and represents the shadow of the Egyptian sun god Ra. The obelisby Rome, and represents the shadow o
> thethe the circle, St. Peter s Square, which is not a circle, to signify intercourse and otthe circle, St. Peter s S

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20 For an interesting Christian Identity strong response against the Phinehas Priesthood, *see* Evangelist Ted R. Weiland, *The Phinehas Hoods A Biblical Examination of Unscriptural Vigilantism* (visited June 5, 1999) <http://www.missiontoisrael.org/ Phinehas-Hoods.html>. The article argues that if the sin God punished in *Numbers* 25 was race-mixing, then Moses promoted race-mixing since he spared the Midianite virgins for the Israelite men as permitted by *Deuteronomy* 21:10-14. *Numbers* 31:17-18.

21 Baal-Peor sexual debauchery include adultery (sexual acts with a person other than your spouse, *Exodus* 20:14, *Leviticus* 20:10, *Proverbs* 6:32, *Jeremiah* 23:14), fornication/whoredom (sexual acts between unmarried persons for pleasure or profit, *Leviticus* 19:29, 1 *Corinthians* 6:18), sexual acts between relatives (*Deuteronomy* 27:22-23, *Leviticus* 20:12), homosexuality (*Leviticus* 20:13, *Deuteronomy* 23:17, *Genesis* 13:13, *Genesis* 18:20-21, *Romans* 1:18-32), and bestiality (*Exodus* 22:19, *Leviticus* 18:23, *Leviticus* 20:16, *Deuteronomy* 27:21).

abominableabominable actions by demonic gods with the earth. The resulting secret religious system isis the Beastly govemment, which iis the Beastly government, which is a shadowis the Beastly govemment, which is a shedding of blood of the Christians.

IdentityIdentity followers also argueIdentity followers also argue that the mIdentity followers also argue that the monume one s erected beside the alter of Baal. *See* the discussion of Baal-Peor in the previous section.

ForFor more information on Rome s For more information on Rome s plFor more information on Rome s place in this *What is a Christian Appellation?, infra*.

We the People are not Racists!

AfterAfter obserAfter observing thAfter observing the Identity interpretation of biblical creationism, it is easy to see why the adherentsadherents have a hard time believing that they are racists. After adherents have a hard time believing that the chickens?chickens? Can you be called a racist for despising Satan achickens? Can you be called a racist for despising Satan a ififf the group you arif the group you are accused of sif the group you are accused of subjugating is not even human? Of co logicallogical end opens the door to far more heinous transgression and violence than mere racism, including murder and genocide through ethic cleansing.

THE TURNER DIARIES

InIn 1978, the MEIN KAMPF of a new generat of a new generation was publ of a new generation was published u Alliance,Alliance, a fusion of KKK and Nazi organizations that evolved out of George WallacAlliance, a fusion of KK campcampaign campaign of 1972campaign of 1972. THE TURNER DIARIES (Arlington: National Vanguard Books, 1978), written MacDonaldMacDonald a.k.a. William Pierce (director of the National Alliance) is an apocalMacDonald a.k.a. William Pierce onlyonly details the coming race war but also lays out the strategy and mechanisms only details the coming race war but also la Identity teachings. Pierce described his book as a blueprint, a Handbook for White Victory.

THEHE TURNEURNER DIARIES describes the struggle of Earl Turner against the jewish-liberal-democrat describes the plague plague that has turned Ameriplague that has turned America inplague that has turned America into a swarming ho publicpublic hapublic has been disarmed apublic has been disarmed as a result of gun control legislation. They are controlled by ofteoftenoften Black police known as Human Rights Councils. Rape laws have been ruled discriminaoften Black police k sexualsexual debauchery has reached a level that would sexual debauchery has reached a level that would havesexual d TheThe queers, the fetishists, the mixed-race couples, and the exhibitionists are parading theThe queers, the fetishists, the m public. public. In this violent andpublic. In this violent and racist novel, Tpublic. In this violent and racist novel, Turner elite secret society, the Order) wage war against the government of the United States.

TheThe book meticulouThe book meticulously detaThe book meticulously details a series of terrorist bombi assassinations,assassinations, armed car and bank robberies, andassassinations, armed car and bank robberies, and wholesale waningwaning years of the twewaning years of the twentiwaning years of the twentieth century. In the final cataclysmic st assaultassaultsassaults are launcassaults are launched upon a number of metropolitan areas so as to secure control of the United the Organization, thereby establishing a political order based on the ethnic cleansing of the population.

InIn the end, the Great Revolution is accomplished in &thIn the end, the Great Revolution is accomplished in &th thethe Old Erathe Old Era just 110 years after the birth of the Great One [Adolph Hitler] that the dream of a Whthe Old world finally became a certainty.

AlthougAlthoughAlthough ficAlthough fiction, THE TURNER DIARIES became the blueprint for a series of paramilita origoriginatingoriginating out of Identity encampments throughout the United States in the middle of the 1originating out of Order,Order, an organization directly inspireOrder, an organization directly inspired by THE TURNER DIARIES, engaged robberiesrobberies (obtaining $4 million from armored carobberies (obtaining $4 million from armored cars) anrobberies (obta OrderOrder was led by Robert Jay Matthews, who dOrder was led by Robert Jay Matthews, who died in a 1984 fOrder standoffstandoff on Whidbey Island near Seattle. standoff on Whidbey Island near Seattle. Officials hstandoff on Whidbey some of the money.

GordanGordan Kahl, whose story was discussed pGordan Kahl, whose story was discussed previGordan Kahl, whose sto
McVeighMcVeigh was in possession of excerpts from the book at the time of his arrest for the Oklahoma City bombing (which was patterned on a similar bombing depicted in THE TURNER DIARIES).

> TheThe first thing I saw in the moonlight was the plaThe first thing I saw in the moonlight was the placaThe f
> letters:letters: I defiled my race. Above the letters: I defiled my race. Above the placard leeletters: I defiled my
> ofof a young woman, her eyes wide open and bulging, her mouth agape. Finally I could
> makemake out the thin, vertical line of rope disappearing into the branches above. Apparently
> thethe rope had slipped a bit or the bthe rope had slipped a bit or the branch to which the rope had slipped
> woman swoman s feet were resting on the pavement, given the uncanny appearwoman s feet were resting on the pa
> standing upright of its own volition.
>
> II shuddered and quickly went on my way. There are many thousands of hanging
> femalefemale corpses like that in this city tonight, all wearing identical placards around their
> necks.necks. They are the white women who were married to or living with Blacks, with Jews,
> or with other non-white males.

WILLIAMILLIAM PIERCE, THE TURNER DIARIES (Arlington: National Vanguar(Arlington: National Vanguard Book(Arlington:
RIDGEWAY, BLOOD IN THE FACE (New York: Thunder s Mouth Press, 1995), at 12.

TheThe most recent book by the author of THE TURNER DIIARIARIES, entitled HUNTER (Arlington: National VanguardVanguard Books 1989), depicts the assassinations of interracial couples, Jews and pol1989), depicts the assassinatio
whatwhat one man can do before the final solution what one man can do before the final solution of THE TURNER DIARIES.
Paul Franklin, convicted of the sniper murders of at least two black men.

> OOscarOscar Yeager, a former combat pilot in Vietnam, now a comfortable yuppie working as
> aa defa defense department consultant in the Virginia suburbs of the nation s capital, faces a defense department consu
> ququestion.question. He surveys the race mixing, the open homosexuality, the growing influence of
> drugs,drugs, the darkening complexion of the populatiodrugs, the darkening complexion of the population as the to
> swells.swells. He finds that for him, there is no choice at all: hswells. He finds that for him, there is no choice at
> whichwhich afflicts America in the 19which afflicts America in the 1990 swhich afflicts America in the 1990 s: his co
> it is inconceivable.

RecognizingRecognizing the inevitability of loss in a military confrontation with the United States governRecognizing the in
newnew theory of war in HUNTER has been advance has been advanced in has been advanced in recognition of decentralized terrorism and the relative inability of the government to respond to such a threat.

OnOn the 100th anniversary of Adolf Hitler sOn the 100th anniversary of Adolf Hitler s birOn the 100th anniversary of
leader was the greatest man of our era.

ItIt is clear that radical IdentitIt is clear that radical Identity followers It is clear that radical Identity followers thirst for ri
limitless.limitless. They are well organized and heavily armed, and are fully committelimitless. They are well organized a
already been declared. They will continue to be a deadly force in America for many years to come.

Christian Identity Martyrdom

WhileWhile maWhile many of the vioWhile many of the violent Identity leaders were arrested in the 1980 s, the ideologi
notnot decreased Identity s appeal to numbers of dispossessed and disenchanted young penot decreased Identity s appeal
outlet for their frustrated ambitions.

IdentityIdentity thrives on martyrs, and the death or imprisonmenIdentity thrives on martyrs, and the death or impri
biblicalbiblical message among an audience who already feels besieged and can easily explain polbiblical message among an a
within the contexts of conspiracy theory.

NotNot surprisingly, Identity floNot surprisingly, Identity flourishes iNot surprisingly, Identity flourishes in prison where r
wherewhere Identity ideology serves as a link between the prisoners and those who run the prisons. As a black prisonerprisoner from Lucasvilprisoner from Lucasville Pprisoner from Lucasville Prison in Ohio described the situation follo
therethere is straight-up politthere is straight-up politithere is straight-up politics on the white side, the Aryans control everythi

ththethe best jobs. What was seen as a punishment for sedition is producing a whole new generation othe best jobs. What was insurrectionaries.

AsAs discusAs discussedAs discussed in the Introduction, the Identity movement has no shortage of martyrs, beginning v GordonGordon Kahl, Randy Weaver s famiGordon Kahl, Randy Weaver s familGordon Kahl, Randy Weaver s family, and the thatthat the entire Waco Holocaust was precipitated by the Anti-Defamation Lethat the entire Waco Holocaust was p againstagainst the Anglo-Israelite Davidians because of their Identity bagainst the Anglo-Israelite Davidians because of the furtherfurther the agenda of a one world government and the elimination of Christianity. Their prfurther the agenda of a one w significancesignificance on the fact that the CS gas used againsignificance on the fact that the CS gas used againssignifi military and has been used by the Israelis against Palestinian refugees.

Photographs of the seventeen childre Photographs of the seventeen children Photographs of the seventeen children who die routinelyroutinely printed as proof of this uniquely American routinely printed as proof of this uniquely American tragedy TribulationTribulation than the murder of Identity children at the hands of the sataniTribulation than the murder of Ide oftenoften conclude by asserting that Identity followers are not some volunteer force in God s Christian Aoften conclude by a but were chosen (or drafted) by God to follow His will and teachings.

VirVirtVirtuallyVirtually any action taken by our government is seen as proof of the accuracy of Identity teachings., andand martyrs certainly inspire othand martyrs certainly inspire othersand martyrs certainly inspire others in their world, whichwhich are more than williwhich are more than willing which are more than willing to use violence. While many Identity f momentmoment moment when they will be called upon to become a warrior and strike a blow against Satan s governmoment w our world should not underestimate the powerful impact of Identity teachings on these believers.

THE COMMON LAW AND ITS COURTS

> Decency,Decency, security, and liberty alike demand that government officials shall be subjectedsubjected subjected to the sasubjected to the same rules of conduct that are commands to the citizen. In a gove ofof laws, existence of the government will be imperiled if it fails to observe of laws, existence of the governn scrupulously.scrupulously. Our government is the potent, the omniprescrupulously. Our government is the potent, th itit teaches the whole people by its example. Crime is contagious. it teaches the whole people by its example becomesbecomes a lawbreaker, it breeds contempt for law; it invites every man to becombecomes a lawbreaker, it bre untounto himself; it invites anarchy. To declare that unto himself; it invites anarchy. To declare that in tunto himse thethe end justifies the means to declare that the government may commthe end justifies the means to declare tha totto secure the conviction of a private criminal would brto secure the conviction of a private criminal would br that pernicious doctrine this court should resolutely set its face.

Olmstead v. United States, 277 U.S. 438, 48 S.Ct. 564, 575, 72 L.Ed. 944 (1928) (Brandeis, J., dissenting).

> AtAt the onset we note At the onset we note our belief thAt the onset we note our belief that the common de beforebefore us is Terpstra s failure to grasp the legal principles germanebefore us is Terpstra s failure to gras Terpstra Terpstra sTerpstra s brief anTerpstra s brief and reply brief reflect the careful typing effort put into them, but areare sound legal arguments supportedare sound legal arguments supported by persuare sound legal arguments extractsextracts a sentence or two from a case containing extracts a sentence or two from a case containing languag tthethe very grave danger of misstating the law or reaching inappropriate legal concluthe very grave danger of missta AA sinceA sincere subjective belief by a party as to the correctness of his argument is not enA sincere subjective belie totto ensure success when, as hto ensure success when, as here, the to ensure success when, as here, the arguments are l llalaw.law. Terpstra s lack of trained legal counsel surely contributed to the substantive and procedural flaws evident in his briefs.

TerpstraTerpstra v. Farmers and Merchants Bank, 448483 N.E.2d 749 (Ind.App.3 Dist. 1985) (Terpstra filed numerous CommonCommon Common Law liens against real property owners and bank. Owners and bank brought equitable actCommon removeremove cloud from title. Terpstra claimed action was at law, entitling himremove cloud from title. Terpstra claimed facts.facts. Summary judgment was granted, and Tfacts. Summary judgment was granted, and Terfacts. Summary judgment assistance of non-bar association persons.)

America On Trial

TheThe Freemen movement s Common Law cThe Freemen movement s Common Law coThe Freemen movement s watchingwatching people with money get preferential treatment,watching people with money get preferential treatment, while offoff to our overflowing prisons and/or havoff to our overflowing prisons and/or have losoff to our overflowing prisons and/o TheThe Common Law courts that now exist in alThe Common Law courts that now exist in almoThe Common Law courts th forfor one simple reason Common Law proponents claim that their system puts the poor on an equal footing with the monied and the powerful.

WhileWhile our government authorities play catch-up trying to cope with the threat While our government author movement smovement s militias, Common Law courts have surged past the militias as the most influential and rmovement s mil growing element of the Freemen phenomenon.

Sovereign Citizens v. 14th Amendment Citizens

TheThe touchstone of the FreeThe touchstone of the Freemen moThe touchstone of the Freemen movement is the citicitizenscitizens can take certain steps to legally remove themselves from the authority of our governmencitizens can take certai is that if the government will not help, then Sovereign Citizens will simply govern themselves.

ThesTheseThese self-designated Sovereigns claim that their actions are political, but as with many of the movement smovement s beliefs, they armovement s beliefs, they are more rooted in economics. If not, then it is a huge co

majorimajoritymajority of sovereigns owe back taxes, cannot afford to have taxes taken out of their paychecks, have had run-ins with the IRS, and/or are in bankruptcy court.

RuralRural Americans are having trouble making ends meet. If these people did not have to pRural Americans are having t andand federal taxes a and federal taxes a distinctand federal taxes a distinct benefit of becoming a sovereign their limi further.further. Sovereignty is a complicated, contrived argument designed tfurther. Sovereignty is a complicated, contr system that they can no longer financially afford to support.

InIn most instances, tIn most instances, thIn most instances, the movement s sovereignty concept is derived from a hyper-l thethe Constitution. Sovereigns claim that there are two types of citizens described in the foundithe Constitution. document Fourteenth Amendment citizens and natural citizens.

FourteenthFourteenth Amendment citizens are those who received their citizenshipFourteenth Amendment citizens are th shortlyshortly after the Civil War through the Reconstruction Amendmeshortly after the Civil War through the Reconstruction ofof citizenship as second class because people granted citizenship byof citizenship as second class because people granted therefore abide by its rules and regulations, including taxes.

Natural Natural citizens are born in this country, and are Sovereign at birth Natural citizens are born in this country givengiven and unalienable. Sovereigns do given and unalienable. Sovereigns do not need to bgiven and unalienable. S bestowsbestows rights to His people. Sovereigns claim that the federal government s true jurisdbestows rights to His people. S ten-squareten-square mile area around Wasten-square mile area around Washington, D.C.ten-square mile area around Washingt authority only pertains to Fourteenth Amendment citizens.

SovereigntySovereignty disciplesSovereignty disciples say tSovereignty disciples say that most natural citizens have be ststatusstatus by estastatus by establishing a contractual relationship with the government, a status which has converted a Sovereign sSovereign s Natural RigSovereign s Natural Rights intSovereign s Natural Rights into govemment issued Pr contracts to which Freemen refer include

social security numbers and cards

passports

having filed a federal tax return

driver s licenses

vehicle registrations and tags

voter registrations

professional licenses (attorney, doctor, architect, engineer, etc.)

birth certificates

being a director of a corporation

govemment marriage licenses

having children in a government school

How to Become a Sovereign

ButBut naturalBut natural cBut natural citizens can be unduped. Freemen teach that people can reclaim thei sovereigntysovereignty status by rescinding all their illegal (often termed adhesion) 14th Amendment contracts withwith thewith the government. with the government. Freemen recognize that those accepting 14th Amendment citizenship and boundbound by our government s restrictions on that citizenship. So, those wishing to revert tbound by our government s res statusstatus must renounce their United States citizenship (federal citizestatus must renounce their United States citizenship (AmendAmendmentAmendment adhesion contracts, including rescinding one s social security number, driver s license, and the other 14th Amendment adhesion contracts discussed previously.

AA Declaration of Independence oA Declaration of Independence or AfA Declaration of Independence or Affidavit of withwith the county recorder (auditowith the county recorder (auditor), and sent twith the county recorder (auditor), and sent

status.status. Once alstatus. Once all 14thstatus. Once all 14th Amendment adhesion contracts are rescinded and notice of t preparedprepared and servprepared and served on the prprepared and served on the proper parties, and so long as you do not res onlyonly place seen by Freemen as exclusive federal citizenship), a Common Law couronly place seen by Freemen as exclusi recognizing your sovereign citizenship.

If you are male, and white!

What is the Common Law?

One sOne s attempt to define the Common Law of their system is far frOne s attempt to define the Common Law of their movmovementmovement havemovement have developed their own local versions of the Common Law. Some see it as only th Others see a somewhat expanded view. We will attempt to describe it based on our Freemen experiences.

FreemenFreemen call their law Common Law and their courts CFreemen call their law Common Law and their cou Court. Court. Common Law is to be distinguished from statutory law, justCourt. Common Law is to be distinguished from thethe term common law, although usualthe term common law, although usually the term common law, although us world radically diverges.

CommonCommon Law not only trumps statutory law (at leCommon Law not only trumps statutory law (at least forC givgivengiven law in contrast with statutory manmade law which is not. As Freemen put it, in their unigiven law in contrast with AmericaAmerica (a group of sovereign States banded together) the Law (Common Law) prevAmerica (a group of sovereign St otherother United States (one entity with 50 political subdivisions called states), whother United States (one entity with SoverSovereignSovereign Citizens, is a Legislative Democracy with Legislative Courts that apply Statutory Law, Rules Sovereign Regulations.

TheThe Common Law is law pursuant to the Word of God, and Freemen s legal The Common Law is law pursuant to the withwith biblical rwith biblical referenwith biblical references and quotations. While Freemen consult the Bible as often as they DICTIONARY, the Bible is not, howev the Bible is not, however, the only s the Bible is not, however, the only source of their claimclaim to be the legitimate followers of the law, a law claim to be the legitimate followers of the law, a law bastardiz they claim adherence to documents we also recognize.

Unfortunately,Unfortunately, the Common Law and its cUnfortunately, the Common Law and its courts reveal Unfortu WhileWhile every system has While every system has weaWhile every system has weaknesses, they are rarely so vividly appar purportspurports to jpurports to judge our Statpurports to judge our State is powerful because it mocks the notion that any law (their courts).

Overlapping Law Theirs and Ours

TheThe precepts their group considers law overlap in part with ours. ThisThe precepts their group considers law overlap recruitingrecruiting efforts since our basic legal documents discussed in anrecruiting efforts since our basic legal documents underlyingunderlying basis for theunderlying basis for theiunderlying basis for their law. The Bill of Rights, for example, is la ourour courts. On the other hand, their group rejects many, if not most,our courts. On the other hand, their group rejects ma most Americans and by our judges.

UnderUnder their law, the income tax is unconsUnder their law, the income tax is unconstituUnder their law, the income citizenship,citizenship, state laws requiring licenses to drive (except for those traveling citizenship, state laws requiring CommerceCommerce Clause) are a violation of their conCommerce Clause) are a violation of their constitCommerce Clause) state court jurisdiction over Sovereign Citizens is invalid.

The Magna Carta

TheThe Magna Carta was the culmination of a protest against The Magna Carta was the culmination of a protest agai usingusing governmental powers for selfish and tyrannical purposes. On June 15, 1215using governmental powers for selfish thethe chartthe charter because the charter because of the threat of armed might by barons. The document announced the rule o kings,kings, and provided thkings, and provided thekings, and provided the foundation upon which the entire structure libertiesliberties wasliberties was built. liberties was built. Freemen see the document as God-inspired, and cite to the last s article

WeWe have granted moreover to all *free free men* of of our *kingdom* for us and our heirs forever allall the liberties wrall the liberties written all the liberties written below, to be had and holden by themselves and their and our heirs.

(Italics added.)

TheThe document is replete with discussion about the rights of free men and theirThe document is replete with discussio statementstatement that any infringement of liberties granted therein shall be invalid and void.statement that any infringement thatthat developed over the centuries due to the Magnathat developed over the centuries due to the Magna Carta is bel inspired by God.

The Declaration of Independence

ThisThis July 4, 1776 rThis July 4, 1776 revolutionaryThis July 4, 1776 revolutionary document is significant in bot references to God as proof of their right to ignore any government that has clearly lost its godly way.

WeWe hold these truths to be selfWe hold these truths to be self-evideWe hold these truths to be self-evident: t endowed,endowed, by their Creator, with certain unalienable rights; thaendowed, by their Creator, with certain u liberty,liberty, and the pursuit of happineliberty, and the pursuit of happiness. Thliberty, and the pursuit of institutedinstituted among men, deriving their just powers from the consent of the governed; *that whenever any form of government becomes destructivewhenever any form of government becomes destructive of these en people to alter or to abolish it, andand to institute aand to institute a new government* &But when a long train ofof abuseof abuses and usurpof abuses and usurpations, pursing invariably the same object, evinces a design to reduce themthem under them under absolutthem under absolute despotism, it is their right, it is their duty, to throw o government, and to provide new guards for their future security. &

(Italics(Italics add(Italics added.) *See* the Appendix, at 24, for a copy of the Declaration of Independence for the thirte the A united States of America. For Freemen, this spelling is vindication of their belief system.

The United States Constitution We the People &

SecondSecond to the Bible, there is no greater iSecond to the Bible, there is no greater influencSecond to the Bible, Constitution.Constitution. As Freemen correctly point out, originally the Constitution. As Freemen correctly point out, origi the people (and God), had no title but simply began We the People.

InIn their united States of America, the Basic Constitution is law, inIn their united States of America, the Basic Con andand and the first ten amendments but little else. Freemen go to great lengths to point out that the Declaration and the first ten IndependenceIndependence and the Constitution were created (Independence and the Constitution were created (thIn People, People, i.e. men, for Preamble People, i.e. men, for Preamble PPeople, i.e. men, for Preamble People. Freem class class or lessor beings [note Christian Identity beliefs about minorities], just as the Bible class or lessor beings [note C discussed,discussed, this second class (federal) citizenship theory is precisely what Freemen claim discussed, this second class the government to minorities with the Civil War Amendments.

TheThe Preamble People s CiThe Preamble People s CitiThe Preamble People s Citizenship was not created nor gr CitizenshiCitizenship Citizenship was won by war with England. This Citizenship existed from the time our government was created; a citizenship which cannot be relinquished or forfeited without the Sovereign Citizen s consent.

ItIt is thisIt is this Basic CoIt is this Basic Constitution that is central to Freemen, as is the division of government in branches.branches. Article III describes the judicial branch and the one suprbranches. Article III describes the judicial bra congressionalcongressional action constitcongressional action constitutcongressional action constitute Article I Legislative Court Court. Indeed, Freemen derive the names for their legitimate courts from the Constitution.

The Constitution of the united States of America, Article III, Section I, states

The The judicial Power of the United States, shall be vested in *one supreme Court,* and in suchsuch inferior Courts as the Congress may from tisuch inferior Courts as the Congress may from time tsuch (emphasis added [by the community])

NoticeNotice that it states one Notice that it states one supreNotice that it states one supreme Court and separate establishestablishedestablished by lestablished by legislative acts of Congress and that those legislatively created Cour

inferiorinferior inferior tinferior to the one supreme Court. The one supreme Court being a Constitutional Court of We the People.

ForFor Freemen, thFor Freemen, their courts areFor Freemen, their courts are the one supreme Court provided for by th trumptrump all othetrump all other coutrump all other courts claiming jurisdiction over Sovereign Freemen. They submit tha SupremeSupreme Court is not the oSupreme Court is not the one sSupreme Court is not the one supreme Court referred to powerpower to create courts inferior to the one supreme Cpower to create courts inferior to the one supreme Court, power clauseclause clause and in Article III denotes for Freemen that the United States Supreme Court of the Judiciaclause and in Art 1789, 1 Stat. 73, is not the one supreme Court of Article III.[22]

FreFreemenFreemen correctly point out that Article VI makes clear that: This Constitution, and the Laws of Freemen corr UnitedUnited States which shall be United States which shall be madUnited States which shall be made in Pursuance there underunder the Authority of the United States, shall be thunder the Authority of the United States, shall be the supreme u statestate shall be bound thereby, any Thing in thstate shall be bound thereby, any Thing in the Constitution ostat notwithstanding. notwithstanding. So, all actions taken by a State onotwithstanding. So, all actions taken by a State or not Citizen, especially after a Common Law court (the one supreme Court) has granted sovereign citizenship.

SinceSince the one supreme Court was already creSince the one supreme Court was already created by Since the one lackedlacked power to create a court with authority over tlacked power to create a court with authority over thlacked po neededneeded to creatneeded to create Congreneeded to create Congress or the President. Freemen conclude, therefore, that t thethe U.S. Supreme Court, and all other legislatively created courts, must be inferior to the one supreme Court,Court, a Freemen court, as discussed by Article III. Freemen accordingly refer to their courts as constitutional courts, and frequently consider themselves to be constitutionalists.[23]

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22 Freemen assert that the U.S. Supreme Court, ordained and established on September 24th, 1789, by an act of Congress when it passed a Judicial Act that created the U.S. Supreme Court, ignored the Constitutional Court provided for in the Constitution.

23 **Constitutional Basis for the Supremacy of the common law jury.** Prior to the war of revolution with England a central government existed which was controlled by the King. The state governments joined together to recreate this form of government to resolve problems arising under the Article of Confederation. The Constitution simply replaced a king with a federal authority. The King was overthrown because he refused to allow the people to be self governing by giving full faith and credit to their common law courts. The Constitution was designed to not only create a central authority but to force this entity to recognize the highest law making body to be a common law jury.

According to the Common Law Court of the United States of America, the following Articles, Sections, lines and Amendments of the Constitution of the government purportedly perform this objective:

1. Article I., Section 9, Clause 2 preserved the right of Habeas Corpus Ad Subjiciendum.
2. Article III., Section 2 made actions at common law when diversity existed in original (but not exclusive) federal subject matter jurisdiction.
3. Article IV, Section 1 stipulated that full faith and credit would be given all common law actions and created the need for rules to enforce these jury decisions.
4. Article IV, Section 4 stipulated that the final rule of law would be a court action.
5. Amendment 1 stipulated that the government may be sued by any individual to redress a grievance.
6. Amendment 2 protected the right of common law (free) states to maintain a militia.
7. Amendment VII, stipulated that common law jury trials are inviolate except for orders of retrial at common law.
8. Amendment IX, protected the rights to the people to change, reorganize and otherwise control their common law.
9. Amendment XI, reaffirmed that the judicial power of the central authority only supplemented common law jury trial by enforcing it's judgements.
10. Amendment XVI, limited the taxing power of the central authority to government controlled states (the several states) and not the free states.

The total effect was to create a central authority that was prosecutable and controlled with actions at common law when a citizen of a free state prosecuted this type of relief. The people (not the individual or the government) when acting as a law making body became the sovereigns in any issue of law or fact.

Source: American Patriot Network, *The Common Law Court of the United States of America* (visited May 13, 1999) <http://www.civil-liberties.com/commonlaw/common.html>.

The Organic Constitution

WithWithinWithin the more radical elements of the Freemen movement, the goal is to return to the orgaWithin the mor Constitution theConstitution the origConstitution the original vConstitution the original version in which blacks, immig seconsecondsecond-classsecond-class citizenship with no right to vote. As discussed in the Christian Identity section, these peo areare believedare believed to be soulless subhumans and/or subservient to white males, a status Freemen argue ware beli intended by our founding fathers and required by the Bible.

Amendments to the Constitution

FreemFreemenFreemen see the Freemen see the Bill of Rights as part of their Common Law, and the remaining Ame Equity Equity Law, a derisive term. The first 10 Amendments are labe Equity Law, a derisive term. The first 10 A AmendmentsAmendments are listed with a date preceded by either the word adopted (11th and 12th AAmendments are listed thethe words took effect (the 13th through the the words took effect (the 13th through the 26ththe words took effe BOOK

> TookTook effect is used aTook effect is used as there is a greTook effect is used as there is a great deal of AmendmentsAmendments (common law vs. equity), also whether these last sixteeAmendments (common law vs. equ legal,legal, how many were ratified correctly, do they create a flegal, how many were ratified correctly, do they create totto the origito the original, etc. For to the original, etc. For further studies a good place to begin is with the articl Utah Supreme Court on the 14th Amendment, 439 P.2d 266-276.

TheThe Utah case referred to, *Dyett v. TurDyett v. Turner,* 439 P439 P.2d 266 (Utah 1968) is a remarkable unanimou opinionopinion in which Justice Ellett of the Utopinion in which Justice Ellett of the Utah opinion in which Justice Ellett of th ConstitutionConstitution was not validlConstitution was not validlyConstitution was not validly adopted and thus is not significantsignificant space in the opinion to discuss why the U.S. Supreme Court has so badly erred in its holdingssignificant sp JusticeJustice ElJustice Ellett reaffirmed his views in a concurring opinion in *State v. Phillips,* 540 P.2d 936, 941-43 (Utah 1975),1975), *majority opinion disavowed, State v. Taylor,* 664 P.2d 439 (Utah 1983). A copy o664 P.2d 439 (Utah 1983). A is in the Appendix, at 25-30.

ForFor Freemen, who frequently cite *Marbury v. Madison,* 5 U.S. (Cr 5 U.S. (Cranch) 137, 17 5 U.S. (Cranch) 137, 177, (Cer(Certainly(Certainly al(Certainly all those who have framed written constitutions contemplate them as forming the fun andand paramount law of thand paramount law of the natiand paramount law of the nation, and, consequently, the theory of e actact of the legislature, repugnant to the constitution, is void.), all Amendmentsact of the legislature, repugnant to the const and must be ignored since they were improperly enacted.

The Civil War Amendments Creation of an Inferior Citizenship

FreemenFreemen make several different arguments concerning the validity of the 13th, 14Freemen make several d Amendments.

FreemenFreemen assert that the AmendmentFreemen assert that the Amendments wFreemen assert that the Am AmendmentsAmendments took effect (not ratified like the BiAmendments took effect (not ratified like the Bill of Ri werewere nevwere never ratified by the appropriate number of States during peacetime, they are unlawful and inwere never r FreemenFreemen argue that President Andrew Johnson encouraged the all-white governmeFreemen argue that President Andrew totto reject the 14th Amendment (privileges and immunities, dto reject the 14th Amendment (privileges and immunities, due pr theythey did. The Reconstruction Congress of 1866 then replaced those Southerthey did. The Reconstruction Congress of rule,rule, and allowed the military States to rejoin the Union only upon their acceptance of the 14th Amendment.Amendment. Since these procedures were not authorized by the Constitution, Freemen assert that the 14th Amendment is void, citing *Marbury v. Madison*.

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24 **Organic Act.** An act of Congress conferring powers of government upon a territory. BLACK S LAW DICTIONARY 1250 (4th ed. 1968).

Organic Law. The fundamental law, or constitution, of a state or nation, written or unwritten; that law or system of laws or principles which defines and establishes the organization of its government. BLACK S LAW DICTIONARY 1251 (4th ed. 1968).

FreemenFreemen claim that the privileges and immunities cFreemen claim that the privileges and immunities clause of inferiinferio inferiorinferior form of citizenship to guarantee its power, federal citizenship, to be contrasted with sovereign, state citizenship,citizenship, as recognized by the originalcitizenship, as recognized by the original (ancitizenship, as recognized by t jurijurisdictionjurisdiction of the federal government and the federal courts. The privileges and immunities clause saysjurisdict

All All person All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

OurOur law explains that this clause was a repudiation ofOur law explains that this clause was a repudiation of the Negro,Negro, free (granted citizenship by a State) or slave, could institute a lawsuit in federal couNegro, free (granted citizenship waswas not a citizen of the United States when the Constitutionwas not a citizen of the United States when the Constitution was ado 393,393, 15 L.Ed. 691 (1857) (suit by Scott for his and his family s freedom a393, 15 L.Ed. 691 (1857) (suit by Scott for his a thethe Athe Amenthe Amendment did not create a federal citizenship because such citizenship was created when the ConstitutionConstitution was enacted. Rather, theConstitution was enacted. Rather, the Amendment onConstitution was enacte in the *Dred Scott* case.

> ItIt is true, every person, and every class and descripIt is true, every person, and every class and description of timetime of the adoption of the Constitution recognized as citizens in the stime of the adoption of the Constit becamebecame also citizens of this new political bbecame also citizens of this new political body [the Unbecame also formedformed by them, and for formed by them, and for them anformed by them, and for them and their posterity, bu rightsrights andrights and rights and privileges guarantied to citizens of this new sovereignty were intended to embraceembrace those onlembrace those onlyembrace those only who were then members of the several State com shouldshould afterwards by birthright should afterwards by birthright or othshould afterwards by birthrigh proviprovisionsprovisions of the provisions of the Constitution and the principles on which it was founded. It was unionunion of those who were at that time members of distinct and seunion of those who were at that ti communitiescommunities into one political family, whose power, focommunities into one political family, whose po toto extend oto extend over the whole teto extend over the whole territory of the United States. And it gave to each cit andand privileges outside of his State which he diand privileges outside of his State which he did not beforeand everyevery other Staevery other State upon a perfevery other State upon a perfect equality with its own citizens as to rights of property; it made him a citizen of the United States.

Dred Scott, 60 U.S. at 406-7.

AsAs for the due process clause of the 14th AmendmenAs for the due process clause of the 14th Amendment, our protectionprotection of the Bill of Rightprotection of the Bill of Rights to prevent protection of the Bill of Rights to prevent duedue process clausdue process clause means that fdue process clause means that federal citizens are not guaranteed the guaranteedguaranteed to Sovereign Citizens because the Bill of Rights was guaranteed to Sovereign Citizens because the B AmendmentAmendment federal citAmendment federal citizensAmendment federal citizenship. Instead, the Amendment grants federalfederal citizens to protections againsfederal citizens to protections against ifederal citizens to protections against inter thethe lawsthe laws; a much morthe laws; a much more limited form of freedom. It of course goes without saying th governmentgovernment can regulatgovernment can regulate the privileges it has granted. The result, Freemen argue, is incr governmental control over a federal citizen through our laws, rules and regulations.

FurtherFurther proofFurther proof of thiFurther proof of this dual citizenship can be found in the spelling of the ConstitutiConstitution.Constitution. When our nation was founded, each of the individual sovereign states had their own CitizensC whichwhich is always spelled with a capital C in the Constitution. which is always spelled with a capital C in the Cons inin 1868, citizen is no longein 1868, citizen is no longer capitalized. in 1868, citizen is no longer capitalized. Freemen c untiluntil 1868. After all, look at the definiuntil 1868. After all, look at the definituntil 1868. After all, look at the defin LAW DICTIONARY

> **TheThe Fourteenth Amendment.** The Fourteenth Amendment of theThe Fourteenth Amendment of the constitT United States.
>
> ItIt became a part of the organic law July 28, 1868, and itsIt became a part of the organic law July 28, 1868 specialspecial mention. It creates or at least recognizes for the first time a citizenship of the UnitedUnited States, as distUnited States, as distinct froUnited States, as distinct from that of the states; forbids the anyany state of any any state of any law abridginany state of any law abridging the privileges and immunities of States;States; and secures all persons against any state action wStates; and secures all persons against any stat

> life, liberty,life, liberty, or property without due process of law or denial of the equallife, liberty, or property without due p laws.
>
> **UnitedUnited States.** This term has several meanings. It may be merely This term has several meanings. sovereignsovereign occupying the position analogous to that of other soversovereign occupying the position ana nations;nations; it may designate territory over nations; it may designate territory over which sonations; it may desig may be collective name of the states which are united by and under the Constitution.

BLACK S LAW DICTIONARY 785, 1703 (4th ed. 1968).

SinceSince the 14thSince the 14th Amendment cSince the 14th Amendment created a new federal citizenship, Freemen cla havehave no effect on the class of Sovereign Citizhave no effect on the class of Sovereign Citizens that exihave n Accordingly,Accordingly, Freemen must remove all vestiges of this federal citizenship (passport, social securiAccordingly, Freem etc.), and re-obtain their Sovereign citizenship through a Common Law court, the one supreme Court.

ThisThis Freemen argument resonates with their Christian Identity This Freemen argument resonates with their Chris AmendmentAmendment created a lesser form of citizenship reinforces the racist theme Amendment created a lesser forn AmericansAmericans not as true men, but as beasts. It alsAmericans not as true men, but as beasts. It also iAmer ConstitutionConstitution was written, state/Sovereign Citizens. Such a readinConstitution was written, state/Sovereign Citiz communitycommunity with the Chosen People theme. The 14th Amendment and Christian Identity beliefs assign Freemen a privileged position in relation to others who occupy the same geographical space.

PePerhapsPerhaps most interesting, their reading of the 14th Amendment shows how profoundly FreemPerhaps most inter transformtransform the meaning of our documents. In our world, the Reconstructiontransform the meaning of our documents twotwo nations on one soil. In the Common Law world, ontwo nations on one soil. In the Common Law world, one classes ofcitizenship, two United States of America.

The 16th Amendment Income Taxes

FreemenFreemen single out income taxation as one of the most abhorrent of the governmFreemen single out income tax federalfederal citizens, a message certainly palatable to any Freemen prospect. Once federal citizens, a message certainl become a Sovereign Citizen, he or she is not obliged to pay either state or federal income taxes.

First,First, as previously discussed, Freemen claim that all post-Bill First, as previously discussed, Freemen claim that propeproperlyproperly ratified by the appropriate number of states, and are thus unlawful and void. *MMarbury vMarbur Madison*.

WeWe will notWe will not dwell on thWe will not dwell on the extensive rationale underlying the Freemen s positio sinsincesince a lengthy esince a lengthy examination of the IRS Code through Freemen eyes is just not worth our effort he (Freemen(Freemen definitions for words in the IRS Code such(Freemen definitions for words in the IRS Code such as may, may, having income, and must memay, having income, and must means may thrmay, having income, and most of the precepts concerning the sovereignty of Sovereign Citizens have already been discussed.

ItIt is of interest to note, though, thatIt is of interest to note, though, that SIt is of interest to note, though, that Stat specificspecific Republic since all states with an income tax use one specific Republic since all states with an income prerequisiteprerequisite to state income tax (iprerequisite to state income tax (includingprerequisite to state income tax (includin 14th14th Amendment citizen wh14th Amendment citizen who is14th Amendment citizen who is required to pay federal incon rescind all state adhesion contracts and inform the state taxing authority of the Sovereign status.

Lastly,Lastly, the following disclaimer was noted at the conclusion of a Freemen internet article on this topic after a discussion ofthe Income Tax Package that could be obtained for $150

> ThisThis work is educational in nature, it comes with no guarantee expresseThis work is educational in nature, it con forfor the good of We the People undertaken with the full for the good of We the People undertaken with the ful aandand is noand is not to be confused with the practice of Law as purveyed by the various Bar organizations.

Sovereign Rights Over Corporations and States, And the Right to Contract

FreemenFreemen trace our law through its roots fFreemen trace our law through its roots fromFreemen trace our la
FreemenFreemen claim that this law recognized, at least until the illegal actions of PresideFreemen claim that this law reco
CivilCivil War, two classes of men free and unfree. Freeman and slave. *See* the BLACK S LAW DICTIONARY
definition of freeman at the beginning of our materials, at Footnote 1.

FFreemenFreemen claim that our case law has also made just such a distinction between the indivFreemen claim
(Freeman)(Freeman) and the corporation/state (slave) in *Hale v. HeHale v. HenkeHale v. Henkel,* 201 U.S. 43, 26 S.Ct. 370,
(1906),(1906), at least(1906), at least until(1906), at least until the death of the Common Law by the Supreme Court in *Erie v. To*
involvedinvolved a secretary/treasurer (Hale) of a corporation who refused to answer questions or bring docuinvolved a secreta
forfor a grand jury investigating Sherman antfor a grand jury investigating Sherman antitrust violatifor a grand jury inve
AmendmentAmendment privilege against self incrimination both individually, and on bAmendment privilege against self inc
rejecting a corporate Fifth Amendment privilege, the court said

> ...Conceding...Conceding t...Conceding that the...Conceding that the witness was an officer of the corporation under
> thatthat he was entitled to assert the rights of corporation with respecthat he was entitled to assert the rights of corpor
> booksbooks and papers, we are of thbooks and papers, we are of the opinion books and papers, we are of the opinio
> betweenbetween an individual and a corporation, and thabetween an individual and a corporation, and that the
> submitsubmit its books and papers for an examination at the submit its books and papers for an examination at th
> maymay stamay stand upon himay stand upon his constitutional rights as a citizen. He is entitled to carry on his private
> businessbusiness in his own way. *His power to contract is unlimited. He owes His power to contract is unlimite*
> *statestate or tostate or to his neighbors to divulge his business, or to open his doorsstate or to his neighbors to divulge h*
> *soso far as it may tend to criminate him. He owes no such duty to so far as it may tend to criminate him. H*
> *receivesreceives nothing therefrom, beyond thereceives nothing therefrom, beyond the protection of his life and property*
> *suchsuch as existed bysuch as existed by the law of the land long antecedent to thesuch as existed by the law of the land lo*
> *cancan only be taken from him by due process of law, ancan only be taken from him by due process of*
> *Constitution.* Among his rig Among his rights are a Among his rights are a refusal to incriminate himself, and the im
> himselfhimself and his properhimself and his property from himself and his property from arrest or seizure except u
> *owes nothing to the public so long as he does not trespass upon their rights.*
>
> UponUpon theUpon the other hand, thUpon the other hand, the corporation is a creature of the state. It is presun
> incorporatedincorporated for the benefit of the public. It receives certain special privileges and
> franchises,franchises, and holds them subject to the laws of the state and the limifranchises, and holds them subj
> charter.charter. Icharter. Its powers are limited by law. It can make no contract not authorized by itcharter. Its
> charter.charter. charter. Its rights to acharter. Its rights to act as a corporation are only preserved to it so long as it ob
> lawslaws of its creation. There is a reserved right in the legislature to investigate laws of its creation. There is a rese
> andand finand find out whetherand find out whether it has exceeded its powers. It would be a strange anomaly to hol
> thatthat a statethat a state, havthat a state, having chartered a corporation to make use of certain franchises, could not, in
> thethe exercise of its sovereignty, inquire how these franchises had been employed, and
> whetherwhether they had been abused, and demanwhether they had been abused, and demand whether they had b
> paperspapers for that purpose. papers for that purpose. The defense papers for that purpose. The defense amounts
> whichwhich is charged with a criminal violation of the statute, may plead the criminwhich is charged with a crimi
> suchsuch corporation as a refussuch corporation as a refusal tosuch corporation as a refusal to produce its books. To
> it.it. While an iit. While an individualit. While an individual may lawfully refuse to answer incriminating ques
> protectedprotected by an immunity statute, it does not follow that a corporatioprotected by an immunity statute
> specialspecial privileges and franchises, may refspecial privileges and franchises, may refuse to show special pri
> abuse of such privileges.

Hale, 26 S.Ct. at 378-79. (Emphasis added.)

FreemenFreemen read the aFreemen read the above as a vindication of their Common Law/natural law philosophy
susuperioritysuperiority of the Sovereign citizen over the state and its corporations. This quote also supposuperiority of the Sove
comitatuscomitatus view that a Freecomitatus view that a Freemcomitatus view that a Freemen owes nothing to the public, and
(commit violence against me) unless a Freemen trespasses on another s rights.

WeWe read *Hale* quite d quite different quite differently. The Supreme Court was establishing that corporations lack indivi constitutionalconstitutional rconstitutional rights. It choconstitutional rights. It chose to highlight this through *dicta* by descr case had nothing to do with an citizen s rights over corporations or states.

Hale is also i is also imp is also important in the Freemen world due to its statement that an individual s power to contract isis unlimited. *Hale, supra.* This belief forms the basis of Freemen ideology that al This belief forms the basis of governmentgovernment are contracts which Sovereign Freemen are free to rescind. Whigovernment are contracts which Sovere totto contract wto contract with our to contract with our govemment and accept the benefits and restrictions thereof (through 14 citizenship), a Sovereign is also free to rescind these contracts pursuant to *Hale*.

Thus, Thus, with all contacts with Thus, with all contacts with our goThus, with all contacts with our government being thethe Uniform Commercial Code, must be strictly followed by Freemen to avoid unwittingly contracting with our government. More on the UCC later.

TheThe Common Law s Demise (*Erie v. Tompkins* (1938)), the UCC, the Federal Rules of Civil Procedure, Admiralty Courts, and Flag Fringe

FreemenFreemen claim to have resurrected the Common Law, which implies that theFreemen claim to have resurrected t died.died. The story, as already discussed, begins with the tale of how the Judiciary Act of 17died. The story, as already discus United States Supreme Court for the one supreme Court of the Constitution.

TheThe end of the Common Law came in 1938 wThe end of the Common Law came in 1938 with our SupremeThe e *Tompkins*,, 304, 304 U.S. 64, 58 S.Ct. 817, 82 L.Ed. 1188 (1938). *Erie* appears in virtually every lea appears in virtual textbooktextbook on civil procedure and is an important case in our wtextbook on civil procedure and is an important case many law review articles to list herein.

ForFor the Freemen community, though, *Erie* is **the** smoking gun since the case cl smoking gun since the case clearl smok no federal common law.

> ExceptExcept iExcept in matters governed by the Federal Constitution or by acts of Congress, the law totto be applieto be applied to be applied in any case is the law of the state. And whether the law of the state shall be declareddeclared by its Legislature declared by its Legislature in a statutdeclared by its Legislature in a statute or by its *ofof federal conceof federal concern. TThere is no federal general common law.* Congress has no power to declaredeclare substantive rules of common law applicadeclare substantive rules of common law applicable indecl theirtheir nature or general, be they commercitheir nature or general, be they commercial law or their nature or clause in the Constitution purports to confer such a power upon the federal courts.

Erie, 58 S.Ct. at 822. (Italics added.)

InIn a world in which the Common Law is not only one s birthright,In a world in which the Common Law is not only one therethere cothere could be no morthere could be no more horrific statement. Of course, most mainstream experts deny that *Er* allall common law. They explain *Erie* as the triumph of the right of state courts to articu as the triumph of the right of commoncommon law, free of federal second-guessing. Common law that varies frocommon law, free of federal second-guessi Freemen Common Law.

CommonCommon Law believeCommon Law believers areCommon Law believers are not legal positivists. Their Blackstone, a type of natural law ordained by God. In the Freemen world, it would

> &hardly &hardly be c &hardly be conte &hardly be contended that the decisions of Courts constitute [the Common L are, at most only evidence of what the [Common Law is], and are not of themselves law.

Swift v. Tyson, 41 U.S. 1, 16 Pet. 1, 10 L.Ed. 865 (1842), overruled by *Erie, supra*.

Erie did did abandon *Swift s* understanding of common law as Blackstone s natural law, the Common Law sacredsacred to Freemen. Aftersacred to Freemen. After *Erie*, the Freem, the Freemen community asserts that our law becam LawLaw that should Law that should reiLaw that should reign and once did. In essence, the Supreme Court suspended the Co Constitution that remains suspended even today.

Erie is also an important piece of is also an important piece of the tal is also an important piece of the tale that expl States (the federal and state governments) as a legislative democracy with legislative courts.

NotNot onNot only did *Erie* aband abandon the Common Law, it put in its place the law of the State. Moreover, the SupremeSupreme Court anSupreme Court announced its Supreme Court announced its indifference on the source of that law: bebe declared by its Legislaturebe declared by its Legislature in a statbe declared by its Legislature in a statute or by its hi concern.

InIn the Common Law world, this language is read as encouraging states to abandoIn the Common Law world, this langua systemssystems in favor of illegitimate legislative democraciesystems in favor of illegitimate legislative democracies. Fosyst guaranteedguaranteed by guaranteed by the Constituguaranteed by the Constitution is the Common Law system. The Supreme thethe states abandoned Common Lathe states abandoned Common Law in favor ofthe states abandoned Common Law in fa has been abandoned.

TheThe Common Law community s discussion of *Erie* emphasizes that the state emphasizes that the state la emphasizes t that case, limited the railroad s duty of care to those with whom the railroad was in privity of contract.

WhenWhen injured, Tompkins had been walkWhen injured, Tompkins had been walking besWhen injured, Tompkins h someonsomeonesomeone not in **privit privity of contract** with the railroad. As a result, Freemen frequently claim to not be i privity of contract with our government.

InIn the Common Law In the Common Law woIn the Common Law world the result in *Erie* (state privity of contract law *Erie* **substisubstituted contract law for the Common Law**, which at the time imposed a duty of care , which at the time in foreseeable others, like the issue presented by pedestrian Tompkins.

FreemenFreemen believe that commercial law (contract law) reigns in the federal and state courts, a concFreemen believe th thatthat has enothat has enormous implications for how they should respond to our law. The point is that *Erie* supports suppor understandingunderstanding that is foreign to our worldunderstanding that is foreign to our world that invalunderstanding th CommonCommon LawCommon Law, have replaced constitutionally mandated Common Law courts. Alas, the **Unifor CommercialCommercial Code s** pree preemin preeminence for Freemen when dealing with our world since we should follow own contract law (the only law that exists after *Erie*), the Uniform Commercial Code.

Also,Also, justAlso, just as o Also, just as our world has been long intrigued with the connection between *Erie* and the adopti samesame year of the Federal Rules of Procedure, so too the Freemen commsame year of the Federal Rules of Proce confluenceconfluence of these two events. Freemen claim that before 1938, the federal courtconfluence of these two eve appliedapplied federal substantive law through state procedure (except in an equity case); but after 1938 federal courts applied state substantive law through federal procedure.

WhileWhile equity While equity is not generaWhile equity is not generally seen as central to understanding the conn FederaFederalFederal RulesFederal Rules, Freemen see the connection as an important piece of the puzzle. The Common Law p placesplaces enplaces enormous significance on the fact that the Federal Rules of 1938 abolished the distinction between actionsactions at law and suiactions at law and suits in equity. actions at law and suits in equity. Unlike in our world, thoug Common Law.

OfOf course, the Federal Rules could not have meant that Common Of course, the Federal Rules could not have meant t equityequity suits because *Erie* had abolished the Common Law. The Feder had abolished the Common Law. The Federal argue,argue, targue, that eargue, that equity suits were to be treated not as if they were Common Law actions, but as if they **admiralty** suits, admiralty jurisdiction (international law) being the thir suits, admiralty jurisdiction (international law) bei recognizedrecognized by the Constitution (the other two being the now abolished Common Law and recognized by the submerged equity.)

> TheThe judicial Power shaThe judicial Power shall extend The judicial Power shall extend to all Cases, in Law Constitution,Constitution, the Laws of the United StatConstitution, the Laws of the United StateConstitution, the La underunder their Authority; to all Cases under their Authority; to all Cases affunder their Authority; to all C ConsulConsuls; toConsuls; to aConsuls; to all Cases of admiralty and maritime Jurisdiction; to Controvers whichwhich the United States shall be a Party;which the United States shall be a Party; to Cowhich the States; betweenStates; between a State and Citizens of another State; between Citizens States; between a Stat States; betweenStates; between Citizens of the same State claiStates; between Citizens of the same State cla

States,States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. &

United States Constitution, Article III, § 2.

So,So, by putting *Erie* and the Federal Rules together, we have a story that explains the Common Law insistenceinsistence that the insistence that the federinsistence that the federal courts possess only admiralty jurisdiction. *Erie* an CommonCommon Law view that the federal courts[25] are trying to foist admiralty law are trying to foist admiralty law upon the Freemen,Freemen, theFreemen, the momentousFreemen, the momentous shift of 1938 took place without the consent or knowledge it was in the intricacies of *Erie* and the Federal Rules.

AndAnd in 1966 when the Federal Rules of Civil Procedure were amended to And in 1966 when the Federal Rules betweebetweenbetween civil actiobetween civil actions and suits in admiralty, well, the true nature of the federal courts was courtscourts courts of admiralty. One only need to look at the **gold-fringed flag**[26] that is displayed in federal (and stat that is dis courts.

WhileWhile in ourWhile in our world the While in our world the fringe on the flag story is idiotic, and Christian Identity andand filled with hate, many of the other Common Law beliefs discussed herein dovand filled with hate, many of the other the legal stories in our world.

InIn our world people write of the In our world people write of the fedeIn our world people write of the federal g ConstitutionConstitution dying with the triumph of the New Deal s admiConstitution dying with the triumph of the New Deal byby which tby which the Recoby which the Reconstruction Amendments became part of our Constitution; and of *Eri* revolutionary shift away from natural law.

ItIt will undoubtedly surprise many It will undoubtedly surprise many that the FreemIt will undoubtedly surprise many tha ourour community our community ofour community of legal scholars, judges and lawyers, shares so many of the underpinnin although perhaps not dominant, in our world.

Public Law vs. Private Law

FreemenFreemen beFreemen believe that Anglo-Saxon law has two separate and distinct branches. The branches are Public Public Law and Private Law. Public law should properly be called civil law (or civil code) which pertainspertains to government made law. Private law is currently known as pertains to government made law. Private law is pertains to the people acting in a law making capacity expressing divine will.

Public law (law of the United States or the civil code) is generated in the following manner

1. An elected body generates a code or written law.
2. The publication of this law signifies that it is in effect and controlling.
3. LitigationLitigation resulting from the implementation of this law results inLitigation resulting from the im changes or even abrogation.
4. SubSubsequentSubsequent code adopted by vote or litigation may replace this public law ifSubsequent code adopt law is contrary to the old law.

PrivaPrivatePrivate law (common law, natural law or law of the united States of America) is genePrivate law (common following manner

1. AA selA self governing people may generate a common law trial by filing in the people s jurisdiction to create a court order which becomes law subject to litigation.

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[25] Presumably, the admiralty label extends to the state courts because state procedure codes mirror the Federal Rules of Civil Procedure and because in *Erie*, State law was acknowledged to be other than the Common Law.

Note that in our civil rules, CR 1 and 2 make clear that there is only one form of action (whether a case at law or in equity) known as civil action. Such a statement satisfies a Freemen view that our state courts are acting as admiralty courts.

[26] More on the importance of the flag *infra*.

2. ThTheThe court order The court order can be modified by further litigation until a point of law is disputed by two or more parties.

3. A jury trial may then settle the dispute.

4. Subsequent trials may then amend, abrogate, modify or suspend this order.

FarFar superior to eithFar superior to either privaFar superior to either private law or public law is Common Law. defined in this manner

1. It is God's law as imprinted on the hearts and mind of His people.

2. TheThe final formal expression The final formal expression of this law in a The final formal expression of this law andand express this knowledge by creating a judgment and express this knowledge by creating a judgment ba principles of right and wrong.

Source:Source: American Patriot Network, *TheThe CommoThe Common Law Court of the United States of America* (visite May 13, 1999) <http://www.civil-liberties.com/commonlaw/common.html>.

Public Law vs. Private Law Diversity of Jurisdiction

FreemenFreemen who have quietedFreemen who have quieted tiFreemen who have quieted title with respect to their citizer anotheranother common law jurisdiction operate under private law. Freemen believe that their diversity of citizenshipcitizenship and citizenship and adherence to prcitizenship and adherence to private law instead of public law creates federalfederal court jurisdiction. *See* United States Constitutio United States Constitution Article III United States Constitutio believebelieve that the federal court s role in a private law/public law conflict is believe that the federal court s role in a which law will apply.

FreemenFreemen must prFreemen must properly raise thFreemen must properly raise the diversity issue in state court TheThe Common Law Court of the United States of America, a Freeman mustThe Common Law Court of the United States of to obtain a federal court declaration that private law must be applied to the resolution of the case at bar

1. TheThe litigant who claims the wrong laThe litigant who claims the wrong law is beinThe litigant who claims the Court to resolve the issue.

2. The litigant may use documents generated by the courts of the litigants domicile.

3. TheThe Federal courts are then properly noticed of the applicable lThe Federal courts are then properly noticed resulting litigation.

Source:Source: American Patriot NetworSource: American Patriot Network, *The Common The Common Law Court of the Un* 13, 1999) <http://www.civil-liberties.com/commonlaw/common.html>.

ToTo convince a federal court To convince a federal court that To convince a federal court that the law applicable to th the Freeman must establish that the following two conditions exist

1. TheThe litigant who claims the dispute exists can prove that a diversity of citizenThe litigant who claims the dispute This diversity must be that an individual is not a United States citizen.

2. TheThe other court will assume jurisdiction of the litigaThe other court will assume jurisdiction of the litigati order (private law judgment).

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27 United States Constitution Article III, § 2 provides that

> The 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 affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The exact scope of this provision was altered by the Eleventh Amendment to the United States Constitution. This amendment precludes suits against the states. Const. Amendment XI (The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.).

Id.

Proof sufficient to satisfy both elements can be found in the following facts

1. TheThe litigant making this claim has chosen the applThe litigant making this claim has chosen the applicableT citizenship (abrogating US Citizenship) to a private law jurisdiction.

2. A court order exist that establishes this change of domicile.

3. A court with litigation rules exist that establishes this change of domicile.

4. A court with litigation rules exist in which the litigant can obtain private law relief.

5. ThisThis private law court system recognizes the This private law court system recognizes the originaThis private the Federal Courts.

6. ThisThis private law coThis private law couThis private law court system recognizes the supplemental subject matter the US District Courts mandated by operation of the Constitution.

Id.

OnceOnce the correct law is determined to be common law or private law, it is uncleaOnce the correct law is determined to

tototo continue in a Washington Superior, District or Municipal Court ototo continue in a Washington Superior, District or Munici closest Common Law Court for trial.

Non-Violent Freemen Actions

TheThe Common Law distinguishes between moves members should tThe Common Law distinguishes between moves m

celebratedcelebrated if taken, celebrated if taken, but are not expected of all. Not surprisingly, the moves it requires of S CitizCitizeCitizensCitizens are nonviolent. Freemen are not oblivious to the State s ability to win most contests of violence. ByBy not By not demanBy not demanding violent moves, it helps ensure that the State will not kill all their members v makesmakes room for followers who are not prepared to die for makes room for followers who are not prepared to die for p allowed the Freemen movement to dramatically expand.

InsteadInstead of violence, Common Law requires giving up one s social security card and one s driveInstead of violen

license;license; relying on certain sectionlicense; relying on certain sections of tlicense; relying on certain sections of the Uni invokingCommon Law court process to declare oneselfa Sovereign Citizen.

Social Security Numbers, Passports, and Driver s Licenses. After the Constitution was suspended in 1933 by President Roosevelt, the Common Law limped along until 1938 when it was summarily replaced by statutory law/admiralty law/commercial law, a new form of social contract. It is this new and illegitimate social contract that must be disavowed.

No more perfect symbol for this new social contract could be imagined than a federally-issued social securitysecurity card,security card, concrete evidence of a new government that took over after the New Deal. Sosect accomplishaccomplish full secession from our United States, Faccomplish full secession from our United States, Frea like welfare payments, must also be renounced.

StateState governments are as illegitimate as the federal government. So, Freemen contracts with a StateState muState must also bState must also be renounced. As social security numbers evidence federal control, so to d lilicenslicenseslicenses exhibit State power. And a driver s license requirement is seen as an interference with one s basicbasic constitutional right to freebasic constitutional right to free travel, basic constitutional right to free travel, the r these actions tie one s identity as a Sovereign to the land.

The Uniform Commercial Code. Unlike the Bible and the Constitution, it does strike one that the UCC is an unlikely source for a community of radicals. But once one understands that the community has received the State s jurisdiction based on contract law (not the original social contract of the Constitution but some illegitimate contract substituted for the Constitution after 1938), the Freemen s obsession with the UCC begins to make sense. If the task is to extricate oneself from a reign conceived of as based on illegitimate contract law, the UCC is a natural place to look. Freemen do not hold the

UCC sacred, but they do insist that because our community, however wrongly, does worship our UCC, we are bound to follow it.

Thus, Thus, in the Common Law the UCC becomes a central teThus, in the Common Law the UCC becomes a central text lalawlaw tlaw that our United States must follow since our law has renounced constitutional law, Common Law, and Equity, leaving only contract law.

UCCUCC 1-207 explains in the comment that the section is intended for situat explains in the comment that the secti claimingclaiming as of right something which the other believes is unwarrclaiming as of right something which the other b thatthat exists between the State and the Common Law community according to their law. The State is claimingclaiming a right to impose its extra-constitutional, statutory,claiming a right to impose its extra-constitutiona CommoCommonCommon Common Law community, and the community considers that assumption of sovereignty ov membersmembers to be unwarranted. So UCC 1-207 takes on enormous signmembers to be unwarranted. So UCC 1-207 considerconsider this UCC section to provide an consider this UCC section to provide an out frconsider this UCC secti the Comment to the section says

> ThisThis section provides a machThis section provides a machinery foThis section provides a machinery for c contemplatedcontemplated by the contract despite a pendincontemplated by the contract despite a pending discontem ofof going ahead with delivof going ahead with delivery, acceof going ahead with delivery, acceptance, or protest, under reserve, with reservation of all our rights and the like &

FreemenFreemen are advised by their law to invoke the phrases listed by UCC authors Freemen are advised by their law State,State, State, including UState, including U.D. (under duress), all rights reserved, and without prejudice. So, frequentlyfrequently rely on these phrases when filing documefrequently rely on these phrases when filing documentsfr in our courts.

UCCUCC 1-103. The out p The out provided The out provided by UCC 1-207 places the Freemen back within th CommonCommon Law because UCCommon Law because UCC 1-Common Law because UCC 1-103 provides that con commoncommon law common law where that law iscommon law where that law is not specifically displaced by the UCC. underunder UCC 1-207, section 1-103 leaves the relation with the State to bunder UCC 1-207, section 1-103 leaves the LawLaw through Common Law courts. Freemen assert that UCC 1-103 compLaw through Common Law courts. Free CommonCommon Law as determinCommon Law as determined byCommon Law as determined by Common Law courts UCC 1-207.

UCCUCC 3-501. This section allows a party to refuse payment of a n This section allows a party to refuse paymen necessarynecessary endorsement or otherwise fails to comply with the terms of an agnecessary endorsement or otherwise otherother applicable law oother applicable law or ruleother applicable law or rule. Freemen use this section in respo kind,kind, kind, particularly kind, particularly traffic tickets. Since Freemen have reserved their rights under UCC 1-207 no boundbound bound bybound by the State s authority, the presentment process (traffic ticket, criminal complaint, information isis not in compliance with the agreement of the parties. The result isis not in compliance with the agreement of the pa thethe words refused for cause without dithe words refused for cause without dishonor the words refused for c usually with a cite to UCC 3-501.

Liens. Freemen insist on following our law by locating their right to maintain their own law in our State law. However, Freemen argue that our law can only be read as the Common Law dictates (contract law/UCC). This guarantees conflict with our law, since to us it makes no sense to appeal to the UCC as a means of freeing oneself from the reach of federal and state law or courts, just as giving up one s social security card or driver s license appears random and ridiculous.

TheseThese nonviolent moves, though, encourage Freemen to flout State law, which iThese nonviolent moves, though, enc violenceviolence (filing charges, jail) in response. So, the Common Law must next prviolence (filing charges, jail) in moves to deal with our violent reaction to Freemen legitimate actions.

AA nonviolent Freemen response authorizes Sovereign Citizens to interfere with the properA nonviolent Freemen respon StateState agents who attempt to unlawfully enforce State law against Common Law members. SovereignSovereign Citizens file liens (notice the tie to the land) against government ageSovereign Citizens file liens (n actionaction aaction against suaction against such a Citizen. These liens are filed in county offices in our system, and sit

t ticking ticking time bombs on the property rights of the target (and on his or her credit) who may no ticking time become aware of their existence until he or she moves to sell the property or is denied credit.

ToTo remove such a lien, our lTo remove such a lien, our law To remove such a lien, our law requires the target to invok thatthat these liens impose real costs on others for having violated the Common Law. that these liens impose real costs o FreemenFreemen with force, however transitory the impact of that force is. While not a wFreemen with force, however tra in our world, perhaps for years to come.

Involuntary Bankruptcies. Under federal rules, a creditor holding a judgment worth more than $10,000 can file an involuntary bankruptcy to force the debtor to liquidate his or her assets to satisfy the debt. A petition for involuntary bankruptcy is decided at trial. If the judgment comes from a Common Law court, it will hopefully not be recognized and the petition will be dismissed.

NoNo matter the outcome, though, the fact thaNo matter the outcome, though, the fact that a bankruptcNo matter th reportreport for at least a decade. Even a judge s order to remove the bankruptcy notationreport for at least a decade. record is not included in the reports most merchants request when deciding to extend credit.

Charging Government Officials With Crimes The Citizen Complaint. While a more extensive discussion on this topic is given *infra,* suffice it to say that Freemen are more than willing to retaliate against prosecutors and other government officials by attempting to charge the official with various crimes in our system pursuant to CrRLJ 2.1(c).

AndAnd there can be no doubt that Freemen are charging government And there can be no doubt that Freemen Common Law courts.

Becoming a Sovereign Citizen Their Quiet Title Action. The next move is for a Freeman to declare one s Sovereignty through a quiet title process. The Common Law court gives public notice of the quiet title proceeding. After receiving appropriate evidence to establish that the applicant is eligible for status as a Sovereign Citizen, the Common Law court declares the applicant s title clear, thus proclaiming him Sovereign.

ThisThis is important because courts are powerful symbols. TheirThis is important because courts are powerful symb proceedingsproceedings are in law and not theatrical. Their courts provide cover and justification for Freemen actions.

Common Law Pleadings. Inundating our court system with Common Law documents involves real costs on our court system and on the individuals (usually prosecutors) who must respond to what our system perceives as bogus documents. This is an especially effective non-violent Freemen response, since their goal is to obstruct our system whenever possible in the hope of causing our system to collapse.

Violent Freemen Actions Secret Common Law Military Courts

WhileWhile Common Law courts may convene in public with manyWhile Common Law courts may convene in public w mmini-systemmini-system hamini-system has been created by the Freemen movement to deal with our government officia FreemenFreemen assertFreemen assert have broken their oaths of office to follow the Constitution. This type of transgression consideredconsidered so fconsidered so flagrant thaconsidered so flagrant that only a military response is possible, a respons indictmentsindictments for treason (for ignoring Common Law documents issued from a one Sindictments for treason (for trying judges, ATF and FBI officers, sheriffs, prosecutors, and the like.

TheThe existence of thThe existence of these The existence of these military courts might explain the Freem experiencing.experiencing. Unlike the more straight-forward Common Laexperiencing. Unlike the more straight-forward Co hundredhundred hundred people at a time, military courts can be convened by one small cell (five or six people) of Fhundred pe radicalsradicals in any basradicals in any basement or bradicals in any basement or back room. By holding a military cou violent plans a secret, while still using the idea of a court to legitimize their forthcoming criminal actions.

BasedBased on the movement s almost sacred need for a legal (biblical) justification for its aBased on the movement s cancan assume that prior to many pipe-bomb incidents,can assume that prior to many pipe-bomb incidents, assacan ass

terroterrorism,terrorism, thereterrorism, there was a cell of at least five people involved and that there was a Common Law or court trial that took place.

ThiThisThis alsThis also means that for every arrest, Freemen coconspirators are left behind and likely to be even moremore agitated more agitated by an more agitated by an unlawful arrest of a comrade. The motivation to strike again continues.continues. And with continues. And with a willing micontinues. And with a willing militia available to enforce a Co lookslooks bllooks bleak indeed flooks bleak indeed for government employees who dare use our inferior law to confro Citizens.[28]

Ecclesiastical Courts

EcclesiasticalEcclesiastical courts, or Courts ChEcclesiastical courts, or Courts ChristEcclesiastical courts, or Courts Ch priorprior to the adoption of Christianity as thprior to the adoption of Christianity as the statprior to the adoption of Chris centurycentury A.D. The Christians, as a persecuted sect, had no access to the R. The Christians, as a persecuted sect, had no wewerewere pagan, and proscribed by Christian leaders on religious and moral grounds. The Christians, thereforewere pagan, ar neededneeded their own courts, which were simple tribunals whosneeded their own courts, which were simple tribunals wh among the brethren, with bishops acting as the arbitrators.

AfterAfter Christianity became the state religion of Rome, the ecclesiastiAfter Christianity became the state religion of thethe Roman judicial system. The Christian Church developed on a pontifical and hierarchical basisthe Roman judicial syste itsits power grew, the simple courts of primitive Christiaits power grew, the simple courts of primitive Christianity under time,time, they comprised a complex system exercising jutime, they comprised a complex system exercising jurtime, they con supremesupreme judicial power in the Christian Church. Then, asupreme judicial power in the Christian Church. Then, institutions decayed, the ecclesiastical courts began to assume jurisdiction in secular affairs.

InIn the Middle Ages, the Church reached the zenith of its In the Middle Ages, the Church reached the zenith of its p becamebecame temporabecame temporal pobecame temporal potentates, and cannon law and the jurisdiction of the ecclesiastica to embrace virtually the entire range of human relationships.

ExtensionExtension of the jurisdiction of the eExtension of the jurisdiction of the ecclExtension of the jurisdiction of princesprinces of thprinces of the Chuprinces of the Church, as functioning ecclesiastics bishops, archbishops, cardinals, a powerful landowners and temporal rulers.

WhenWhen courts established by secular authority resisted the incursions of the ecclesiasWhen courts established by s secularsecular matters, the ecclesiastical courts fought persistesecular matters, the ecclesiastical courts fought persistently ensuedensued shaped much of the legal history of the latter Middle Ages. Beginning in thensued shaped much of the legal histo judicialjudicial power of the Church was manifestedjudicial power of the Church was manifested especjudicial power of t Office, which was created to ferret out and punish heresy, which ultimately resulted in the Inquisition.

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28 The dangerousness of these Freemen cannot be overemphasized. During the Justus Township standoff in Montana, militia leaders from all over the country made a great public effort to let the media know they were not in sympathy with the fraudulent financial schemes and other criminal activities of the Montana Freemen. But they failed to tell the media that regardless of their lack of support for the conduct of the Freemen, the militia movement would absolutely not stand for any government attack on citizens.

Accordingly, a nationwide network alert was sent over the internet, by phone, and by fax to units in every state where militias could be identified. Plans had previously been drawn by scores of militia units to target metropolitan areas and small cities in nearly every state. If an incident similar to Ruby Ridge and Waco occurred at Justus Township, these militias would execute their plan against governors, federal judges, and local officials throughout the United States. Buildings housing IRS, FBI, ATF, federal courts, National Guard, and reserve armories had all been scouted and filmed. Assault plans and schemes to either seize or destroy the installations had been rehearsed.

As one militia leader said: There won t be another Ruby Ridge or Waco without an answer from us this time. The beauty is, we ll hit everywhere. There s no way the feds can muster a response if we hit in fifty or sixty places at once. We ll take out our targets and then melt back into the community &And strike again if they don t get the message the first time. FALSE PROPHETS, at 267-8.

TheThe Reformation was The Reformation was a basic caThe Reformation was a basic cause of the decline of the ecclesi thethe rise of representative government, the the rise of representative government, the septhe rise of representative govern govegovernment,government, and the separation of church and state. All these factors combined to reduce graduallgovernmen powerpower and jurisdiction power and jurisdiction of ecpower and jurisdiction of ecclesiastical courts to their present lin administration,administration, and discipline within various churches, including the Roman Catholic Church,administration, ProtestantProtestant Protestant churches, thProtestant churches, the Church of England, and other Anglican churches. In the Germany,Germany, and in the Netherlands, Switzerland, and oGermany, and in the Netherlands, Switzerland, and otheGer though, ecclesiastical courts have virtually ceased to exist.

HowHowever,However, a new brand of ecclesiastical court has surfaced within the Freemen movement. FreeHowever, a n EcclesiasticalEcclesiastical Courts are established within the Common Law community to hear and decide moEcclesiastical Cour involvinginvolving biblical interpretation. These courtinvolving biblical interpretation. These courtsinvolving biblical interpretationinterpretation and punishment (typically death in tinterpretation and punishment (typically death in theinterp court, must be followed as God s law.

Compurgation Medieval Acquittal

TheThe Freemen movement, having borrowed ecclesiastical courts from history, is begThe Freemen movement, having compurgation as a defense to criminal charges filed in our system against Freemen.

InIn medieval law in front of ecclesiastical courts, compurgation was a method of defense in which a personperson accused of a crime or chaperson accused of a crime or charged as a dperson accused of a crime or cl endorsementendorsement of a specified number of friends orendorsement of a specified number of friends or neighbendorser compurgation because one party would purge himself of the charges by taking the oath.

TheThe oaths were taken seriously because to swear a false oath was perjury, a falseThe oaths were taken seriously becaus oathsoaths had to be made without any mistakes, without slip or trip. The oathsoaths had to be made without any mistak and gave the process a formality and ritual that impressed the parties with its importance.[29]

TheThe procedure was singular in that the witnesses, who were called compurgThe procedure was singular in that the knowledgeknowledge of theknowledge of the facts at issknowledge of the facts at issue, but to their belief that the defenda swearingswearing the oath needed the help of these supporting witnesses or oath helpers who sswearing the oath needed the h waswas unperjured. Parties would swear oaths at each othwas unperjured. Parties would swear oaths at each other until s compurgatorscompurgators was often eleven, but it varied according to the rank of the accused and the compurgators was often el crime or action.

CompurgationCompurgation was used as part of the regular procedure of the ecclesiastical couCompurgation was used as p inin the Middle Ages. It existed among the Anglo-Saxons and was in use in the in the Middle Ages. It existed among the Angl England through the 1600 s until it was gradually superseded by the jury system.

TheThe practice that originated whenThe practice that originated when the eleThe practice that originated when the eleven thethe oath taker eventually became a fathe oath taker eventually became a farce when athe oath taker eventually became a farc provideprovide assistance for a fee. A professional oath taker would wear a piece of straw in his shoprovide assistance for a f his status, giving rise to the term straw man.

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29 So I hold it as he held it, who held it saleable, and I will own it and never resign it neither plot nor plough land nor turf nor toft nor furrow nor foot length nor land nor leasow nor fresh nor marsh nor rough ground nor room nor wold nor fold land nor strand wod nor water.

CompurgationCompurgation never eCompurgation never existed in theCompurgation never existed in the legal procedure o States,States, until now. Freemen assert that compurgation is a States, until now. Freemen assert that compurgation is a par FreemanFreeman defendant is entitled to acquittal in our system if he or she canFreeman defendant is entitled to acquittal in oath (presumably from other Freemen) that the Freemen defendant s version of the crime is believed.

The Third Continental Congress 1996-1997

TheThe arena of constitutional debate has drawn mainstream support. FroThe arena of constitutional debate has drawn ThomasThomas Sowell and George Will to politicians on the state and natioThomas Sowell and George Will to politicians goinggoing out to return to thegoing out to return to the going out to return to the Constitution. While not advocatin scholars in our world have also questioned the New Deal and similar federal government activism.

Gary Lawson, *The Rise and Rise of the Administrative State,* 107 Harvard Law Review (1994) (the Constitution is a choice that may or may not be correct, and New Deal reforms are accepted by, not imposed on, the people);

ROBERT BORK, THE TEMPTING OF AMERICA: THE POLITICAL SEDUCTION OF THE LAW (New York: Free Press, 1990) (explaining that the modern administrative state born in the New Deal is unconstitutional, but refusing to sanction judicial activity to restore the Constitution); and

Richard A. Epstein, *The Proper Scope of the Commerce Power,* 73 Virginia Law Review (1987) (arguing that New Deal legislation is unconstitutional, but accepting that it is the result of political forces of the people).

OthersOthers have asserted that the New Deal was an act of constitutional restorationOthers have asserted that the N unconstitutional usurpation by an activist conservative Supreme Court.

Lawrence Lessig, *Understanding Changed Readings: Fidelity and Theory,* 47 Stanford Law Review 395 (1995); and

LAURENCE H. TRIBE, AMERICAN CONSTITUTIONAL LAW (New York: Foundation Press, 1988, 2nd ed.), at 308-315.

ToTo some degree, the Republican revolution using such terminology as To some degree, the Republican revolution big government can be attributed to this constitutional interpretation argument.

FreemenFreemen argue that the Republicans are wrong to attempt to correct an inheFreemen argue that the Repu corrcorrupcorruptedcorrupted evil system. In 1996 and early 1997, various elements of the antigovernment movement held severalseveral national meetings near Kansas City dubbed thseveral national meetings near Kansas City dubbed the Th werewere an attempt to set up a provisional government wwere an attempt to set up a provisional government whose role withwith the Constitution as interpreted through the movement s framer s original intenwith the Constitution as interpre provisionalprovisional government is to remainprovisional government is to remain in place uprovisional government is to re onon its own, at which time elections can be held. While the eason its own, at which time elections can be held. W movement as a cartoonish Bubba character, the truth is to the contrary.

Doctors,Doctors, lawyers, insurance agents, and college professors were all in attendance atDoctors, lawyers, insurance age ThirdThird Continental Congress. They are revolutionaries, perhaps, but they are not ignorant Third Continental Congress. werewere all there because they believe that the Constitutwere all there because they believe that the Constitution has bewere onlyonly armed confrontation can restore it to its rightful role in the political system. The real makeup of the antigovernmentantigovernment movement of the 1990 s demonstrates jantigovernment movement of the 1990 s demonstrates threat has become.

And several delegates in Kansas City were representatives of jural societies.

CHRISTIAN JURAL SOCIETIES
AN INTERIM GOVERNMENT

The Only True Government

T The The loss of th The loss of the American union of states based upon the Constitution for the United States took place onon April 15on April 15, 1861. Since that date, there has been no legal government in the United States. That is the claimclaim of the Christian Jural[30] Society, one of th Society, one of the least-k Society, one of the least-known yet mos Freemen movement.

TheThe Christian Jural SoThe Christian Jural SocThe Christian Jural Society is a logical end product of Freemen r recon reconstruct reconstruct a Christian government throughout the United States by creating small pockets of self- governing Christians who are tied to a national Christian government throug their chosen representatives.

JuralJural societies believe that they are the only legitimJural societies believe that they are the only legitimate form of AsAs these societies proliferate thrAs these societies proliferate throughout theAs these societies proliferate throughout the co core core nonviolent believers deeper into the movement than any previous manifestation of the movement. If ththethesethese societies continue to grow and all indications are that they will they could become the most powerful force within the Freemen movement.

Jural Societies Must Remain Anonymous

JuralJural societies to a large degree have remained unmonitored. OJural societies to a large degree have remained unm societies shun publicity. Jural societies have a hard-and-fast rule Do not speak with the media.

A Self-Sufficient Government With All Power at the Local Level

TheThe Christian Jural Society is the brainchild of a religious right think taThe Christian Jural Society is the brainchild of thethe King s Men.[31] The society s leaders are Joh The society s leaders are John Quade, Ran The society s leaders are Jo actoractor whose film actor whose film credits include Clint Eastwood s EVERY WHICH WAY BUT LOOSE and EVERY WHICH WAY YOUOU CAN, as well as THE STING and the miniseries ROOTS, serves as the society s spokes, serves as the society s spokesperso the country, holding well-attended seminars on how to establish a jural society.

RegRegionalRegional jural societies are made up of approximately 100 families the number recommended inRegional jura ChristianChristian Jural SociChristian Jural Society Christian Jural Society s manual, THE BOOK OF THE HUNDREDS. Each based somewhat on an updated version of the Posse Comitatus model. Their seminar information states

> Since the existing governments are *de fde facde facto* and without true law, once the jural society isis is formed it is formed it becomes the ultimate civil authority in the country. &It is a Christian body, based on God s Law, the *lex non scripta* [Common Law].

TheThe jural societies are completely self-sufficient. Their court system inclThe jural societies are completely self-suffic tototo handle intto handle interpretatto handle interpretation of scripture, a **court of assise** to handle civil matters under Comm **grandgrand jgrand jury** to investigate charges brought before it. Each jural society has its own enforcement a to invest referredreferred to as the lawful Posse Comitatusreferred to as the lawful Posse Comitatus.referred to as the lawful Posse Com or by enforcing sentences.

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30 **Jural.** 1. Pertaining to natural or positive right, or to the doctrines or rights and obligations; as jural relations. 2. Of or pertaining to jurisprudence; juristic; juridical. BLACK S LAW DICTIONARY 989 (4th ed. 1968).

31 *See Jeffry.com Dedicated to Restoring the Republic Through God, Information & Technology!* (visited May 26, 1999) <http://www.jeffry.com> and its link to *The King s Men of the Christian Jural Society Press, a Christian Common Law Think Tank* (visited May 26, 1999) <http://jeffry.com/law/law/htm>.

JuralJural societies elect officers who serve as their representatives at the state and naJural societies elect officers who serve society.society. A local or society. A local or county jurasociety. A local or county jural society is considered to be the most p national being the least powerful.

AsAs the name implies, the Christian Jural Society iAs the name implies, the Christian Jural Society is designedAs ChristiansChristians are not allowed to join under any circumstances. To be a voting member of a jural society, a personperson must file papers terminating all other voter registration. Once a person person must file papers terminating thousands have, it becomes the only form of government in his or her life.[32]

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[32] The unofficial King s Men website provides the following description of The California Christian Jural Society (visited May 26, 1999) <http://www.jeffry.com/law/law.htm>

AN INTRODUCTION TO THE CALIFORNIA JURAL SOCIETY

A Jural society is an organized political community and a synonym of nation, state, and county. It is Founded in Law, organized upon the basis of a fundamental Law, and existing for the recognition and protection of Rights. The purpose of The California Jural Society is to reestablish the de jure government of the California Republic through county based houses of delegates duly elected by those Electors who desire a return to a lawful government. Due to the loss of the American Union prior to the war of northern aggression, when the southern states walked out of Congress, resulting in a sine die situation, a de facto government was created after hostilities ceased. The states of the earlier union became franchisees of that de facto national government known as the United States. Today, the result is a government of lawlessness, enforcing code through arbitrary and capricious means, by way of military procedure at the direction of the commander-in-chief. That code, created by executive orders and a militarily conscripted Congress (voted in by the franchised people of the franchised state), is then delegated for enforcement by the various branches of government (departments prior to the Civil War). These administrative agencies are thus operating outside of true positive law and are simply code enforcement services. For these and many other reasons, it is essential for the people of California to return to a proper elector status, become involved with The California Jural Society at their county level, in order to return to the Law that made America a great and prosperous nation.

ORGANIZATION AND OPERATION

I. The Jural Society is the ultimate civil authority of the county and wields the same power as the county board of supervisors, and much more. The Jural Society is a Christian organization, based on Biblical principals, common law and the Constitutions, State and National. The Jural Society is comprised of three parts, first, it is the county Grand Jury in a de jure venue and jurisdiction, separate of the current de facto government, second, the Jural Society maintains an Assise Court for those who wish to avoid being judged by the ungodly and unbelievers, third, the Jural Society is the civil authority and handles all necessary, day-to-day business within the county as is needed to provide services to the county public at large. Its elected officers are sent as delegates to the State Jural Society to represent their county. At the county level, it has the descetion [sic] to maintain any action to protect the county for the people, as the people dictate in their local Jural Society to acquire the above mentioned services and the needs of the people as they may desire.

II. The Militia shall be subordinate to the civil authority as per Article 1, Section 12 of the Constitution of California, 1849. The Jural Society extends the civil protection to the Militia, and the Militia extends physical protection to the Jural Society. The Militia is also to be utilized for civil process until such time the proper officers are elected to relieve the Militia of that particular duty. For the time being, the Militia can and will be utilized for the process of the Grand Jury and the Assise Court.

III. The Ecclesiastical Society provides scriptural guidance and influence to the Jural Society and Militia. They maintain social, mental, physical, religious, spiritual, and biblical welfare in the county. They are an independent body that by God's Law must speak out and step in when the Jural Society or the Militia is in the wrong. They provide the proper checks and balances between the Jural Society and the Militia to maintain a proper Republican Form of Government under Gods [sic] Law. They are utilized to render opinions on biblical matters when it is requested by the Assise Court.

IV. The Assise Court can hear issues brought to it by various methods. The petitioners request the Jural Society to be heard on their matter, and enter it upon the record. When this is done, the petitioners are requested to sign a binding arbitration agreement to abide by the decision of the Assise Court, as per Article 1, Section 10, of The Constitution of the united states of America. After this is done, the petitioners file briefs with the Assise Court. The Assise Court proceeds to adduce the evidence and render a judgment based upon their findings. This process should take less than two (2) weeks.

V. The Grand Jury is a free and independent body that adduces its own evidence and delivers their findings to the Jural Society. If the Grand Jury findings need process of service, the Jural Society directs the Militia to do the Process to bring the man, woman, or evidence before the Court.

VI. The Jural Society, Militia, and Ecclesiastic Society need to redress the de facto government in all of its branches. All three of these de jure government elements must maintain a strong Christian attitude in redressing for grievances. The executive, legislative and judicial branches at the city, county, state and national level must all first be redressed for grievances. We must continue to organize the de jure government and maintain a passive attitude unless and until offered no other avenue.

VII. The Jural Society officers must be elected by the Electors of the county that are not members of the Jural Society. All ballots cast by Electors will not be done in secret as Satan would have it, but by open and public elections. This must be done to have a Republican Form of Government and to establish the Jural Society as a legitimate body politic, de jure. This can be accomplished by canceling ones voter registration as per the current California Code section 700, 701, in order to cast a ballot as an Elector. As it is required to only request the cancellation of the registration by the registered voter. This

2,000 A.D. A New Christian Government Now!

TheThe ultimate goal of the jural society is to create The ultimate goal of the jural society is to create a national govThe
thethe head of that government. Jural societies believe that this must be accomplished bethe head of that government. Jural s
earth.earth. As with the rest of the apocalyptearth. As with the rest of the apocalyptic Freemearth. As with the rest o
urgency to accomplish their goal before the year 2000.

AlthAlthoughAlthough it is still unclear just how violent the jural societies will become in their effort to be sAlthough it
governed,governed, there is evidence that the most rgoverned, there is evidence that the most radical forces governed, there
them.them. Several of the jural society members are Christthem. Several of the jural society members are Christian Identi
rope and a tree.

IfIf jural societies are being controlled by the Freemen s moIf jural societies are being controlled by the Freemen s mo
forfor the execution of judges, prosecutors, and other officials, these societfor the execution of judges, prosecutors, and
Freemen threat to date.

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makes one an Elector, and for those who have never voted or registered, it takes only a signed affidavit statement of the same.

CONCLUSION

When these three entities are occupied and maintained by Christian men and women, under God's Law, and are operating within this country again, then, and only then, will we have a proper de jure government.

Patrons may write to: Randy Lee.,
general delivery.
Canoga Park Post Office.
Canoga Park, California.
or call: 818-347-7080 (voice), 818-313-8814 (fax)

WHAT IS WRONG WITH OUR PUBLIC DEFENDERS AND PROSECUTORS?

The Freemen Counselor

ItIt has been our experience that Freemen will not accept any representation by membIt has been our experience WashingtonWashington StatWashington State Bar Association. Our world prohibits representation by anyone not admitted to the b aa Freeman s counselor cannot be permitted to act in our courts on a Freea Freeman s counselor cannot be permitted activityactivity in our system is to condone a crime the unlawful practice of lawactivity in our system is to condone a crime defendant.

Since Freemen often refuse to an Since Freemen often refuse to answer qu Since Freemen often refuse to answer establishestablish (1) whether the Freeman defendant is indigent, and (2) whether the Freeman defeestablish (1) whether the Fr hishis or her right to counsel. This creates a clear potential appelhis or her right to counsel. This creates a clear potential a aa 6th and 14th Amendment right to the assistanca 6th and 14th Amendment right to the assistance a 6th and 14th Amendm punishedpunished by imprisonment, *see* e.g. *Gideon v. WainwrGideon v. Wainwright,* 372 U.S 372 U.S. 335, 83 S.Ct. 792 (1963),(1963), and every such defendant also has the right to voluntarily and intelligen(1963), and every such defendant also counsel,counsel, *Faretta v. California,* 422 U.S. 806, 95 S.Ct. 2525, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). Care 4 establish a proper record of the Freeman defendant s waiver of this right.

A Public Defender s Conflict of Interest ?

ButBut what is wrong with our lawyers? Freemen assert But what is wrong with our lawyers? Freemen assert tBut CitizenCitizen who has properly attained that status from a Common Law coCitizen who has properly attained that status legislative legislative (i.e. derisive) creature of a de facto State established by executive order and military rule, FreemenFreemen posit tFreemen posit that it is obvious such a lawyer has an inherent conflict of interest in arguing before judg who belong and submit to the same State entity.

Bar Association Approval to Practice Law A Title of Nobility ?

AA person may not appear as an atA person may not appear as an attorney or cA person may not appear as an attorney prapracticepractice law inpractice law in this state until becoming an active member of the Washington State Bar Associa Admission to Practice Rule 1(b).

FreemenFreemen assert that the privilege to practiFreemen assert that the privilege to practice Freemen assert that the createdcreated State supreme court) is actually a title of nobility mandacreated State supreme court) is actually a title of nobil is prohibited by Article I of the U.S. Constitution

> §§ 9. &No title of nobility shall be granted by the United States; and no person§ 9. &No title of nobility shall be granted b officeoffice ooffice of profit oroffice of profit or trust under them, shall, without the consent of the Congress, accept of anyany present, emany present, emoluany present, emolument, office, or title of any kind whatever, from any king, p foreign state.

FreemenFreemen argue that to them, de facto Washington State, for exFreemen argue that to them, de facto Washing governmentgovernment act done in cogovernment act done in contgovernment act done in contradiction to the Constitution is thatthat no bar association lawyer holding such a title of nobility can or should be acceptthat no bar association lawyer hold condcondoningcondoning an unconstitutional act, and accepting jurisdiction of the State court over Freemen, somethcondoning a self-respecting Freeman could ever allow.

TheThe Missing 13th Amendment Lawyers Prohibited From Serving in Government

TheThe Title of Nobility argThe Title of Nobility argument discuThe Title of Nobility argument discussed previously is b thethe missing 13th Amendment to the United States Consthe missing 13th Amendment to the United States Constituti totto automatically strip citizenship from anyto automatically strip citizenship from anyonto automatically strip citizenship fron fromfrom serving in government employment. The title given to a lawyer (and judge) is assefrom serving in government employ nobility.nobility. Thus, it is argued that all lawyers and judges in this country are illegnobility. Thus, it is argued that all lawye committingcommitting treason by doing so, and may be ignored by a Sovereigcommitting treason by doing so, and may be igno supreme Common Law Court. The article s discussion is summarized as follows

> **TheThe Thirteenth Amendment.** In 1789, the House of Representatives compi In 1789, the House of Representati possiblepossible Constitutional Amendments, some of which would ultimately bpossible Constitutional Amendments, s Rights.Rights. The House proposed seventeen and the Senate reduced the list to twelve. During thisthis process, Senator Tristrain Dalton (Mass.) proposed an amendment seeking to prohibit andand provide a penalty for any American accepting a tiand provide a penalty for any American accepting a tit not passed, this was the first time a title of nobility amendment was proposed.
>
> TwentyTwenty years later, in January 1810, Senator PhiliTwenty years later, in January 1810, Senator Philip that,that, after twice being considered by a committee, was appthat, after twice being considered by a committee, was SenateSenate by a vote of 19 to 5. On May 1, 1810, the House approved the amendment by a vote of 87 to 3. This proposed Thirteenth Amendment read as follows
>
> > IfIf any citizen of the United States shall accept, claim, receive or retain anyany title of nobility or honour,any title of nobility or honour, any title of nobility or honour, or shall, with acceptaccept and retain any present, pension, office or accept and retain any present, pension, office or emol whatever,whatever, from any emperor, king, prince or foreign whatever, from any emperor, king, pr personperson shall cease to be a citizen ofperson shall cease to be a citizen of thperson shall cease to incapableincapable of holding any office of trust or profit under them, orincapable of holding any office of tru them.
>
> **HistoricalHistorical Context.** To understand the meaning of this mi To understand the meaning of Amendment,Amendment, Amendment, one mustAmendment, one must understand its historical context. At the tim RevolRevolution,Revolution, KiRevolution, King George III and other monarchs of Europe say democracy as unnatural,unnatural, ungodly ideological threat every bit as radical as communism was once regarded by modern western nations.
>
> EvenEven though the Treaty of Paris ended the RevoEven though the Treaty of Paris ended the RevolutEver StStates States existence threatened other monarchies. The United States stood as a heroic States existence threate modelmodel for others who strumodel for others who struggled agamodel for others who struggled against oppres (1978-17(1978-1799)(1978-1799) and the Polish national uprising (1794) were in part encouraged by(1978-1799) American Revolution.
>
> TheirTheir surTheir survival at sTheir survival at stake, the monarchies sought to destroy or subvert the Ameri systemsystem of government. Knowing thesystem of government. Knowing they cosystem of government. Know moremore covert methods of political subversion, employing spies and secret agents skilled in briberybribery and lbribery and legal decbribery and legal deception. Since governments run on money, much of the n counterrevolutionary efforts emanated from English banks.
>
> **BanksBanks and Money.** In seeking to destroy t In seeking to destroy the United In seeking to destroy the Unit crimes,crimes, including fraud,crimes, including fraud, concrimes, including fraud, conversion, and theft. To escape p andand formed alliand formed allianceand formed alliances with the best lawyers and judges money could buy. These a

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33 David M. Dodge, *The Missing 13th Amendment (August 1, 1991)* (visited June 6, 1999) <http://odur.let.rug.nl/~usa/E/thirteen/thirteen1.htm>.

For a stinging rebuke of Dodge s article, *see* Jol Silversmith, *The Real Titles of Nobility Amendment FAQ Exposing extremist lies about the Missing Thirteenth Amendment (June 19, 1997)* (visited June 6, 1999) <http://www.nyx.net/~jsilvers/nobility.html>.

ororiginallyoriginally forged in Europe, spread to the colonies and later into the newly formed Uoriginally forged in Eur
States.

DespiteDespite their criminal foundation, these alliances generated great wealth and ultDespite their criminal foundat
respectability.respectability. The English bankers and lawyers wanted trespectability. The English bankers and
businessmen businessmen so as their fortunes grew the British monarcbusinessmen so as their fortunes grew the B
granting them titles of nobility.

TitTitlesTitles Titles of Nobility. Historically, the British peerage system referred to knights as
Squires Squires and to those who bore the knights shields as Squires and to those who bore the knights shields
physicalphysical violence gave way to the morphysical violence gave way to the more civilizphysical violence gave
(and(and more profitable) than the sword, and the cle(and more profitable) than the sword, and the clever wie(and
lawyerlawyers)lawyers) came to hold titles of nobility. The most common title was Esquire (ulawyers) came to hold ti
today by some lawyers.)

InternationalInternational Bar Association. In coIn coloniaIn colonial America, attorneys trained attorneys but
mostmost helmost held nmost held no title of nobility or honor. There was no requirement that one be a lawyer
toto hold the position of district attorney, attorney general, oto hold the position of district attorney, attorney general
choice was not restricted to a lawyer and there were no state or national bar associations.

TheThe only organizatioThe only organization thThe only organization that certified lawyers was the Internati
(IBA),(IBA), chartered by the King of England, head(IBA), chartered by the King of England, headquarte
associatedassociated with the internatassociated with the internationaassociated with the international banking system
thethe rank Esquire, a title of nobility. the rank Esquire, a title of nobility. Esthe rank Esquire, a title of n
thethe 13th Amendment sthe 13th Amendment southe 13th Amendment sought to prohibit. Why? Because the loyalty
waswas suspect. Bankers and lawyers with an Esquire was suspect. Bankers and lawyers with an Esquire beh
thethe monarchy; members of any organization whose principle purposes wethe monarchy; members of any organizati
economic.

ArtArtiArticleArticle 1, Section 9 of the Constitution[34] sought to prohibit the International Bar
AssociaAssociationAssociation (or anAssociation (or any agency that granted titles of nobility) from operating in Americ
thethe Constitution neglected to specify athe Constitution neglected to specify a penalthe Constitution neglected to sp
ofof thof the monarchy continued to infiltrate and influence the government (as in the Jay Treof the monarchy continue
andand the US Bank charter incidents). Therefore, a title of nobiland the US Bank charter incidents). Theref
specifiedspecified a penalty (lossspecified a penalty (loss of citizensspecified a penalty (loss of citizenship) was propo
meaningmeaning of the amendment was to prohibmeaning of the amendment was to prohibimeaning of the amendme
toto foreign governments and bankers fromto foreign governments and bankers from voting, hto foreign governm
skills to subvert the government.[35]

Honor. The missing Amendm The missing Amendment is refe The missing Amendment is referred to as the title
butbut the sebut the second prohibition against honour (honor) may be more significant. The archabut the second pro
definitiondefinition of honor as used in 1810 meant anyone obtaining or havingdefinition of honor as used in 181
privilegeprivilege over another. A contemporary example of an honor granted to only a few
AmericansAmericans is the privilege Americans is the privilege oAmericans is the privilege of being a judge. La
attendant privileges and powers; non-lawyers cannot.

ByBy prohibiting By prohibiting hBy prohibiting honors, the missing Amendment prohibits any advantage or p
thatthat would grant some citizens an unequal opportunity to achieve that would grant some citizens an unequal

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34 ...No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any king whatever, from any King, Prince, or foreign State...

35 Silversmith s article, *supra,* asserts that no debates about the proposed amendment survive. One theory is that the amendment was a reaction to the involvement of Napoleon s nephew, Jerome Bonaparte, in American public life a few years earlier. Nathaniel Macon (a Republican from North Carolina) noted that he considered the vote on this question as deciding whether or not we were to have members of the Legion of Honor in this country. The Federalists thus may have introduced the proposal in an attempt to avoid embarrassment about their own associations with the British aristocracy....Another theory is that the amendment reflected the general animosity to foreigners evident before the War of 1812...There is not a shred of evidence to support the extremist theory that the amendment was part of an international banking/legal conspiracy, as claimed by extremists.

power.power. While titles ofpower. While titles of nobility power. While titles of nobility may no longer ap
conceptconcept of honor remains relevant. For example, anyone concept of honor remains relevant.
immunity immunity from l immunity from la immunity from lawsuits which were not afforded to all citizens w
separateseparate privilege, an honor, and would therefore forfeit his right to voteseparate privilege, an honor, and w
office.office. Think of the immunities from laoffice. Think of the immunities from lawsuits toffice. Think of the
bureaucrats currently enjoy.

[**RatificationRatification of the Amendment.** T Twelve stat Twelve states ratified the amendment, three rejected it,
andand two took no action. Thirteen states were needed for adoption. Both of and two took no action. Thirteen st
supra, discuss at great length whether a thirteenth state, Virginia, discuss at great length whether a thirteenth state,
beforbeforebefore or after the addition of more states into the union (if it ever ratified it), and the
impactimpact of more states on the requirement of ratification by thimpact of more states on the requirement of ra
For further discussion on ratification, please see the articles.]

SignificanceSignificance of Removal. To create the present oligarchy (rule by lawyers) which the
USUS now endures, the lawyUS now endures, the lawyers first US now endures, the lawyers first had to remove the
thatthat might otherwisethat might otherwise have kept ththat might otherwise have kept them in check. In fact, it was
afaftafterafter the disappearance of this 13th Amendment that American bar associations began to
appear and exercise political power.

SSinceSince the unlawful deletion of the 13th Amendment, the newly develoSince the unlawful deletion
assassociationsassociations began working diligently to create a system wherein lawyers took oassociations began work
ofof privilof privilege andof privilege and nobility as Esquires and received the honor of offices and positions
(like(like dist(like district attorney or judge) that only lawyers hold. By virtue of these titles, honors(like district atto
andand special prand special privilegand special privileges, lawyers have assumed political and economic advantages o
majority of U.S. citizens.

TheThe significant of this missingThe significant of this missing 13The significant of this missing 13th Amendment
isis this: Since the amendmentis this: Since the amendment wais this: Since the amendment was never lawful nullifie
andand is the Law of the land. If public support couland is the Law of the land. If public support
AmendmentAmendment might provide a legal basis to challenge many existingAmendment might provide a leg
decisionsdecisions previously made by lawyers who were unconstitutionally elected decisions previously made by la
tototo their pototo their positions of power; it might even mean removal of lawyers from the current US
government system.

AtAt the very least, this missing 13th AmendmenAt the very least, this missing 13th Amendment demonsAt the
lawyers were recognized as enemies of the people and nation. Some things never change.

The Prosecutor s Svengali Janet Reno?

TheThe Freemen documents rThe Freemen documents received in The Freemen documents received in Kitsap County asse
allall lawyers, owe allegiance to or are the agent of the Unitedall lawyers, owe allegiance to or are the agent of the United all
sourcesource of this belief has not been located, but the fact that the Attorney General is an attorney, that she took
anan oath to support and uphold the Constitution of the United Stan oath to support and uphold the Constitution of the Un
responsible for the prosecution of federal crimes may support the idea.

InIn Freemen doctrine, our allegiance or agency to In Freemen doctrine, our allegiance or agency to Janet Reno In F
withwith or member of Interpol, the International Police. It is not surpwith or member of Interpol, the International Polic
given her involvement in Ruby Ridge and WACO, and their one world government conspiracy theory.

Interpol,Interpol, which is part Interpol, which is part of theInterpol, which is part of the one world conspiracy, is an int
UnitedUnited States accepted membership in InterpoUnited States accepted membership in Interpol in 193United Stat
designateddesignated office of responsibilitydesignated office of responsibility for Interpoldesignated office of responsibility for
aacceptaccept and maintain membership in Interpol and to designate any departments and agencieaccept and maintain memb
participate in the United States representation at Interpol.[36]

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36 Freemen assert that the Secretary of Treasury, ATF, FBI, DEA, Customs, IRS, Secret Service, Department of Justice, Department of State, and Postal Service have all been designated to work with and participate in Interpol.

TheThe problem, asThe problem, as Freemen seeThe problem, as Freemen see it, with membership in Interpol is that the In participantsparticipants to place the interests of Interpoparticipants to place the interests of Interpol over loyaltyparticipan General sGeneral s acceptance of the terms of the Interpol ConstitGeneral s acceptance of the terms of the Interpol Constituti expatriationexpatriation and a relinquishment of her expatriation and a relinquishment of her United Sexpatriation a Accordingly,Accordingly, any discretionary decisions made by Accordingly, any discretionary decisions made by the Attorn oror member of a law enforcement agency that is adverse to the privacy or property of a Freemen is seen as a declaration of war by a foreign agent.

The International Bar Association

FreemenFreemen also claim that InternatioFreemen also claim that InternationaFreemen also claim that International Jewi ththatthat all nations who borrow from the IMF will be beholden to this international body, a step in the Jewish effort to institute a one world monetary system to the goal of a one world satanic government.

TheseThese bankers deemed it necessary to set up an International Bar AssociatiThese bankers deemed it necessary t knewknew that what they were doing undknew that what they were doing under the law wasknew that what they were doing whichwhich could lead to a lawful charge of treason subject to a penalty of death. So twhich could lead to a lawful charg associationsassociations to ensure all lawyers and judassociations to ensure all lawyers and judges would lassociations international bar association.

ThisThis bar association set up a bar asThis bar association set up a bar association in eThis bar association set up a thereafterthereafter instrumental in settingthereafter instrumental in setting up bthereafter instrumental in setting up bar associa demandingdemanding compliance with their standards. Failure to do so pdemanding compliance with their standards. whichwhich fixed the practice of law so that only International Bar Association followers could practice law and become judges.

SinceSince we are being run by lawyers beholden to an internSince we are being run by lawyers beholden to an intern beenbeen succebeen successfubeen successfully eliminated, only Admiralty Jurisdiction (international law) exists in our courts, a recognizesrecognizes no civil rights, no Bill of Rights. And who better to enforce this law than our country s traitorous lawyers under Janet Reno?

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37 Article 21 of the Interpol Constitution states: In the exercise of their duties, all members of the Executive Committee shall conduct themselves as representatives of the organization and not as representatives of their respective countries.

Article 30 of the Interpol Constitution states: In the exercise of their duties, the Secretary General and the staff shall neither solicit nor accept instructions from any government or authority outside the Organization. They shall abstain from any action which might be prejudicial to their inter-national task.

38 This section, 8 U.S.C. § 1481(a) provides in pertinent part

> Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions
> (a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality
> (1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or
> (2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof. &

T RESPASSING ON MY VENUE THE FLAG

Ship in a Harbor

CitingCiting to Citing to AdmirCiting to Admiralty (maritime or international) Law, Freemen believe that the flag determine underunder which an action is being conducted. In other words, the law of the flag is the repositunder which an action is be rightsrights guaranteed a citizen in party. Trights guaranteed a citizen in party. The origin of thirights guaranteed a ci providesprovides that a vessel sailing inprovides that a vessel sailing into port under a flagprovides that a vessel sailing into po whose flag she flies.

ByBy flying the flag, the ship owner gave notice to all those who enter into contracts with theBy flying the flag, the s mastermaster that he intends the law of that flag master that he intends the law of that flag to regulatmaster that he intends th anan effect similar to the present day choice of law provisions found in many contractan effect similar to the present day choice however, is only one of several factors to be considered in determining law applicable in maritime cases.

The American Flag of Peace

TheThe United States Code The United States Code provides The United States Code provides that [t]he flag of th stripes, stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in astripes, alternate red and wh U.S.C.U.S.C. § 1, with one star added for each additional state, 4 U.S.C. § 2. A flag that strictly complies with this definition is generally identified by Freemen as the American flag of peace.

Flag Fringe Velcro Anyone?

TheThe flag that is pThe flag that is present iThe flag that is present in most courtrooms and other governmental build llanguagelanguage language of the Code due to the addition of yellow-fringe. This practice first arose in our military branches, which is why Freemen generally call such a flag a flag of war. [39]

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[39] As explained in one of the recent federal cases addressing a Freemen s claim that a state court that convicted him was deprived of jurisdiction over him by the presence of a fringed flag

> In the 1920s, Army Regulation 260-10 required troops in the field to fly flags with a yellow silk fringe. *See* 34 Op. Atty. Gen. 483, 484-85 (1925). The Adjutant General of the Army believed that [t]he War Department ... knows of no law which either requires or prohibits the placing of a fringe on the flag of the United States. No Act of Congress or Executive order has been found bearing on the question. In flag manufacture a fringe is not considered to be a part of the flag, and it is without heraldic significance. In the common use of the word it is a fringe and not a border. Ancient custom sanctions the use of fringe on the regimental colors and standards, but there seems to be no good reason or precedent for its use on other flags. *Id.* at 485 (quoting an untitled circular of the Adjutant General dated Mar. 28, 1924). The United States Attorney General concurred, noting that the presence of a fringe on the flag can not be said to constitute an unauthorized addition to the design prescribed by statute. *Id.* The President may, however, determine whether the Army or Navy display or remove fringes from their flags or standards. *Id.* at 485-86. The latest effective executive order, signed by President Eisenhower, himself a military man, did not address this issue. *See* Executive Order No. 10834, 24 Fed. Reg. 6865 (1959), reprinted in 4 U.S.C.A. § 1 notes (1985). Therefore, [the plaintiff's] claims against the above-listed Defendants must be dismissed because his factual predicate is incorrect as a matter of law. Even if the Army or Navy do display United States flags surrounded by yellow fringe, the presence of yellow fringe does not necessarily turn every such flag into a flag of war. Far from it: in the words of the Adjutant General of the Army, [i]n flag manufacture a fringe is not considered to be a part of the flag, and it is without heraldic significance. 34 Op.Att'y Gen. at 485.
>
> If fringe attached to the flag is of no heraldic significance, the same is true a fortiori of an eagle gracing the flagpole. Nor are the fringe or the eagle of any legal significance. Even were [the plaintiff] to prove that yellow fringe or a flagpole eagle converted the state court s United States flag to a maritime flag of war, the Court cannot fathom how the display of a maritime war flag could limit the state court s jurisdiction...

McCann v. Greenway, 952 F. Supp. 647, 650-51 (W.D.Mo.1997) (citations and footnotes omitted).

WhenWhen a court flies a yellow-fringed flag,[40] Freeme Freemen assert the court has created a new foreign state/power state/power within the sanctuary state/power within the sanctuary or territostate/power within the sanctu courtcourt acts, it acts outside the confines of the Constitutcourt acts, it acts outside the confines of the Constitution and l somehowsomehow transformed into the Supreme Ruler ofsomehow transformed into the Supreme Ruler of a fore addition,addition, this action displaying the yellow-fringed flag apparently strips all citizeaddition, this action constitutionalconstitutional rights and voids all contracts between the court and aconstitutional rights and voids all contrac entering the bar of a court displaying the offending flag, a Freemen gives up his Common Law rights.

Crimes Committed Against Freemen

Anyone,Anyone, including judges, prosecutors, defense attAnyone, including judges, prosecutors, defense attorAnyone ofofficers,officers, who pofficers, who participates in a criminal prosecution in a courtroom in which a yellow-fringed flag fli guiltyguilty in the Freemen ideology of numerous serious offenses, including civguilty in the Freemen ideology of numerou deprivedeprive the defendant of his civil rights, extortideprive the defendant of his civil rights, extortion (prdeprive the defend paidpaid fpaid for their work or because bail is imposed as a condition of release), mail fraud (for capitalizing thpaid for the defendant sdefendant s name in court documents), misprision defendant s name in court documents), misprision of a fedefe mutilation, mutilation, kidnapping, assault with a deadl mutilation, kidnapping, assault with a deadly weap mut defendant s rights to equal protection.

MostMost of thMost of these offenses are defined by various federal criminal statutes. The power to enforce theMost of criminalcriminal statutes, however, has been delegated solely to the Attorney General of the Unicriminal statutes, however, h *e.g.,e.g., Cok v.e.g., Cok v. Cosentino,* 876 F.2d 1, 2 (1st Cir.1989) 876 F.2d 1, 2 (1st Cir.1989) (holding that only the United Stat forfor criminal conspiracy for criminal conspiracy to deprive anothefor criminal conspiracy to deprive another of their civil *NewcombNewcomb v. Ingle,* 827 F.2d 675, 676 n. 1 (10t 827 F.2d 675, 676 n. 1 (10th Cir.1987) 827 F.2d 675, 676 n. U.S.C. § 241 does not provide for a private cause of action).

Treason The Ultimate Crime and Punishment

PerhapsPerhaps more seriously, Freemen believe that the act of displaying a yellow-frinPerhaps more seriously, Freeme involvesinvolves all court personnel and anyone who has sworn an oath to uphold the Constinvolves all court personnel and StatesStates in constructive treason byStates in constructive treason by bStates in constructive treason by betraying t however, has never been adopted in the United States.

Conceptually,Conceptually, constructive treason is an attempt to establish treasoConceptually, constructive treason is a thethe simple genuine lethe simple genuine letter the simple genuine letter of the law, and therefore is highly dangerous *Treason* § 1 (1954). This doctrine dev § 1 (1954). This doctrine developed under En § 1 (1954). This doctrine developed un imagineimagine timagine the Deaimagine the Death of ... the King. *Steffan v. Perry,* 41 F.3d 677, 713 (D.C.Cir.1994) (Wald, J. (quoting(quoting Statute of Treasons, 25 Edw. III). This became the crime of constructive t(quoting Statute of Treasons, 2 enforcedenforced against supposed compassers and imenforced against supposed compassers and imagineenforced agains agreementagreement corroborated an intent to carry out the regicide. *Id.* (citations omitted). This doctrine, however, is expressly repudiated by the Constitution, which states that

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[40] It has also been suggested that displaying an American flag with a yellow fringe is a violation of 36 U.S.C. § 176(g), which provides that [t]he flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature. Apparently, the fringe is considered by some Freemen to be a design that is attached to the flag. This part of Title 36, commonly known as the flag code, is not, however, intended to proscribe conduct. *See Holmes v. Wallace,* 407 F. Supp. 493, 496 (M.D.Ala.), *aff d,* 540 F.2d 1083 (5th Cir.1976) (Mem.). In addition, § 176 does not proscribe any remedy for its violation. Therefore, even if a fringe on the flag could be viewed as a violation, a private plaintiff cannot premise a civil rights violation on a claimed violation of Title 36. *See id.* at 497.

Moreover, if the flag code did in fact provide for penal sanctions, it would be of dubious constitutionality. *See, e.g., United States v. Eichman,* 496 U.S. 310, 313-19, 110 S.Ct. 2404, 2406-10, 110 L.Ed.2d 287 (1990) (finding the Flag Protection Act of 1989 unconstitutional and noting that the Government s interest in protecting the symbolic value of the flag runs afoul of the First Amendment); *Spence v. Washington,* 418 U.S. 405, 412-15, 94 S.Ct. 2727, 2731-33, 41 L.Ed.2d 842 (1974) (holding unconstitutional a state statute that made it a criminal act to place any word figure, mark, picture, design, drawing or advertisement of any nature upon any flag... of the United States, and reversing the conviction of college student who attached a peace symbol to an American flag).

treasontreason against the United States consists only in treason against the United States consists only in adheringadhering to their Enemies, adhering to their Enemies, giving thadhering to their Enemies, giving them Aid and convictedconvicted of Treason unless on the Testimony of two Witnesses to the same overt convicted of Treason unless on Confession in open Court.

U.S.U.S. Constitution. Article III, § 3. By its express language, the Constitution limits conviction for the U.S. Constitution. Ar of treason to particular overt acts. No other form of treason has been recognized.

The Protective Shroud of the American Flag of Peace

ToTo To secure their choTo secure their choice of law, many Freemen will affix the unoffending American flag of peace to firstfirst page of all the papers submitted to the court, and in the evfirst page of all the papers submitted to the court, and in th FreemanFreeman will also be personally adorned with the unoffendinFreeman will also be personally adorned with the uno wearingwearing a small flag pin on their collar orwearing a small flag pin on their collar or lapel. wearing a small flag pin on display on counsel table or pin a large American flag of peace to their chest.

ApparentlApparently,Apparently, Freemen believe that even though the courtroom may be displaying a flag other than thA flagflag flag of peace, the Freemens shrouding in the unoffending American flag of peace acts as a talisman oflag of peace sortssorts to protect the Freemen against jurisdictional conversion and somehow secures the Freemens Common LaLawLaw Law rights, just as a vessel sailing into port under a foreign flag was considered under Admiralty Law to be partpart of the territory of the natiopart of the territory of the nation whose fpart of the territory of the nation whose flag asked question, By what authority do you trespass on my venue?

MONEY

Corruption of the Constitution 1933

TheThe Common Law s discussion that is basedThe Common Law s discussion that is based on our undThe Common Law ortho dox

> TheThe United States Constitution was basically the shackles placed on the federal govgovernmentgovernment by a sovereign people. The people possessed God-given rights. Those rigovernment by a so werewere only secured by the Constitution. All rights not specifically granted to the govemment were reserved for the people.
>
> ThisThis country started as a constitutional republic, that is, a union of sovereign nation states. The federal government was to be an agent of the states.
>
> AsAs a safeguard, the Constitution provides that during times oAs a safeguard, the Constitution provides that durin presidentpresident may assume all powers. These emergency powerspresident may assume all powers. These emer PresidentPresident Lincoln assumed all powers during the Civil War. SiPresident Lincoln assumed all powers during rebellion, we may say that he established a constitutional dictatorship.
>
> SinceSince then, however, the definition of emergencies requiring total controSince then, however, the definitio stretchedstretched to include economic problems, social imbalances, and perceived threats to the U.S.U.S. by U.S. by a forU.S. by a foreign country s actions on another continent. When authoritarian control is exeexertedexerted during times other than rebellion or invasion, it is an unconstitutional dictatorship.dictatorship. The federal government has overstdictatorship. The federal government has oversteppe Constitution.
>
> ThroThrouThroughThrough the insidious, yet steady encroachment of emergency powers, the governmengovernmentgovernment has now achieved the ability to rule the people by statute or decree, without thethe vote or consent of the ruled. Through a mazethe vote or consent of the ruled. Through a maze of politicalt powerspowers granted to Franklin D.powers granted to Franklin D. Roosevelt ipowers granted to Franklin D. Roosevel becomebecome part of the U.S. Code as permanent everyday powers. America has continued underunder the unconstitutional dictatorship of war and emerunder the unconstitutional dictatorship of war and than 60 years later.

EUGENEUGENE SCHRODER AND MICKI NELLIS, CONSTITUONSTITUTION: FACACT OR FICTION (Cleburne: Buffalo Creek, 1995), atat 1-2. (Schroder is the movement at 1-2. (Schroder is the movement s most importat 1-2. (Schroder is the movemer CommonCommon Law supporters from 32 stateCommon Law supporters from 32 states Common Law supporters from Common Law.)

SchroderSchroder makes quite a claim Schroder makes quite a claim unbekSchroder makes quite a claim unbek abandonedabandoned by the government through politicalabandoned by the government through political trickeryabandone AmericanAmerican has a dutyAmerican has a duty to doAmerican has a duty to do whatever it takes to restore the land to constituti the Revolutionary War and that is why Freemen must fight this one.

BothBoth our systems starBoth our systems started out aBoth our systems started out at the same place. When did our sy originaloriginal and righteous destiny anoriginal and righteous destiny and fall from original and righteous destiny and fall fr Abraham Lincoln, some Bill Clinton), the most important of these tales looks to the year 1933.

InIn 1933, Franklin D. Roosevelt tookIn 1933, Franklin D. Roosevelt took oIn 1933, Franklin D. Roosevelt took offi nation,nation, the Great Depression. Roosevelt felt that the economic calamity facing the countrynation, the Great Depression. threatthreat threat tothreat to our survival as any invasion. So, he decided to invoke the war and emergency powers that the Constitution stated were only to be used in times of rebellion or enemy invasion.

HistoryHistory bears out Schroder s version of the story. RooseveHistory bears out Schroder s version of the story. Roo thethe country off the gold standard, and established a new bthe country off the gold standard, and established a new ba

withwith many constitutional divisions of power, redefining the president s role, including taking thwith many constitutional di coin money from Congress and giving it to himself, despite specific instructions of the Constitution.

BecauseBecause theBecause the Great Depression was threatening not only the nation s economic status but also the vBeca futurefuture of the nation, Roosevelt determfuture of the nation, Roosevelt determinefuture of the nation, Roosevel constitutional adherence rather than have the country crumble into chaos.

InIn all likelihoodIn all likelihood, In all likelihood, Roosevelt never intended to give up his new power. This is not be puppepuppetpuppet of a great Jewish conspiracy, but rather because he felt it was in the best interest of tpuppet of a great Jewi thethe president to kethe president to keep them. the president to keep them. Roosevelt did not believe that the founding father generationsgenerations to be bound by a literal interpretation of the Constitution. He believed that tgenerations to be bou understoodunderstood that the Constitution was a starting point for the federal government aunderstood that the Constitution w would be allowed to evolve over the centuries to fit the nation s needs.

ByBy 1935, many New Deal policies werBy 1935, many New Deal policies were attaBy 1935, many New Deal policies we Court.Court. First, the National Industrial Recovery Act was struck down as unconstitutional. TheCourt. First, the National Ind RetirementRetirement Act, followed by the Agricultural Adjustment Act. EmergencyRetirement Act, followed by the Agricult going down in flames. Freemen see this as proof that they are correct.

RooseveltRoosevelt saw the Supreme Court s actions as obstruRoosevelt saw the Supreme Court s actions as obstructing RooseveltRoosevelt byRoosevelt by a lRoosevelt by a landslide. So, Roosevelt attempted to pack the Supreme Court with schemescheme to increase the number of Supreme Court justices to twelve. The mscheme to increase the number of Supreme C totto be Roosevelt s biggest mistake. Even hito be Roosevelt s biggest mistake. Even his sto be Roosevelt s biggest m wantedwanted towanted to implement hiwanted to implement his programs so badly that he was willing to break all the rules, inc Constitution. Congress refused to go along.

ButBut in the end, it did not matter. The 1937 1938 Supreme Court (with newBut in the end, it did not matter appointeesappointees due to attritiappointees due to attrition) reappointees due to attrition) reversed its decisions on New Deal federalfederal government by throwing out the original intent constitutionfederal government by throwing out the origina withwith a nwith a new interprewith a new interpretation that the Constitution was an evolutionary document. The legislation byby Roosevelt and passed by Congress was found constitutional by the Supreme Court. All three governmentalgovernmental branches concurred, and the New Deal governmental branches concurred, and the New Deal bec butbut the argument concerning original intent of the framer s versus a living, breathing Conbut the argument concerning o from over.

TheThe Bank Conservation ActThe Bank Conservation Act ofThe Bank Conservation From the Gold Standard

FreemenFreemen tell of a government captured by hostile forces; a govFreemen tell of a government captured by hostile insteadinstead of emanating from them. The Bank Conservationinstead of emanating from them. The Bank Conserva proclamationproclamation temporarily closing the banks and, as it proclamation temporarily closing the banks and, as it tu goldgold standard, takes on enormous gold standard, takes on enormous significance togold standard, takes on enormous sig TradingTrading with the Enemy Act. FreemenTrading with the Enemy Act. Freemen assert thatTrading with the E govegovernment,government, by removing state s rights, have influenced all law by forbidding the people to have a voigovernmen government since parts of the Constitution were suspended by this Act.

RoosevRooseveIRooseveltRoosevelt believed that the gold standard had created a system that would never provide enc currencycurrency to fill the needs of our growing population. He believed that America could only escape the Great DepressionDepression by spending and investing itDepression by spending and investing its way out ofDepression by spendi thethe people, but knew that if he simply ordered more money to be the people, but knew that if he simply ordered more mon duedue to our limited gold reserves. Hyperinflation would create something simidue to our limited gold reserves. Hyperinflat iinin Germany in thein Germany in the postwar 1920 s when people literally had to carry trunks full of their worthless cash just to buy a loaf of bread.

ToTo resolve thTo resolve the problem, RoTo resolve the problem, Roosevelt planned to change the resource that backed andand silver to all the assets controlled by thand silver to all the assets controlled by the banking and silver to all the asset

backedbacked by backed by the mortgages and loans controlled by the nation s banking system. In order to accomplish this tasktask with some appearance of legality, thetask with some appearance of legality, the presidentask with some appearan existing laws something he could only accomplish through his new emergency powers.

InIn the end, RooseIn the end, RooseveIn the end, Roosevelt s plan allowed for the printing of billions of dollars in new pa argue that Roosevelt s paper money ended the Great Depression.

FreemenFreemen asFreemen assert tFreemen assert that the Bank Conservation Act was passed at the behest of banks, to be totto act against the people, who would be prevented to act against the people, who would be prevented from removito bankersbankers and would have their property (gold-backed money) replaced with illbankers and would have their proper FederalFederal ReserFederal Reserve notFederal Reserve notes (issued after March 9, 1933 by a central bank) backed only writtenwritten on. This attack on the people was passed as part of the Trading with the Enemy Act, andwritten on. This attack o isis clear with this Act the American people were defined as the enemy by their govemmis clear with this Act the Ameri now in the hands of the bankers.

TheThe confiscation of the people s propeThe confiscation of the people s property and removal The confiscation o attemptattempt to reduce them to serfdom. And by highlighting the Bank Consattempt to reduce them to serfdom. And religiousreligious tenets of a Jewish banking conspiracy intent on capturing the govereligious tenets of a Jewish banking con the people.

ButBut who got the gold? In the overall scheme of thingBut who got the gold? In the overall scheme of things, it really only because of the significance placed upon it by today s Freemen movement.

TheThe government got the gold, which is fine with peoThe government got the gold, which is fine with people who be democracydemocracy in action. However, for those who believe that Rdemocracy in action. However, for those who believe thethe one world conspiracy, the government s theft of all tthe one world conspiracy, the government s theft of all the gold secret force of Jews who were taking over the world s governments.

AlthoughAlthough the FreeAlthough the Freemen moAlthough the Freemen movement s claim that the government has bee itsits belief that we have been operating under emergency powers during this time is accurate. But, its belief that we have bee CongressCongress passed the National Emergency Termination Act. Roosevelt s emerCongress passed the National Eme longerlonger be considered as such. Instead, they had been written into permanency in tlonger be considered as such. Inst changingchanging the status of the Constitutchanging the status of the Constitution.changing the status of the Constitution. I branches of government, and is the law.

IfIf not so deadly serious,If not so deadly serious, If not so deadly serious, these Freemen arguments would be funny. In ourour constitutional liberties over 60 years ago because he thought it was the righour constitutional liberties over 60 years country. Today, Freemen are willing to commit murder because they disagree with his decision.

Why Do Green Pieces of Paper Called Dollars Have Value?

TheThe elimination of the gold standarThe elimination of the gold standard as pThe elimination of the gold standard as p howhow many people can explain why our current money has value or why we abandoned the gold show many people can e somesome 60 years ago? Does anyone ever bother to ask, Why is this green paper worth anything at all. The momovementmovement temovement tells Freemen that the banking system is part of the great one world government conspi TheThe evThe evil-infiltrated government stole all our gold and now wants the rest of our wealth, and has a scheme The evil-infil get it.

WhenWhen aWhen a farmer needWhen a farmer needs money to keep his operation going, he goes to the local banker and m landland and equipment. land and equipment. In return, theland and equipment. In return, the farmer gets paper money or ev ththethe the bank gives him a piece of paper showing a long account number on one side and another number next to it that represents how many dollars are credited to that account, say $30,000.

Then,Then, the local bank notifies the Federal Reserve that it needs $30,000. In response, theThen, the local bank n ReserveReserve calReserve calls thReserve calls the World Bank composed of twelve international banks that are run by p RockefellersRockefellers and their European counterpartRockefellers and their European counterpart, tRockefellers and conspiracy.conspiracy. At this point, the international bankers turn on a printing press and conspiracy. At this point, the inte $30,000$30,000 in paper money. The money is created out of thin air, and is backed by nothing more than the

paperpaper and ink on it. Freemen estimate that the real cost to the World Bank is about $20 for paper and ink on it. Freemen
handling.handling. But if the farmehandling. But if the farmer shoulhandling. But if the farmer should find himself unable
bad for a $20 investment.

PerhapsPerhaps sadly, this wild idea of how the monetary system works is not all that far from being correct.
MoneyMoney has been turned firstMoney has been turned first into gold, thenMoney has been turned first into gold, then pape
iiintointo bits and bytes that fly through computer terminals and satellites at the speed of liinto bits and bytes that fly th
conspirators can save their $20 with the stroke of a key and steal farms for free.

TheThe idea of money has always The idea of money has always been contrThe idea of money has always been co
spiritualspiritual realm. Few acts require as much faith aspiritual realm. Few acts require as much faith as a persospiritual re
or her property which has actual value. Yet we exercise this faith millions of times a day.

OverOver the centuries, we have used cows, seashells, stones, food, grainOver the centuries, we have used cows, seashells
ofof exchange as moof exchange as money. of exchange as money. It is not easy to carry around these bulky items, so
money, which is far more convenient.

OvOverOver time, we figured out that whatever we use for money has to be something with a limiOver time, we f
supply somethingsupply something scarce like gold. But if you were wealthy and forcesupply something scarce like go
house, you were vulnerable to theft. So we created banks, places with secure vaults to store our gold.

WeWe gave our banks golWe gave our banks gold, andWe gave our banks gold, and banks gave us paper certificates that w
thethe tithe timthe time came to buy something. We quickly figured out that it did not make sense to go to the bank for
eacheach purchase, especially when the mereach purchase, especially when the merchant would juseach purchase, especially
certificates.certificates. So we started giving the merchants our gold certificates. So we started giving the merchants our g
gold. This was the birth of paper money, born out of convenience.

FreemenFreemen draw tFreemen draw the line at this juncture, asserting that only paper money backed by gold or silver
real real money. T real money. The idea behind the movement s teachings is that gold and silver were created by God i
limited supply and are therefore ordained to be the only true form of money.

WhileWhile it is difficult to understand why God-made gold is more acceptWhile it is difficult to understand why God
cows,cows, it icows, it is easy to uncows, it is easy to understand why Freemen have a hard time accepting the concept of tod
computercomputer generated money. After all, its value is based on paper, or so it seecomputer generated money. After all,
whoeverwhoever controls the presses must therefore control the money, and the world. Once againwhoever controls the pre
certain amount of truth behind the paranoia.

A National Bankruptcy June 5, 1933

TheThe Freemen argument that federal reserve notes do not constitute lThe Freemen argument that federal reserve not
1996 federal district court case.

> PerhapsPerhaps tPerhaps the most bizaPerhaps the most bizarre basis for Greenstreet s position rests on the theory
> AmericanAmerican system of currency is illegal and unconstitutional. LAmerican system of currency is illegal a
> languagelanguage of his pleadings before the Court, Greenstrlanguage of his pleadings before the Court, Greenstre
> nevernever been provided with funding (i.e. lawful mnever been provided with funding (i.e. lawful money)
> contract,contract, because it failed to give him money in silver or gold. Presumablcontract, because it failed to give
> reasonsreasons that filing a UCC-1 is an appropriate remedy for him to preasons that filing a UCC-1 is an ap
> contendscontends that federal reserve notes are not legacontends that federal reserve notes are not legal tender,co
> SectionSection 10, of the United States Constitution. Defendant Greenstreet s argument centers
> aroundaround his view that the Congaround his view that the Congressaround his view that the Congress of th
> NATIONALNATIONAL BANKRUPTCY on June 5, 1933, under H.J.R. 192 which abrogated the
> goldgold clagold clause and deprived the American Citizens of their Constitutional Article 1, Sectigold clause and dep
> 10,10, lawful money and that the COINAGE ACT OF 110, lawful money and that the COINAGE ACT
> CitizensCitizens of tCitizens of their reCitizens of their required and mandated...silver coinage. Thus, Greenstreet extra
> untiluntil he is given funds in siuntil he is given funds in siluntil he is given funds in silver or gold, he will not co
> beenbeen acceptable or satisfactory. Attacking the legitbeen acceptable or satisfactory. Attacking the legitimacy ob
> novelnovel argument. Others have asserted such claims; honovel argument. Others have asserted such claims; ho

rejected.rejected. This Court will also rejectrejected. This Court will also reject Mr. Grrejected. This Court wil
believes that Defendant s position is simply irrational.

U.S.U.S. v. Greenstreet, 912 F.Supp. 224, 229 (N.D. Tex. 1996) (U.S. sued two fo 912 F.Supp. 224, 229 (N.D. Tex. 1996) (U.
HomeHome AdmHome AdministrHome Administration for declaratory and injunctive relief in response to UCC-1 financing stat
byby borrowerby borrowersby borrowers against federal employees who were named as debtors by Common Law court b
bborrowersborrowers were never provided with lawful money under the original loans since they werborrowers were never p
gold or silver; Held: financing statements fraudulent and void ab initio) (Citations omitted.).

The Mark of the Beast The Future of Money

AtAt the center of the money controversy is aAt the center of the money controversy is a At the center of the money
goldgold worth moregold worth more than quartz or seashells or lead, if all of them are made by God? In our reality, it isgold v
ThisThis is a societal illusion, a matter of cuThis is a societal illusion, a matter of cultural perspectiThis is a societal illusion,
It always has, and it always will.

TodayToday we operate in a global economy that is pushing us to a global cuToday we operate in a global economy that is
changingchanging its shape. Electronic cash ichanging its shape. Electronic cash in the form of smachanging its shape. Elect
codescodes know no nationality or language, and are replcodes know no nationality or language, and are replacing codes
intensifies.

ButBut to Freemen, electronic money is the last But to Freemen, electronic money is the last step in the BiBut to Fr
(666),(666), a move to place all commerce in the hands of the Antichrist. Free(666), a move to place all commerce in the hand
eveneven smart cards will be deemed inconvenient. Banks will turneven smart cards will be deemed inconvenient. Banks
thesethese codes placed directly on our hands. They believe this evolution in money withese codes placed directly on our har
guiseguise that smart cards can be stolen, but permanent (invisible to the naked eye) marks on ouguise that smart cards can be
be.

IItIt would seem that the money controversy is only going to escalate over the next fIt would seem that the money co
bombingsbombings of ATMs in California in early 1997bombings of ATMs in California in early 1997 bombings of ATMs
Antichrist sAntichrist s electronic money. Barter societies hAntichrist s electronic money. Barter societies have alreAntichri
GoldGold and silver are once again becGold and silver are once again becoming oGold and silver are once again becomi
flying under the radar of the Satan-controlled Internal Revenue Service.

RegardlessRegardless of whether you see electronic money as progress or prophecy, one trRegardless of w
undeniable whoever controls the computers that send out bits and bytes controls the money.

A NEW BANKING SYSTEM

W e We the People was a patriot-for-profit group started by Roy Schwasinger, who promise We the People was a patr thatthat for a mere $500 they could receive millions from tthat for a mere $500 they could receive millions from th followers,followers, looking for answers to their economic woes in thfollowers, looking for answers to their economic w meeting.

OrganOrganizersOrganizers oOrganizers of We the People claimed they had won a class-action lawsuit against the governmentgovernment that had resulted in a multibgovernment that had resulted in a multibillion dolgovernment that had governmentgovernment had illegally abandoned the gogovernment had illegally abandoned the gold standard.governme Schwasinger and his cohorts eventually made off with $2.5 million that has never been recovered.

TheThe We the People antigovernment message was just what Schweitzer and the MontThe We the People antigove wanted to hear. They took the We the People teachings and expanded upon them.

Schweitzer sSchweitzer s Montana Freemen believe that the Federal Reserve s wortSchweitzer s Montana Freemen believe nothingnothing more than the debts of the American people. They decided to emulate the Federal Reserve by foformingforming their own banking system. They declared themselves to be a sovereign township, whforming their own bankin themthem from the federthem from the federal gthem from the federal government. In their minds, being a Sovereign sepa legallylegally create a separate banlegally create a separate banking systemlegally create a separate banking system. All they ne print.

TheThe Freemen decided to mix justice with banking. They conveThe Freemen decided to mix justice with banking. publpublicpublic officials guilty of treason. As part of their sentences, in addition to the death penaltypublic officials guilty of lawlaw courts decided to impose huge liens againlaw courts decided to impose huge liens against the propertlaw courts decided thenthen back the Freemen money orders and checks in their new then back the Freemen money orders and checks in th American people are backed by the Federal Reserve notes.

InIn other words, if the Freemen filed $10 million worth of bogus liens against people they haIn other words, if the Freemen ininin their one supreme Court, the Freemen were entitled to write $10 milliin their one supreme Court, the Freemen were e orders that were now backed by the property of the corrupt officials.

TheseThese Freemen claimed that thThese Freemen claimed that their banking These Freemen claimed that their banking thethe United States had itthe United States had its ownthe United States had its own banking system, the Montana Freemen s na as well.

SinceSince the systems were the same, the FreSince the systems were the same, the Freemen would logiSince the system UniformUniform Commercial Code that are designed to regUniform Commercial Code that are designed to regulate bUnifo when it comes to following the letter of the law and the UCC.

YouYou might ask that if the Freemen believYou might ask that if the Freemen believeYou might ask that if the Fre similarsimilar banking system? Expanding on their We the People predecessors, thsimilar banking system? Expanding on thei by money but by their political and religious ideologies.

TheThe purpose of the FThe purpose of the FreemeThe purpose of the Freemen system of liens and money orders w ReserveReserve Notes out of the United States system so that they could then be reconvertedReserve Notes out of the United Sta onlyonly form of money the Freemen actually recognize as legitimate); and second to only form of money the Freemen actually were losing their property with a means to pay their debt and avoid foreclosure in our system.

InitiallInitiallyInitially,Initially, the Freemen s banking system actually worked. Credit card companies accepted Freemen documentsdocuments as payment. The IRS accepted Freemen documents as payment. The IRS accepted Freemen mon amount of the tax debt, and promptly sent the group a check for the overpayment.

BuButBut the FreBut the Freemen s ultimate motive was politics, not greed. They ran their school as an effort to establishestablish similar Common Law courts and banking systems across the country in the hope that theiestablish similar Com

wouldwould eventually cause the collapse of what they believe is an unconstitutional totalitarian would eventually cause the co the collapse occurred, the Freemen goal of a white Christian America could finally be realized.

TheThe MonThe Montana Freemen did more to further paper terrorism than any other group, but they did not stop atat paper. One of the reasons that paper. One of the reasons the government movat paper. One of the reasons the governm groupgroup was preparing to carry out the death sentences its Commongroup was preparing to carry out the death sentenc officials.

PriorPrior to the standoff at Justus Township, Schweitzer told his fellow Freemen &We got a warrant on thethe sheriff. We got one on the deputy, on the judge and on the county attorney, and on the counthe sheriff. We go comcommissioners &We recommissioners &We re going to have a standing order. Anyone obstructing justice, the order icommi kill.

Is such an order currently outstanding against you or other county/city officials?

WHAT IS A CHRISTIAN APPELLATION?

Arraignments Let the Games Begin

UnlessUnless Freemen paperwork is previoUnless Freemen paperwork is previously reUnless Freemen paperwork is previo firstfirst knowledge that he or she is dealing with a Freefirst knowledge that he or she is dealing with a Freemen defendfi clerkclerk or the judge will typically begin by calling the court calendar and askiclerk or the judge will typically begin by affirmativelyaffirmatively.affirmatively. When a nameaffirmatively. When a name is called and a response is given that the probablyprobably have the beginnings of a long arraigprobably have the beginnings of a long arraignmeprobably have the begi forfor a $50,000 cash only bond to secure the presence of the defendant in court has so far confor a $50,000 cash only bon Freemen defendants to come forward, the arraignment of these defendants is far from over.

FreemenFreemen are very particular in the Freemen are very particular in the speFreemen are very particular in the spellin anyany other speany other spelling as referrany other spelling as referring to them. In their mind, alternative spellings are simpl peoplepeople and not to the Freeman defendant actually in court. While at first blush it is tepeople and not to the Freeman thisthis word-game battle to be anothethis word-game battle to be another example of a this word-game battle to be another e in their world the spelling of their identity has significant religious connotation.

DespiteDespite a Freeman defendant s perceived notion that the government has chosen to spell hiDespite a Freeman de namnamename in a certain way as a secret sign of the coming one world government, the reality is far lename in a certain way as aa matta matter of convenience, Washington s computerized court docketing system as developed by the Oa matter of convenien thethe the Administrator for the Courts under the direction of the Judicial Information System Committee shows a defendant sdefendant s defendant s name in all-capital letters on any calendar, docket, or other reports printed through the usde thethe Superior Court Management Informthe Superior Court Management Informathe Superior Court Management I (JUVIS), or District and Municipal Court Information System (DISCIS).

IfIf it were possible to fix the court s system to allow upper and lowIf it were possible to fix the court s system to FreemanFreeman defendant, we would be first on the bandwagon to do so. The extra court time wasted on this issue isis simply not worth the fighis simply not worth the fight. We havis simply not worth the fight. We have even su appellation appellation onappellation only to be doomappellation only to be doomed by the computer system (once a automaticallyautomatically turneautomatically turned into capitautomatically turned into capital letters) and face vehement oppo hehe or she is simply not the person described in the all-caps name and should nohe or she is simply not the person describe FreemenFreemen see the court s claimed inability to spell the appellation correctly in itsFreemen see the court s claimed inabi positive of Satan at work.

WeWe offer no solutioWe offer no solutionWe offer no solution to this dilemma, and wish prosecutors patience since this thatthat will arise in the prosecution of Freemen defendants. Perhaps with an understandinthat will arise in the prosecution of F matters,matters, we can take a good breath of air amatters, we can take a good breath of air at oumatters, we can take a goo littlelittle consternation on our part. And plealittle consternation on our part. And please rememlittle consternation on ou room for interpretation.

Capitalization Counts The Mark of the Beast

FreemenFreemen ChristFreemen Christian IdentitFreemen Christian Identity believers act only in a character and capacity as underunder the jurisdiction of the Revised Code of Washington or a city code. These laws, fromunder the jurisdiction of the R cancan have no binding effect on a Sovereign Citizen since tcan have no binding effect on a Sovereign Citizen since these recognizedrecognized God-inspired document. The following portions of a document we received from a Freeman defendant explain why spelling matters

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41 **ap-pel-la-tion.** 1. a name, title, or designation. 2. act of naming. WEBSTER S ENCYCLOPEDIC UNABRIDGED DICTIONARY OF THE ENGLISH LANGUAGE 72 (1989).

FreemenFreemen believe the premise thFreemen believe the premise that the Word ofFreemen believe the premise t
law.law. In contrastlaw. In contrast, *MaMarbury v. Madison s* [5 U.S. (Cranch) 137, 2 L.Ed. 60 (1803)]
proclamationproclamation that the United States Constitution is the hiproclamation that the United States Constitutio
nono operatno operative effect sino operative effect since the land is an inanimate object. Accordingly, one must look
thethe Bible for guidance about one s valid name. Athe Bible for guidance about one s valid name. Any spelling
spelling must therefore be a fraud, lie, perjury, or blasphemy.

TheThe first white man s name given toThe first white man s name given to Him by The first white man s name
TheThe worThe word adam apThe word adam appears elsewhere in the Bible, but it is an adjective or a noun, not
properproper noun or name. Everywproper noun or name. Everywhere that thproper noun or name. Everywhere th
wwhitewhite man or of a place. It also was given as the name of His posterity. Malewhite man or of a place.
femalefemale created hefemale created he them;female created he them; and blessed them, and called their name Adam
theythey were createthey were created. *Genesis* 5:2 5:2 It is a proper noun, and is spelled in upper and lower
casecase letters. Additionallcase letters. Additionally, the name Evcase letters. Additionally, the name Eve, the name
and lower case letters to indicate a name or a proper noun.

AnAn examination of the original HebrAn examination of the original Hebrew also givesAn examination of the o
properproper upper and lower case style. Adam proper upper and lower case style. Adam s proper upper and low
both written from right to left in the original Hebrew language.

AA peA perusal through the Bible shows that when People s names occur they arA perusal through the Bible sh
writtenwritten with the fiwritten with the first letter written with the first letter capitalized and all other lett
ExceptionsExceptions to this do occur in the King James Version of the BiblExceptions to this do occur in the King
hashas been spelled with ahas been spelled with all capital lhas been spelled with all capital letters, as has THE K
KINGSKINGS AND LORD OF LORDS. See the four gospels and RevelatiKINGS AND LORD OF LORDS.
THETHE GRETHE GREAT, TTHE GREAT, THE MOTHER OF HARLOTS AND ABOMINATIONS OF T
EARTH). It is believed that this was done by the translators for emphasis.

OtherOther non-English versions of the Bible do not use all capital Other non-English versions of the Bible do
namename as shown above. One cname as shown above. One canname as shown above. One can only conclude th
translated.translated. Since the same all capitals nomenclature is utranslated. Since the same all capitals nome
martialmartial law, the martial law, the all cmartial law, the all capitals names and words must have precede
translationtranslation is very dangerous and sets the stage for the Antichrist and his beastly
govemment based upon emergency war time, martial law and siege.

TheThe all capitals name is a war name, or nom deguerre. It is given to those who wage
war,war, and their enemies. Those who give the name claim ownership over thoswar, and their enemies. Thos
receive it. It is truly a name of blasphemy when it is given and claimed by the Beast.

TherThereThere are many There are many biblical references to those whose names are written in the Book of
LifeLife throughout Revelation. Since the Antichrist s church is spelled in all capitalLife throughout Revelation. Sinc
andand Adam s name and lineage is not, it is obvious that when God wrote and Adam s name and lineage is not, it i
BookBook of Life at the beginning of time, HeBook of Life at the beginning of time, He uBook of Life at the begin
first letter and using lower case letters thereafter.

InIn fact, an exhaustive research of the subject reveals that the altered, blasphemous
namename is the key to the Roman name is the key to the Roman Catholic s andname is the key to the Roma
governmentgovemment by the yeagovernment by the year 2,000government by the year 2,000. This goal was publicly
ofof Archbishop Brunnel in Seattle. The Bishop of Romeof Archbishop Brunnel in Seattle. The Bishop of Rome, th
toto install the archbishopto install the archbishop and toto install the archbishop and to proclaim that the year 2,000 is th
Pentecost,Pentecost, anPentecost, and the yeaPentecost, and the year of unity. This can only mean the publicly st
CaCatholicCatholic church s unifying of all Christian and non-Christian religions and governmCatholic church s unif
under Rome and the Vatican by the year 2,000.

AllAll prophesy is fulfilled, and We are in the season, the previous juAll prophesy is fulfilled, and We are in the
thethe establishthe establishment of the nathe establishment of the nation of Israel in 1948. The Beast s system is
RomeRome holds all of the decrees, papal bulls anRome holds all of the decrees, papal bulls and treaties neRome
control ofthat Beast. The stage is set for the end.

WhenWhen God When God s Chosen PWhen God s Chosen People accept the name of the beast through his ma namename (all capname (all capital name (all capital letters), the recipient becomes fodder for Satan and his helpers. D theythey blaspheme that worthy name by the which ye are called? *James* 3:5-7. Look 3:5-7. Look at t 3:5-7. Look at namename that lenders give. It is always altered, bastardized, blasphemed. Examine your license. Examine your court papers. The name is a lie.

GodGod made no mistakes or errors when He wrote Our names in the Book of LifGod made no mistakes or errors namesnames are written exactly, withounames are written exactly, without errnames are written exactly, without err Our Baptismal records. Any alteration blasphemes God, and may deny Our salvation.

AreAre We to accept the all capitals, orAre We to accept the all capitals, or altereAre We to accept the all capit lie,lie, and is blasphemy? Emphalie, and is blasphemy? Emphaticalllie, and is blasphemy? Emphatically No! I pray move you to an understanding of what God s Word has to say concerning Our name.

TheThe vile nomThe vile nom deguerre that the courts and the Beast government system uses to dehumanizedehumanize and satanize the populace is blasphemous. We candehumanize and satanize the popula name.name. To do so is tname. To do so is to invite the wrath name. To do so is to invite the wrath of God. Ja namename which is not Our name. As an aside, you are encourname which is not Our name. As an aside, you persecute, which means to pursue, which is the charge filed by the prosecutor.

Capitalization Counts A Secular Challenge and Our Response

FreemenFreemen often complain about their names being in all capital letters and demand that court captionFreemen often co amendedamended so that their name is written in upper and lower case letters. Frequently, the authority ciamended so that th theirtheir request is Fed.R.Civ.P. 10(a)their request is Fed.R.Civ.P. 10(a). their request is Fed.R.Civ.P. 10(a). A federal ju document caption, stating

> InIn both of his motions, Jaeger contends that defendants violated FeIn both of his motions, Jaeger contends that c capitalizicapitalizingcapitalizing allcapitalizing all of the letters of his name in the caption of their answers to his comp JaegerJaeger asserts that the alteration was not Jaeger asserts that the alteration was not one Jaeger asserts specificallyspecifically permitted in Fed.R.Civ.P. 10(a). Jaeger asserts that All capitspecifically permitted in changeschanges the status of an indichanges the status of an individual signchanges the status of an individual signific plaintiffplaintiff is not) and changes the status of an individualplaintiff is not) and changes the status of authorized).authorized). *SeSeeSee* BLACK S LAW DICTIONARY, 5th Ed. at 191. The court does not believe thatthat the cited authority supportthat the cited authority supports Jathat the cited authority supports Jaeger s proposit citedcited page cited page of cited page of BLACK S LAW DICTIONARY have to do with the financial basis of corporation, not the way in which names are written.
>
> ThTheThe court finds Jaeger s arguments concerning capitalization otherwise specious. The courtcourt routinely capitalizes the names of all parties before this court in alcourt routinely capitalizes the names andand criminal, without anand criminal, without any regand criminal, without any regard to their corporate or in consideredconsidered that Fed.R.Civ.P. 10(a) considered that Fed.R.Civ.P. 10(a) prevented dconsidered that Fe typestypes types of printers, methods of printing or handwriting, or styles of capitalization for namesnames of parties. The rule by inames of parties. The rule by its vnames of parties. The rule by its very ccaptions,captions, ncaptions, not the way in which they are printed. Jaeger s motions to strike are denied as to improper captioning.

Jaeger v. Dubuque, 888 F.Supp. 640, 643-44 (N.D. Iowa 1995) (Footnotes omitted).

TheThe reasoning in *Jaeger* is applicable to Washington statutes and court rules. Neither RCW 10. is applicable to Washing RCWRCW 10.40.060, CrR 4.1(d), nor CrRLJ 4.1(c) which require the defendant s true name to be enteredRCW 10.40.060, CrR thethe court minutes and added to the charging document indicate that different fonts, type faces, types of ink, typestypes of printers, methods of printing or handwriting, or styles of capitalization for names of parties have anyany impact upon an individual s true name. Neitheany impact upon an individual s true name. Neither CrR 2.any imp aa chargia charging document maa charging document mandate the use of certain fonts, type faces, types of ink, types of printers, printing or handwriting, or styles of capitalization for names of parties.

A Freeman s Name Why First Middle, Last?

FreemenFreemen will frequently separate their first and middle names from what we coFreemen will frequently separate the
i.e.i.e. Johni.e. John Qui.e. John Quincy, Public or John Quincy: of Public. The reason for this practice is that an individ
owns owns his or her first and m owns his or her first and middle name. owns his or her first and middle name. The las
thisthis belief, some Freemen will give their mthis belief, some Freemen will give their middle namthis belief, some Freemen wi
will introduce themselves as John Quincy of the family Public.

FreemenFreemen assert that the Book of Life (God s pre-determined list of thoFreemen assert that the Book of Life (Go
ofof God) lists their appellation as First and Middle foof God) lists their appellation as First and Middle followed of God) list
previousprevious discussion on the importance and true meaning of our system s desiprevious discussion on the impor
appellation.

SinceSince court caleSince court calendars doSince court calendars do not correctly spell (capitalization) nor use comm
Freemen assert that the person charged with a crime is not the Freeman defendant before the court.

Capitals Indicate a Corporation?

WeWe have been told that one oWe have been told that one of the style mWe have been told that one of the style n
namednamed is a corporation. Sinnamed is a corporation. Since Fnamed is a corporation. Since Freemen are human beings an
be in all capital letters. The source of the style manual is unknown.

Sui Juris

FreemenFreemen offreemen often sign Freemen often sign their name followed by the phrase sui juris.[42] While such a
impactimpact in our system, Freemen apparently use this moniker to give our system notice timpact in our system, Freemen app
aa Sovereign Citizen. A similar tactic is employed by Freemen use of the flag on their person or on documents presented to our system. *See Trespassing on My Venue The Flag, supra.*

The Common Law Seal Your Thumbprint

ManyMany Freemen documents have a thMany Freemen documents have a thumbpMany Freemen documents have a
consideredconsidered a common law seal. *See The American s BThe American s Bulletin,* Vol. 17, Issue 12 at 11 (Decemb
(Original(Original Affidavits were duly witnessed and lawfully signed by Affiants (Original Affidavits were dul
thumbprints or same, constituting common law seal(s).)

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[42] **Sui Juris.** Lat. Of his own right; possessing full social and civil rights; not under any legal disability; or the power of another, or guardianship. Having capacity to manage one s own affairs; not under legal disability to act for one s self. Black s Law Dictionary 1602 (4th ed. 1968).

Alieni Juris. Lat. Under the control, or subject to the authority, of another person; *e.g.,* an infant who is under the authority of his father or guardian; a wife under the power of her husband. The term is contrasted with Sui Juris. *Id.*, at 96.

FREEMEN-SPEAK A REFERENCE CHART

FreemenFreemen terminology is often difficult to understand. We hope that the following reference Freemen terminol written from a Freemen perspective of their and our government, will assist you.[43]

u.S.A.	U.S.
DESCRIPTION	DESCRIPTION
In The united States of America	In the United States
A Republic	A Corporation of England in 1871 [To incorporate means to become a part of something bigger]
Having a de jure form of government (lawful)	A de facto government (unlawful)
Created by Sovereign Citizens	Created by merchants and bankers through President Lincoln and his cohorts [by acts of treason] They also forced the South and other States to secede. This Martial Law government is a fiction managing civil affairs.
Started with the Declaration of Independence in 1776, the Articles of Confederation in 1778, and the Constitution in 1787	Started with the Gettysburg Address in 1864, and the Incorporation of the District of Columbia by Act of February 21, 1871, under the Emergency War Powers Act and the Reconstruction Acts
The Articles of Confederation are still in operation. The Constitution was added to restrict and limit the federal venue.	Ruled from the District of Columbia under Masonic Rule. US Titles and Codes call DC the United States
The Constitution for The united States of America	The Constitution of the United States
I pledge allegiance to The united States of America, and to the Republic for which it stands, One nation under God..."	Emphasizes Democracy which is the next thing to Socialism which is another form of Communism.
Republic means Government of the people	Democracy means Rule by Queen of England
The rights of the people are its main concern and maintains all states as Republics	Gives away our rights, land, parks, and streams, over to a foreign government such as the United Nations by Executive Orders or by decree
Government restricted by the Constitution to the 10 miles square called Washington DC, US possessions, such as Puerto Rico, Guam, and its enclaves for forts and arsenals.	Expands and conquers by deceit and fraud. Uses words of art to deceive the people.
Represents the American Sovereign Citizens and the Republics among nations.	Represents its own supposed sovereignty among nations.
Sovereign Citizens are created by God and are answerable to their Maker who is Omnipotent. The Bible is the Basis of all Law and moral standards. In 1820, the uSA government purchased 20,000 Bibles for distribution.	This government is god. It sets the morals, and values of those in its jurisdiction. These values are ever changing at their whim.
No state of Emergency and is not at war	US continues to be in a permanent state of national emergency. (Senate report 93-549 (1973))

| u.S.A. | U.S. |

[43] *See* Jack Slevkoff, *The Truth as I see it* (visited June 6, 1999) <http://www.gemworld.com/USAvsUS.htm>.

Adjournment of Congress sine die occurred in 1861	Still existing as long as: 1. State of war or emergency exists 2. the President does not terminate martial or emergency powers by Executive Order or decree, or 3. the people do not resist submission and terminate by restoring lawful civil courts, processes and procedures under authority of the inherent political powers of the people
GOVERNING BODY	**GOVERNING BODY**
Three separate Departments 1. Executive 2. Legislature can enact positive law 3. Judicial	The President (a Caesar) rules by Executive Order (unconstitutional) Congress and the Courts are under the President as branches of the Executive Department Congress sits by resolution not by positive law The Judges are actually referees
CITIZENS	**CITIZENS**
Natural-born Citizens of a state of the union are Sovereign, Freemen, and Freeborn. Unless that right is given up knowingly, intentionally, and voluntarily.	US citizens (Chattel Property) are belligerents in the field and are subject to its jurisdiction (Washington DC)
Born as Sovereigns	They are 14th Amendment citizens implemented by the Civil Rights Act of 1866 for the newly freed slaves
Judicial Name (Appellation) Flesh and blood name of a living soul John James, Christianson (note upper and lower case; proper by Rules of English Grammar) Christian Name: John James Family Name: Christianson	Prisoner of war name Fictitious nom de guerre name for a non-living entity JOHN DOE (note all caps) John C. Doe (note middle initial, which is no name at all a fiction) First Name: JOHN Middle Initial: C. Last Name: DOE A fictional persona being surety for the debt as a fiction in commerce (look at the name on driver s licenses, social security cards, credit cards, deeds, bank accounts, etc.)
Vote counts like one on the Board of Directors	Vote is a recommendation only
	U.S. citizens were declared enemies of the U.S. by F.D.R. by Executive Order No. 2040 and ratified by Congress on March 9, 1933 F.D.R. changed the meaning of The Trading with the Enemy Act of December 6, 1917 by changing the word without to citizens within the United States

u.S.A.	U.S.
	People became surety for the debt by a number of different ways. One way is by a Birth Certificate when the baby s footprint is placed thereon before it touches the land. The certificate is recorded at a County Recorder, then sent to a Secretary of State which sends it to the Bureau of Census of the Commerce Department. This process converts a man s life, labor, and property to an asset of the US government when this person receives a benefit from the government such as a driver s license, food stamps, free mail delivery, etc. This person becomes a fictional persona in commerce. The Birth Certificate is an unrevealed Trust Instrument originally designed for the children of the newly freed black slaves after the 14th Amendment. The US has the ability to tax and regulate commerce.
STATES	**STATES**
state when used by itself refers to the Republics of The united States of America	In U.S. Titles and Codes State refers to U.S. possessions such as Puerto Rico, Guam, etc.
All of the states are Republics The Republic of Washington Washington republic Washington state or just Washington	Politicians of each state formed a new government and incorporated it into the federal US government corporation and are therefore under its jurisdiction. State of Washington corporate Washington Washington State
Sovereign Citizens created the states (Republics) and are Sovereign over the states The Republics and the people created the uSA government and are sovereign over the uSA government	The corporate states are controlled by the US government by its purse strings such as grants, funding, matching funds, revenue sharing, disaster relief, etc.
JUSTICE SYSTEM	**JUSTICE SYSTEM**
Judicial Department	Judicial Branch under the President
Separate from all other Departments	It is not separate
Judicial venue	Federal (feudal) venue
Common Law Court(s)	Equity Courts, Municipal Courts, Merchant Law, Military Law, Marshal Law, Summary Court Martial proceedings, and administrative ad hock tribunals (similar to Admiralty/Maritime) now governed by The Manual of Courts Martial (under Acts of War) and the War Powers Act of 1933
The 7th Amendment guarantees a trial by jury according to the rules of the common law when the value in controversy exceeds $20	All legal actions are pursued under the color of law Color of law means appears to be law, but is not
Common Law has two requirements 1. Do not Offend Anyone 2. Honor all contracts	Covers a vast number of volumes of text that even attomeys cannot absorb or comprehend such as 1. Regulations 2. Codes 3. Rules 4. Statutes
Constitution is the Supreme Law of the land	No stare decisis. No precedent binds any court because they have no law standard of absolute right and wrong by which to measure a ruling what is law today may not be law tomorrow
Lawful or Unlawful	Legal or Illegal
Council (Lawyer) In-Laws (like Son-in-law)	Attorney Attorney-at-law (licensed agents of the court)

Must have damaged party	Compels performance. No damaged property is necessary
u.S.A.	**U.S.**
Maintains rights, freedoms, and liberties	No rights except Civil Rights. Restricts freedoms and liberties
Bill of Rights, Constitutional Rights, unalienable rights, and fundamental rights are all protected	US citizens are at the mercy of government and courts
Due Process is required Writ of habeas corpus	Due Process is optional Sometimes Gestapo-like tactics without reservation
Innocent until proven guilty	Guilty until proven innocent
Jurors judge the law as well as the facts	The juror judges only the facts. The judge gives the statute, regulation, code, rule, etc.
DEBT	**DEBT**
None!	Trillions of Dollars First bankruptcy was in 1863 In 1865, the total debt was $2,682,593,026.53[44] A portion was funded by 1040 Bonds to run not less than 10 nor more than 40 years at an interest rate of 6% Members of Congress are the official Trustees in the bankruptcy of the US and the re-organization
Would it not be nice to be completely out of debt, personally, and have a stash of gold and silver besides?	All individual Income Tax revenues are gone before one nickel is spent on services taxpayers expect from government. (Ronald Reagan, 1984, Grace Commission Report
TAXATION	**TAXATION**
Limits on taxation	No limit on taxation
Direct taxes such as Income taxes are unlawful	Income taxes are legal and ever increasing
Indirect taxes such as excise tax and import duties are lawful	Other taxation such as inheritance taxes are legal
	IRS s 1040 forms originated from the 1040 Bonds used for funding Lincoln s War 1863 was the first year an income tax was ever used in US history The IRS is a collection arm of the Federal Reserve. It is not listed as a government agency like other government agencies
FLAG	**FLAG**
American Flag	Not an American flag Some say it is a flag of Admiralty/Maritime type jurisdiction and is not supposed to be used on land. Others say it is not a flag at all but fiction
Prior to the 1950 s, state republic flags were mostly flown, but when a uSA flag was flown it was one of the following: 1. Military flag Horizontal stripes, white stars on blue background 2. Peace flag Vertical stripes, blue stars on white background last flown before the Civil War	Appears to be an American flag but has one or more of the following: 2. Gold fringe along its borders (called a badge) 3. Gold braided cord (tassel) hanging from pole 4. Ball on tope of pole (last cannon ball fired) 5. Eagle on top of pole 5. Spear on top of pole

[44] As of 9:50 PM on June 6, 1999, the national debt was just under $6 trillion ($5,827,792,331,337.00). *The U.S. National Debt Clock* (visited June 6, 1999) <http://www.toptips.com/debtclock.html>.

u.S.A.	U.S.
Although the codes do not apply here, the uSA Military flag is described in Title 4 U.S.C.	The flag is not described in Title 4 U.S.C. and therefore is illegal on land except for (1) the President since he is in charge of Naval Forces on high seas, and (2) naval offices and yards. President Eisenhower settled the debate on the width of the fringe. The US government is still under an official state of emergency since March 9, 1933, and possibly as far back as the Civil War
BENEFITS	**BENEFITS**
Unalienable rights (God given rights) Enjoy: 1. Life 2. Liberty 3. Pursuit of Happiness 4. Full property ownership No US benefits Every living soul is responsible for themselves and has the option of helping others. Each living soul gives accordingly to help others in need and receives the credit or gives the credit to his Maker and Provider. No tax burdens or government debt obligations	Government given rights (which can be taken away at any time) So-called benefits include: 1. Social Security (you paid all your working life and there are no guarantees that there will be money for you) 2. Medicare 3. Medicaid 4. Grants 5. Disaster relief 6. Food Stamps 7. Licenses and Registrations (permission) 8. Privileges only, no rights 9. Experimentation on citizens without their consent Corporate government takes your money and gets credit for helping others. Politicians in return create more such programs to get more votes. Eventually there is no more to collect and give. Everyone becomes takers and there are no givers. The government then collapses from within. That is why democracy never survives.
RECORDS	**RECORDS**
Ex-officio clerks County Clerk is also Clerk of the superior court (a court of common law) and courts of record Records are also kept by Citizens such as in a family Bible	County Clerk Recorders Office created by statute to keep track of this government s holdings which are applied as collateral to the increasing debt. Property recorded at the recorder s office makes the corporate de facto government holders in due course Your TV is not recorded there, therefore you are holder in due course for the TV
Record the date family members are born, married, and the date they pass on in the Family Bible	Birth Certificate is required. It puts one into commerce as a fictional persona
Common Law Marriage Married by a minister or living together for more than 7 years constitutes a marriage Pastor may issue a Certificate of Matrimony	Must file a Marriage License. The Corporate State becomes the third party to your union, and whatever you conceive is theirs and becomes their property in commerce.
PROPERTY	**PROPERTY**
Full and complete ownership 1. Allodial Title Land Patents Allodial Freeholder 2. Cannot be taxed (only voluntary) 3. You are king of your castle 4. No government intrusion, involvement or controls	Privilege to use 1. Fee title Feudal Title 2. Grant Deed and Trust Deed (GRANTOR and GRANTEE in all caps are fictional persona) 3. Property tax (must pay) 4. Other taxes (such as water, sewer, school) 5. Subject to control by government 6. Vehicle registration (the incorporated State owns vehicles on behalf of US) 7. Property and vehicles are collateral for the government debt

u.S.A.	U.S.
MEDIUM OF EXCHANGE	**MEDIUM OF EXCHANGE**
Lawful money gold or silver coinage (minted before 1964)	Legal tender (dollar bills) which are actually units of debt
Has substance	Has no substance built on credit
Controlled by Treasury of The united States of America	Controlled by US Treasury
Real Money Most of us were taught to write an S with two lines through it	Phony Money All computer programs are designed with the $ having only one line through it
1. Silver coins* (silver dollar standard unit of value) 2. Gold coins* 3. Paper currency* redeemable in gold or silver 4. Spanish milled dollar *issued by the Treasury Department of The uSA (a republic)	1. Federal Reserve Notes (issued by the Federal Reserve Bank, a private corporation owned by foreign bankers) 2. Bonds 3. Other Notes evidences of debt 4. Cashless society electronic banking
Coinage started in 1783. The first paper currency was issued in 1862. Silver Certificates last printed in 1957. Coinage of Silver coins for circulation ended with the 1964 coins. Redemption of Silver Certificates ended on June 24, 1968	The government must borrow before Federal Reserve notes are printed. The Federal Reserve Bank pays 2½ cents per Federal Reserve note printed whether $1 or $1,000. The US in turn pays the Federal Reserve Bank interest indefinitely for each outstanding notes or representation of a note. With electronic banking Federal Reserve notes are created out of nothing and nothing being printed. What a deal!!
America s wealth would be like a Pot of Gold	The Greenback Act was revoked and replaced with the National Banking Act in 1863. An Act passed on April 12, 1866 authorizing the sale of bonds to retire currency called greenbacks. Federal Reserve notes were issued in 1914.
ROADWAYS	**ROADWAYS**
Sovereigns have a right to use the public ways	Drivers licenses are required because driving is a privilege
Liberty of the common way	May lose privilege or have it suspended at the whim of government
A drivers license can only be required for those individuals or businesses operating a business within the rights-of-ways such as chauffeurs, taxi drivers, and truckers	Must comply with the Motor Vehicle Code and Department of Licensing regulations, which are forever changing Must comply with the Washington State Patrol
MAIL	**MAIL**
Non-domestic Mail that moves outside of Washington DC, its possessions and territories	Domestic Mail that moves between Washington DC, possessions and territories of the US
Zip Code not required and should not be used	Zip Codes are required when using jurisdictional regions or zones such as WA, ID, OR
3 cents Sovereign to Sovereign 33 cents otherwise	Cost is 33 cents for first class
Write out the state completely such as Washington or abbreviated Wash. Never use WA for an address to a Sovereign or in your return address	Must use jurisdictional regions or zones such as WA, ID, OR Purposely used ad nauseum which means no name at all

u.S.A.	U.S.
John James, Christianson general delivery Port Orchard [Main] Post Office Port Orchard, Washington state [Zip Exempt] NON-DOMESTIC John James, Christianson c/o 1234 Main Street Port Orchard, Washington Republic [98366] Non-Domestic John James, Christianson c/o 1234 Main Street Port Orchard, Washington state [Postal zone 98366] NON-DOMESTIC Anything in brackets or boxes is considered to be excluded from the rest of the document	JOHN C. DOE 1234 Main Street Port Orchard, WA 98366 JOHN DOE 1234 Main Street Port Orchard, WA 98366 John C. Doe 1234 Main Street Port Orchard, WA 98366 All caps and/or middle initial makes the name a fiction (a non-living entity)
Patrons receive mail by general delivery at main post office or post offices in existence prior to the creation of corporate government	Since July 1, 1863, Customers receive free delivery to any location having a mailing address or PO Box (a corporate government benefit)
GUNS	**GUNS**
Sovereign Citizens have a right to own and use guns Right to bear arms against enemies, foreign and domestic The founding fathers knew the importance of citizens protecting themselves from governments who get out of hand.	This government wants to disarm the Citizens so as to have compete control and power. Every tyrannical government in the past has taken away the guns to prevent any serious opposition or rebellion. History continues to repeat itself because the new generations who come along do not know or tend to forget about the past and will say it will not happen here.
2nd Amendment protects the Right of the people to keep and bear arms	Disregards the 2nd Amendment or justifies what weapons should not be legal. Ever changing and ever restrictive Requires registration of guns (and their owners) Any of you who saw the motion picture Red Dawn realize that the enemy finds these lists and then goes door to door collecting all of the guns.
RELIGION	**RELIGION**
Churches exist alone No permission of government is required 1st Amendment protects against government making a law that would respect an establishment of religion or prohibit the free exercise of religion	This government wants to control the churches by having them come under their jurisdiction as corporations under Section 501(c)(3) This is to prevent the clergy, pastors, ministers, etc. from having any political influence on its members or the public in general. This government regulates what is to be said and not to be said. These churches also display the gold fringed flag. Their faith is in the government and not in God. They exist by permission of this government not by God alone. They signed away their Birthright for a so-called benefit: Tax-exempt corporation

SO WHO IS THE ENEMY?

Today s Freemen teachings are the result of three factors fundamentalist interpretations of the Bible; fundamentalist interpretations of the Constitution, and the belief in a one world conspiracy. When all three are mixed together, they paint a terrifying picture of what s going on in the world. The Bible describes the horrific events of the end of the world in somewhat vague and symbolic terms, whereas conspiracy theories conveniently flesh out all the details omitted by the scriptures. The manmade details that drape the biblical framework are designed to explain American culture s most unacceptable events loss of property; wealth; and individual freedoms the very losses that most rural people believe they are experiencing as a result of the global restructuring.

Most of the Freemen movement s conspiracy theories are used to explain specific parts of its larger one world government AKA the new world order theory. The major players are as follows the banks, the Federal Reserve, the International Monetary Fund, the World Bank, the federal government, communism, the United Nations, the Trilateral Commission, the IRS, the multinational corporations, the media, and the world s Jewish population, which acts through various secret organizations such as the Illuminati and Freemasons.

Within the movement, there are many subtle variations on the one world conspiracy. For Christian Identity believers, it is a Jewish conspiracy. For others, such as the more traditional fundamentalists, it is a conspiracy composed of the evil forces of the Antichrist, not necessarily Jews. But for the most part, the conspiracy story is easy to tell and goes like this

> A one world government is being formed under the auspices of the United Nations, the Trilateral Commission or some other mysterious quasi-governmental agency that is really controlled by the Illuminati or Freemasons, or both. Conspiracists see the United Nations as usurping the historic independence of the United States and other countries. They believe that it is solidifying its position of power by using the World Bank and the IMF to make huge loans of worthless paper money which are too big to ever be repaid to countries throughout the world.
>
> Once a country falls under the power of this unrepayable debt, it is forced to dance to the tune of the international bankers (who according to the rhetoric are composed of the world s richest Jewish families) or face foreclosure or bankruptcy. The idea is that once all the governments of the world are under the control of the United Nations, the Antichrist will step in and assume power.
>
> Freemen proponents believe that the United States is now one of these controlled countries. They believe that when the United States went off the gold standard as the basis of its monetary system and adopted the current Federal Reserve system, political leaders were really just fulfilling biblical prophecies by giving the forces of the Antichrist the reins of government and instituting a means to take away the property and freedom of the people, actions that will ultimately result in the control of all Christians.
>
> And to make sure that this grand plan goes unopposed, the Satan-infiltrated government is now attempting to take away Freemen s guns, the very firepower that could be used to thwart this enemy within. Those in the movement are quick to point out that this sinister scenario could not have transpired had America adhered to the original intent of the Constitution, or better phrased their interpretation of the Constitution.

POSTSCRIPT ON THEIR THEORIES

The Freemen movement began as a response by ardent government supporters, farmers, to the nightmare of farm foreclosure. This economic crisis, fueled by religion and a deep identification with the land, resulted in an incredibly complex and sometimes violent Freemen system.

As our law becomes more complex and punitive economically, the Freemen movement will continue to expand. Recent laws in our world continue to extract severe economic penalties against offenders, often with no possible method available for the offender to start with a clean slate.

Failing to pay a traffic infraction results in economic penalty, which can be especially severe if the driver lacks insurance. If the fine is not paid, the amount often is referred to a collection agency, which adds an additional penalty. The Department of Licensing is also notified of the non-payment. DOL then suspends the person s privilege to drive, and adds a fee for reinstatement of the driving privilege.

Driving while license suspended laws are enforced, so the person now appears in a criminal court, with possible criminal sanctions. Of course, if the person pleads guilty or forfeits bail, a fine is ordered to be paid.

With enough suspended driving convictions, the person s privilege to drive will be suspended in the interests of safety (with a possible gross misdemeanor second degree driving while license suspended charge for future violations within the base suspension period). Ultimately, if the person keeps driving, he or she will be declared to be an habitual traffic offender, with significant jail being imposed upon conviction (a mandatory minimum 10 days in jail for a first conviction of first degree driving while license revoked, 90 days in jail for second conviction, and 180 days in jail for third or subsequent conviction).

The obvious answer for the offender is to not drive until all the financial penalties are paid and a current driver s license obtained. While such a solution might work in a metropolitan area with available mass transit, rural counties like Kitsap offer no such option. Since the offender must work (an admirable societal goal) to provide food and shelter to the family, he or she continues to drive. And the cycle perpetuates.

This economic spiral only continues, with no end in sight for the offender. As the pressure of potential jail for each violation builds, stress creates exactly the same opportunity as the farm crisis created for Freemen recruitment. A system that asserts that the State lacks authority over Sovereign Citizens, and thus cannot require driver s licenses.

And as with farmers, the choice is to continue to violate the law or declare (in this case) a chapter 13 bankruptcy thereby establishing a plan to repay the debt. The shame that such an action engenders should not be ignored.

And now, our legislature has passed a law allowing impound (and increased monetary penalties and possible ultimate loss) of the family vehicle by those driving while suspended licenses. While the social policy of getting unlicensed and uninsured drivers off the road cannot be criticized, the effect of this never-ending economic spiral on the offender will be devastating.

Similar economic penalties, including loss of license, occur with DUI. And the requirement of a loss of one s ability to possess firearms (upon a future penalty of a felony conviction) with domestic violence crimes fuels Second Amendment Freemen arguments.

Most Freemen cases are seen in courts of limited jurisdiction. The defendants are often in economic distress, and cannot understand why the government is being so oppressive. The seeds for the Freemen antigovernment movement are sown with these offenders. Hopefully our system will show more compassion to the average person caught up in an unintended economic nightmare than was shown to our farmers in the 1980 s.

Our failure to learn this lesson may well risk paper terrorism escalating to Common Law courts handing out death sentences and warrants of arrest against government officials, and ordering the pipe bombing of government buildings.

The challenge, though, is our correct identification of those seeking martyrdom through nonviolent paper terrorism versus those terrorists willing to use violence as a means to the end of establishing Christian Israel.

Our materials have unintentionally grown beyond all intended length. It is apparent as we continue to research their law that the Common Law is expanding in scope some precepts of which we understand, and other ideas that are just plain bizarre. Since our effort here is already much too long, we will not discuss the following Freemen topics. But they are at least worth mentioning should you have a burning desire to know more

How to dupe an Auditor into accepting a filing (lien)

How to open a bank account without a social security number

How to obtain foreign vehicle identification plates and international motorist qualification (driver s license) from the Grand Turks & Caicos Islands (east of Cuba and north of Haiti)

Jury nullification (a subject being debated in our community as well)

How to order Common Law paperwork on disk (for a fee)

The Right to Bear Arms (constitutionally protected) versus firearms (properly regulated for 14th Amendment citizens)

The Right to Travel

Understanding the adhesion contract called Zip Code and properly addressing your mail (do not submit to Congress trick into federal citizenship, *see* the Federal Reserve, IRS, etc.)

Part III
Our Responses

WHAT SHOULD LAW ENFORCEMENT DO?

First Contact

TheThe first notice thaThe first notice that our system is dThe first notice that our system is dealing with a Freeman is u eitheitheeithereither is subjected to a plethora of questions on the street concerning the officer s authority, or the officer receivesreceives somereceives some type of Freemen document purporting to compel the officer to respond or face an econorece penalty. Either way, law enforcement should be advised as to how to proceed.

The Traffic Stop

WeWe have had cases where a Freeman has given a U.S. Supreme Court case as his identWe have had cases where a F attemptedattempted to engage in a lengthy constitutional discussion, has refused to sign an infraction, and has signedsigned the infractsigned the infraction refussigned the infraction refused for fraud or under duress. No doubt employed by Freemen when having first contact with our system through our law enforcement.

Obstructing an Officer The Stop and Identify Statute

BrownBrown v. Texas, 443 U.S. 47, 99 S.Ct. 2637, 61 L.Ed.2d 357 (443 U.S. 47, 99 S.Ct. 2637, 61 L.Ed.2d 357 walkingwalking away from another person in a high drug walking away from another person in a high drug crime arewalkin officerofficer approached and detained Brown. The officer asked Brown to identify himsofficer approached and detained Brown toto do. At the time, Texas had a stop and identify statute makingto do. At the time, Texas had a stop and identify st upon an officer s request.

TheThe Supreme Court held that Brown was seized under the 4th Amendment when theThe Supreme Court held that Bro BrownBrown (because Brown was not free to leave). In reversing Brown s conviction under the stop and identify statute,statute, the Supreme Court held that absent any basis for suspecting that a defendant statute, the Supreme Court l misconduct,misconduct, Brown s right to personal security and privacy tilts in favomisconduct, Brown s right to pe interference. *Brown,* 99 S.Ct. at 2641.

SinceSince *Brown*, most , most states have mo, most states have modified their stop and identify statutes to incorporate misconductmisconduct on the part of a citizen wherein he or she willfmisconduct on the part of a citizen wherein he or she officer s duties, an act that results in hindering law enforcement.

Washington sWashington s stop and identify Washington s stop and identify statute,Washington s stop and identify statut 2)2) was d2) was declare2) was declared unconstitutional by Washington s Supreme Court in *State v. White,* 97 Wn.2d 92, 640 P 1061 (1982) in response to *Brown v. Texas.*

SinceSince then, our legislature has amended the obstructing statute, and created tSince then, our legislature has amend for a person s acts and the other for a person s words

RCW 9A.76.020. Obstructing a Law Enforcement Officer (willfully hinder, delay or obstruct officer in discharge of official powers or duties). Gross misdemeanor. Statute is limited to **acts** of a defendant that hinder, delay or obstruct. *State v. Williamson,* 84 Wn.App. 37, 924 P.2d 960 (Div. 2 1996) (defendant lied about his identity, a statement; conviction reversed since obstructing charge only concerns acts; case should have been charged under RCW 9A.76.175)

RCW 9A.76.175. Making a False or Misleading Statement to a Public Servant (knowingly make false or misleading material **statement** to public servant; material means a written or oral statement reasonably likely to be relied upon by public servant in discharge of official powers or duties). Gross misdemeanor.

So You Want to Issue an Infraction?

AA notice of infraction may be issued upon certification by the issuer thA notice of infraction may be issued upon certifi toto believe that a person has committed an infraction contrary to law. Infraction to believe that a person has committed an infr JurisdictionJurisdiction (IRLJurisdiction (IRLJJurisdiction (IRLJ) 2.2(b). A law enforcement officer may issue a notice of infra need not have been committed in the officer s presence, except as provided by statute. IRLJ 2.2(b)(1).

AA notice of infraA notice of infractA notice of infraction shall include the name, address, and date of birth of the perso infraction.infraction. IRLJ 2.1(b); *StateState v. Cole,* 73 Wn.App. 844, 848, 871 P.2d 656, *review denied,review denied,* 125 Wn.2 (Div. 3 1994).

AnAn An officer may dAn officer may detain a person stopped for a traffic infraction for a reasonable period of time necessar toto identify the person, cheto identify the person, checkto identify the person, check for outstanding warrants, check the sta card,card, vehicle registration, and complete and issue a noticecard, vehicle registration, and complete and issue a notice of *supra*.

VehicleVehicle passengers are not requirVehicle passengers are not required to cVehicle passengers are not required to ca 6666 Wn.App. 706, 709, 833 P.2d 241 (1992). A passenger has a duty in response to a66 Wn.App. 706, 709, 833 P.2d 241 (1 aa traffic infraction against the passenger, though, to idena traffic infraction against the passenger, though, to identifa traf acknowledgement of receipt of the notice of infraction. RCW 46.61.021(3); *Cole, supra.*

AA person may be **arrearrested and taken to jaarrested and taken to jail** if he or she refuses to sign the promise to respo traffictraffic citation. *Port Orchard v. Tilton,* 77 Wn.App. 178, 177 Wn.App. 178, 180, 889 P.277 Wn.App. 178, 180, 889 chargedcharged under municipal codcharged under municipal code eqcharged under municipal code equivalent of RCW 4 noticenotice of infraction under RCW 46.61.021(3); court reversenotice of infraction under RCW 46.61.021(3); court reversed aa correa correct statement aa correct statement above the person s signature wherein the person promise[d] to respond as direc thisthis notice but said nothing about a this notice but said nothing about a refusal to athis notice but said nothing abo crimecrime under RCW 46.61.021(3); unlike a criminal citation, a person has no legal duty to promise to appear in court for an infraction).

AnyAny act relatingAny act relating to oAny act relating to offenses involving traffic, parking, seat belt, pedest infraction. A person need not drive a vehicle to commit a traffic infraction. RCW 46.63.020.

AnyAny person who aids or abets another person s commission of a traffic crime or traffic infraction is similarly guilty of the offense. RCW 46.64.048.

OK, I ll Sign But Only Under Duress

AsAs discuAs discussed As discussed in other parts of these materials, some Freemen actions are worth contesting, and oth simplysimply are not. So long as a traffic infraction defendant is willing to sign his or her name onsimply are not. So long as a t locationlocation on the citation, the Freemen act of putting under durelocation on the citation, the Freemen act c coconsequence.consequence. So ignore it, give the Freeman his or her copy of the citation, and file the original with the court.

Custodial Arrest on Probable Cause Permitted for Certain Traffic Crimes

AnAn officer s arrest powers are codifiAn officer s arrest powers are codified in An officer s arrest powers are codified i overover three pages. It is incumbent on all law enforcement to carefully review RCW 10over three pages. It is incumbent legality of a custodial arrest will stem directly from this statute.

RCWRCW 10.31.100(3) specifically allows arrest on probableRCW 10.31.100(3) specifically allows arrest on probable andand driving while license suspended (any degree). *State State v. Reding,* 119 W119 Wn.2d 685, 835 P.2d 1019 (1992) (reckless(reckless driving); *State v. Thomas,* 89 Wn.App. 774, 950 P.2d 498 (Div. 3 1998) (arrest proper even though jail had policy to cite and release reckless driving offenders).

Criminal Citation and Notice to Appear in Court

AlthoughAlthough not required (some prosecutor s offices require Although not required (some prosecutor s offices requi screenin screening; screening; citation screening; citations are not issued by the police), law enforcement officers hav criminalcriminal cicriminal citations. criminal citations. RCW 46.64.015 sets out the process for an officer to issue a criminal she chooses to do so.

TheThe statute makesThe statute makes clear thaThe statute makes clear that a person is to be detained for no period longe totto issueto issue and serve tto issue and serve the citation. But some exceptions are given, specifically if the person refuses to writtenwritten promise to appear in court as required by the citation, or wwritten promise to appear in court as required RCWRCW 10.31.100(3), or when the person is a nRCW 10.31.100(3), or when the person is a nonresident and iRCW 10. 46.64.03546.64.035 (nonresident requirement to post security for infraction or criminal traffic citation)46.64.035 (nonresident r exceptions to the cite and release presumption, a person may be arrested. *Thomas, supra.*

Officer Safety is Number 1

AsAs with any As with any other law enforcement action, an officer s safety is of primary importance. Freemen are frequentlyfrequently heavily armed, and reject our law s authority over them, especially concerning firearms. It makesmakes no sense to engage a Freeman on the street in a discussion about tmakes no sense to engage a Freeman on the conspiracyconspiracy or the Tribulation. Officers shoconspiracy or the Tribulation. Officers should act in a prconspiracy or differently from any other citizen.

Officer sOfficer s are trained to take control of a scene, and Officer s are trained to take control of a scene, and a Free wantswants wants to writewants to write over an infraction or criminal citation, let him or her. The verbiage will not have any e on the court processing the matter (assuming it is legible, including officer s handwriting).

When You are Served with a Freemen Document

FreemenFreemen are especially adept at serving their Common Law documents on anyonFreemen are especially adept havehave come in contact. Officers should acceptHave come in contact. Officers should accept service ofhave con supervisorsupervisor and contact the prosecuting attorney. Prosecutors need to review the documents for possible criminal charges.

AA Lien is Recorded, Involuntary Bankruptcy FilA Lien is Recorded, Involuntary Bank Received

OfficersOfficers should imOfficers should immediatelOfficers should immediately notify a supervisor and contact t situations.situations. These documents can and should be resituations. These documents can and should be ressituations. Prosecutors are your attorneys, so use them.

Develop Intelligence and Know Your Freemen

TheThe vast majority of Freemen are paper terrorists seeking martyThe vast majority of Freemen are paper terrorists intentionintention of becoming violent. But given the religious beliefintention of becoming violent. But given the religio community, officers and prosecutors must take great care to know what is going on in their community.

RadicalRadical Freemen know hoRadical Freemen know how to make Radical Freemen know how to make pipe bombs (lea totto blow up courto blow up courthouses (or as a diversion to allow liberation of their money from banks) and believe thato bl thethe satanic one world conspiracy to eliminate the white race (the Tribulation) for the the satanic one world conspiracy to eli SuchSuch beliefs Such beliefs haSuch beliefs have a dramatic effect on whether a Freemen will be compelled to use violenc evil government officials implementing Satan s will.

GovernmentGovernment officials Government officials must be ever Government officials must be ever vigilant in watching There can be no doubt that Freemen certainly know who you are and the location of government facilities.

WHAT SHOULD JAIL PERSONNEL DO?

FreemenFreemen can pose numerous problems in a correctional facility. Issues can arise at the original bookingbooking when some Freemen refuse to provibooking when some Freemen refuse to provide their name booking identificationidentification informatiidentification information. Probidentification information. Problems continue with respect non-lawyernon-lawyer Sixth Amendment counsel. Freemen will frequentlynon-lawyer Sixth Amendment counsel. Freer somesome Freemen will resort to hunger strikes in order to protest their continued csome Freemen will resort to hunger strik jurisdiction.

SomeSome of these issues are discussed below. This discussSome of these issues are discussed below. This discussion proceduresprocedures by each institution. The procedures that follow are merely startingprocedures by each institution. The of such procedures.

Identification

RefusalRefusal to Provide Name. In our experience, some Freemen wh In our experience, some Freemen who h iininfractionsinfractions will identify themselves to the investigating officer as *Brown v. Texas.* [45] Continued belligerencybelligerency when pressed for their correctbelligerency when pressed for their correct name will generbelligerency bookingbooking into jail. Obooking into jail. Once inbooking into jail. Once in jail, the primary concern is to determine determinedetermine whether there are andetermine whether there are any warradetermine whether there are any warrants outs individualindividual who refuses to properly identify themselves during booking shoindividual who refuses to properly identify F.B.I.F.B.I. and to the Washington State Patrol Identification Section so that the individual s trueF.B.I. and to the Washington determined.

FingerprintsFingerprints and Photographs. It is the duty of the sheriff or director of public safety of every countycounty,county, and the chief of police of every city or town, and of every chief officer of other law enforcounty, and th agenciesagencies duly operating wiagencies duly operating within this sagencies duly operating within this state, to cause the juvenilesjuveniles lawfully arrjuveniles lawfully arrested for juveniles lawfully arrested for the commission of any crimin misdemeanor. RCW 43.43.735(1).

ItIt is the right, but not the duty, of the sheriff or director of public safety of every county, and the chief ofof police of every city or town, and every chief officer of other law enforcement agencies operating within thisthis this state, to phothis state, to photograph and record the fingerprints of all adults lawfully arrested. RCW 43.43.735 ThisThis information must be furnished to the WashingtonThis information must be furnished to the Washington Sate PTh two hours from the time of arrest. RCW 43.43.740(1).

ItIt is also the duty of the sheriff or director of public safety of every countyIt is also the duty of the sheriff or director o everyevery city oevery city orevery city or town, and of every chief officer of other law enforcement agencies duly operating wi state,state, to record the fingerprints of all perstate, to record the fingerprints of all persons held in or rstate, to record the fi crimecrime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imcrime as provided for in RC disseminatedisseminate and file such fingerprints in the same manner as those rdisseminate and file such fingerprints in the s 43.43.735 and 43.43.740. RCW 43.43.745(1).

PhysicalPhysical force may be used to obtain photographs and fiPhysical force may be used to obtain photographs and fin provide such identification at booking or charging. RCW 43.43.750 provides

> InIn exercising theiIn exercising their dutiesIn exercising their duties and authority under RCW 43.43.735 and sheriffs,sheriffs, directsheriffs, directors of psheriffs, directors of public safety, chiefs of police, and other chief la officers,officers, may, consistent with constitutional and legal requirements, use such reasonablofficers, may, consiste forceforce as is necessary to compel an unwilling person to submit to being photograforce as is necessary to compel fingerpfingerprinted,fingerprinted, or to submit to any other identification procedure, except interrogationfingerprinte

[45] *Brown v. Texas,* 443 U.S. 47, 61 L. Ed. 2d 357, 99 S. Ct. 2637 (1979), was the United States Supreme Court case that struck down stop-and-identify statutes.

whwhichwhich will resu which will result in obtaining physical evidence serving to identify such person. No one havinghaving the custody of any person shaving the custody of any person suhaving the custody of any person subje thisthis act, and no one acting in his aid or under his this act, and no one acting in his aid or under his directithis act, publicationpublication as is provided for in RCW 43.43.740, publication as is provided for in RCW 43.43.74 criminal, for anything lawfully done in the exercise of the provisions of this act.

TheThe use of force is to be considered as a last resort. Sometimes FreThe use of force is to be considered as a last resort thatthat that they may that they may sign a statement that the photographs and fingerprints were obtained under duress. Such statementstatement allows them, statement allows them, unstatement allows them, under their understanding of the their law, submitted to the jurisdiction of state court.

AA recalcitrant Freeman may also submit to fingerprinting and photographing without the use of force afterafter being oafter being ordered to after being ordered to do so by a judge during the Freeman s first appearance in court. likelike the statement that the Freeman is agreeilike the statement that the Freeman is agreeing under durlike th interpretationinterpretation of their Common Law that the Freeman has entered into any contractual relationinterpretation of thei state or that the Freeman has voluntarily submitted to the jurisdiction of state court.

Refusal to Leave Cell

SomeSome Freemen defendant s have refused to leave their cell to come to couSome Freemen defendant s have refuse optionsoptions available to it woptions available to it when this happeoptions available to it when this happens. In d assessmentassessment from the jail of how violent the defendant presently is, how many correctional officeassessment from the needed for proper transport, and other security related issues.

Non-Lawyer Sixth Amendment Counsel

TheThe Sixth Amendment guarantees The Sixth Amendment guarantees thThe Sixth Amendment guarantees that "[i] right &toright &to right &to have the Assistance of Counsel for his defence." U.S. Cont. amend. VI. The Sixth Amenright &to however,however, does not permit a criminal defendant to be represented by an advocate who is not ahowever, does not permit a bar.bar. *United States v. Wheat,* 486 U.S. 153, 159, 100 L.Ed.2d 140, 108 S.Ct. 1692, 1697 (1988); *see also StateState v. DeWeese,* 117 Wn.2d 369, 376, 816 P.2d 1 (1991) (a criminal defendant does not have the absolute rightright to be represented by the individual of his or her right to be represented by the individual of his or her choice). N non-attorneynon-attorney as their counsel. As discussed belonon-attorney as their counsel. As discussed below, non-attorney an inmate than is a member of the public.

Legal Mail

AsAs a general rule, inmates have a lessened expectation of privacy aAs a general rule, inmates have a lessened expecta theirtheir incoming and outgoing letters and packages. *See, e.g., See, e.g., LavadSee, e.g., Lavado v. Keohane,* 992 F.2d 601, 607 Cir.Cir. 1993) (pris Cir. 1993) (prison officials may open and read prisoner s incoming general mail pursuant to a uniform and evenlyevenly applied policy with an eye toevenly applied policy with an eye to mainevenly applied policy with an eye to mai Cir.Cir. 1973) (opening incomingCir. 1973) (opening incoming mailCir. 1973) (opening incoming mail violates no inmate right); *Ro* P.2dP.2d 1348 (1976) (We have upheld the right of jail officials to examine the letters and packages, incoming andand outgoing, of all inmates.); *State v. State v. Hawkins,State v. Hawkins,* 70 Wn.2d 697, 425 P.2d 390 (1967), *cert. den* U.S.U.S. 912 (1968) (We said there that t (We said there that there can b (We said there that there can be no circumstances.).

SomeSome items of iSome items of incoming and ouSome items of incoming and outgoing mail,[46] such as correspondence be attorney,attorney, iattorney, is sattorney, is subjected to a less stringent examination by prison or jail officials. Instead of re correspondence,correspondence, letters or packages from an inmate s attorney are generally opecorrespondence, letters or packa and any inspection of the package or letter is limited to the detection of contraband.

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[46] Federal regulations dealing with mail in federal prisons have identified correspondence received from the following as deserving special treatment: (1) President and Vice President of the United States; (2) Attorneys; (3) Members of the U.S. Congress; (4) Embassies and Consulates; (5) the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys); (6) other Federal law enforcement officers; (7) State Attorneys General; (8) Prosecuting Attorneys; (9) Governors; (10) U.S. Courts (including U.S. Probation Officers); and (11) State Courts. 28 C.F.R. §§ 540.2-540.25 (1992).

ThisThis lesser level of inspection is This lesser level of inspection is deThis lesser level of inspection is design attoattorney/clientattorney/client privilege,[47] like all other privileges in Washington, is strictly construed. This means that like all prprivilegeprivilege does not apply to non-lawyer counsel. *Cf. Hagan v. Kassler Escrow, Inc.,* 96 Wn.2d96 Wn.2d 443, 6396 P.2dP.2d 730 (1981). Thus correspondence or packages sent by an inmate to a non-lawyer counsel or to an inmate by a non-lawyer counsel may be subjected to the same level of scrutiny as ordinary mail.

Visitation

ManyMany jails Many jails and prisMany jails and prisons provide for contact visits between attorneys and inmate visitationsvisitations visitations are frequentlyvisitations are frequently held in special visitation rooms that, if in a department of notnot subject to interceptionnot subject to interception and recording not subject to interception and recording under RCW 9.7 attorneyattorney counsel is not entitled to the benefits of these rules, but should instead be giattorney counsel is not entitled to any other civilian visitor.

Hunger Strikes

AA Freemen inmate may resort to a hunger A Freemen inmate may resort to a hunger strikA Freemen inmate may re incarcerationincarceration by a foreign government. The safestincarceration by a foreign government. The safest way condition.condition. Careful monitoring of food intake and the inmate s physical condition. Careful monitoring of food undertakenundertaken once an inmate announceundertaken once an inmate announces his or hundertaken once an inmate anno DivisionDivision of Prisons, Directive DOP 620.100, a copy of which is provided in the Appendix, at 31-Division of Prisons, D eexcellentexcellent startiexcellent starting point for any facility that does not already have a procedure in place for dealing w hunger strikes.

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[47] The attorney/client privilege is codified at RCW 5.60.060(2)(a). This provision states that [a]n attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment. *Id.*

WHAT SHOULD AUDITORS/ASSESSORS DO?

Allodial Freeholds and Land Patents

TheThe legal The legal concept of holding land by allodial freehold or in allodium [48] traces to the feudal roots o traces to thethe English system of land tenure. As it operthe English system of land tenure. As it operated at ththe English system descendingdescending pyramid of lords and vassals. The monarch granted tenure to descending pyramid of lords and vassals. T grantgrantedgranted portigranted portions of their estates to others. Those lower on the pyramid owed certain obligations, in formform of military service, cash, crops, or othform of military service, cash, crops, or other services, tform of military revenuesrevenues and services with which threvenues and services with which the monarch frevenues and services with military.

Allodial and allodium are defined as follows

> **Allodial.** Free; not holden of any lord or superior; owned wit Free; not holden of any lord or superior; owned withou or fealty; the opposite of feudal.
>
> **Allodium.** Land held absolutely in one s own right, and no Land held absolutely in one s own right, and not of any l not subject to feudal duties or burdens.
>
> AnAn estate held by absolute ownership without recognizing aAn estate held by absolute ownership without rec duty is due on account thereof.

BLACK S LAW DICTIONARY 100 (4th ed. 1968).

ThisThis distinction between property held subject to tenure and in allodThis distinction between property held subject to tototo mere academic interest. The obligatto mere academic interest. The obligations owed by to mere academic interest. The ob aa particular number of knia particular number of knights, were gra particular number of knights, were gradually superseded tenuretenure were initialtenure were initially importetenure were initially imported to the American colonies (as evidenced by concepts have been abolished with all land, long since held free of feudal obligation.

AA land patentA land patent is a A land patent is a creature of statute whereby the United States government conveys title to tototo a private individual.to a private individual. *FederalFederal Land Bank of Spokane v. Redwine,* 51 Wn.App. 766, 769, 7 (Div. 3 1988).[49]

Presumably,Presumably, a title search to most private property in Washington Presumably, a title search to most private from such a patent, usually issued in thefrom such a patent, usually issued in the nineteenth century. *See Barbizon of Utah, Inc. v.* 471 P.2d 148 (Utah 1970).

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48 Most of the information in this section is taken from two 1996 Washington State Attorney General opinions.

> AGO 1996 No 6 (declaration of allodial freehold ownership does not create an exception from payment of property taxes; a homestead exemption does not bar a foreclosure for unpaid real property taxes); and
> AGO 1996 No. 12 (auditor may not refuse to record land patent or non-statutory abatement documents if the documents purpose is to convey or affect title to real estate).

The entire text of the Attorney General opinions is available at the Attorney General s website (visited February 25, 1999) <http://www.wa.gov/ago/opinions/opinion_1996_6.html> and <http://www.wa.gov/ago/opinions/opinion_1996_12.html>.

49 Two months prior to default on his mortgage, the defendant executed and recorded a Declaration of Land Patent, wherein the property was automatically converted to an allodial freehold unless challenged by someone in court within 60 days of recording. Attached to the document was a hard to read document dated January 6, 1896, and stamped as an official record on file with the Oregon state office of the Bureau of Land Management. Defendant claimed that this latter document is the original federal patent for the land in question, and that the Declaration of Land Patent prohibited the bank from foreclosing.

Division III held that the recording of the Declaration of Land Patent had no effect on title since it was issued by the defendant and not by the United States, and affirmed the trial court s summary judgment in favor of the mortgage holder.

FreemenFreemen have recently presented land patFreemen have recently presented land patents for Freemen have recen theythey have generated named Declaration of Patent or Update of Assignment of Patent. they have generated named recordingrecording of such documents does not prohibit foreclosure or shieldrecording of such documents does not prohibit for auditor does not have discretion to refuse to record the document.

TheThe generThe general rule is that an auditor must record any instrument authorized or permitted to beThe genera recorded. recorded. RCW 65.08.150. It is clear that auditors must recorrecorded. RCW 65.08.150. It is clear that auditors m oror the state of Washington, at least at the time the property is originally conveyed. RCW 65.04.030(2); RCWRCW 65.08.090. Given the Freemen practRCW 65.08.090. Given the Freemen practice ofRCW 65.08.090. Given the Fr request, the Attorney General refers to the more general authorization for recording.

> AA conveyance of real property, when acknowledged by thA conveyance of real property, when acknowledged b (the(the acknowledgement(the acknowledgement bein(the acknowledgement being certified as required by law), may b of the recording officer of the county where the property is situated.

RCWRCW 65.08.070. The term conveRCW 65.08.070. The term conveyance is bRCW 65.08.070. The term conveyance aanyany estate or interest in real property is created, transferred, mortgaged or assigned or by which thany estate or interest in r anyany real property mayany real property may be aany real property may be affected[.] RCW 65.08.060(3). Under this r must record a document if it is properly acknowledged and if it affects an interest in real property.

TheThe Attorney General examined the formal opinions of the attorneys general of five other statThe Attorney General ex statesstates (Kansas and Norstates (Kansas and North Dakstates (Kansas and North Dakota) concluded that patent documents officerofficer may not interpret the document in order to decide whether title is affected. Three other states (Nebraska,(Nebraska, South Dakota, Ohio) reached the opposite c(Nebraska, South Dakota, Ohio) reached the opposite con examineexamine a document submitted for recording in order to determinexamine a document submitted for recording in orde statute.

OurOur Attorney General agreed with Kansas Our Attorney General agreed with Kansas andOur Attorney General agree and related documents since an auditor may not interpret a document that might affect title.

> WeWe conclude that the former analysisWe conclude that the former analysis bettWe conclude that the former anal doesdoes the latter. The statutory defdoes the latter. The statutory defindoes the latter. The statutory definition of whichwhich an interest in property is created, transfwhich an interest in property is created, transferredwhich a includesincludes thincludes those by whincludes those by which title to any property may be affected[.] RCW 65.08 anan instrument facially purports to affect title, even if it dan instrument facially purports to affect title, even if i interestinterest to a second party or encumbering the property, a legalinterest to a second party or encumbering requiredrequired in required in order to determine whether or not it really does affect title. It does not apperequired in thatthat the auditor is statutorily that the auditor is statutorily authorized that the auditor is statutorily authoriz opinion. *Philadelphia II v. Gregoire,* 128 Wn.2d 707-714-15, 911 P.2d 389 (1996).
>
> WeWe therefore conclude that if documeWe therefore conclude that if documents fWe therefore conclude that i estateestate aestate are sestate are submitted for recording, the Auditor lacks the statutory authority to determine whetherwhether the documents truly have that effect. For this reasowhether the documents truly have that effect. For patent patent documents if they facially purport to affect title, and if they are properly patent documents if they facia acknowledged, and accompanied by the proper fee. [Footnote 7]
>
> [Footnote[Footnote 7] This analysis pr[Footnote 7] This analysis presumes that[Footnote 7] This analysis presumes t executingexecuting the instrument. We do not hereby express any executing the instrument. We do not herel possibilitypossibility of such documents being filed with repossibility of such documents being filed with regard to t with intent to harass the true owner. *See, e.g.* Op.Att y Gen. 84-48 (Kan. 1984).

AGO 1996 No. 12 at 7.

Non-Statutory Abatement

FreemenFreemen often present documentsFreemen often present documents enFreemen often present documents entitled publicpublic official. Although a bit difficpublic official. Although a bit difficult to public official. Although a bit difficult to thethe public official. the public official. This attthe public official. This attempt at a non-statutory abatement procedure appa practice ofplea in abatement.

PleaPlea in abatement. In practice. A plea which, without disputing jusPlea in abatement. In practice. A plea which, w objectobjectsobjects to place, mobjects to place, mode, or time of asserting it; it allows plaintiff to renew suit in anoth placeplace of form, or at another time, and does not assume to answer aplace of form, or at another time, and does n deny existence of particular cause of action on which plaintiff relies.

BLACK S LAW DICTIONARY 1310 (4th ed. 1968).

AbatementAbatement and Revival. Actions at Law. As used in reference to As used in reference to ac As used i aabateabate abate means that action is utterly dead and cannot be revived except by commencing a new action.

TheThe overthrow of an acThe overthrow of an action causThe overthrow of an action caused by the defendant tendingtending to impeach the correctness tending to impeach the correctness of the writ otending to impeach the corr the present, but does not debar the plaintiff from recommending it in a better way.

AbatementAbatement and Revival. Chancery Practice. It differs from an abatement It differs from an abatement a thatthat in the latter the action is entirely dead and cannot be revived; but in the former the right to proceed is merely suspended, and may be revived.

InIn England, declinatory pleas to the jurisdiction andIn England, declinatory pleas to the jurisdiction and dIn En totto the judicato the judicature actto the judicature act) sometimes, by analogy to common law, termed abatement.

BLACK S LAW DICTIONARY 16 (4th ed. 1968) (Citations omitted.)

FreemenFreemen apparently believe that tFreemen apparently believe that their seFreemen apparently believe that terminateterminates the action taken by the public official since our courts lack jurisdiction over a Sovereign Citizen. PPresumably,Presumably, the public official is not prohibited from asserting the same position in a Common Law coPresumably since the Common Law court has jurisdiction over a Sovereign Citizen.

TheThe Attorney GeThe Attorney General noteThe Attorney General noted that the Non-Statutory Abatement documen GeneraGeneralGeneral appeared toGeneral appeared to be a response to an administrative order issued by a county department. T isis directed against a named county official, and states that the administrative order is beis directed against a named co that official because the sender refuses to accept it. AGO 1996 No. 12, at 7-8.

SinceSince the Non-StatutoSince the Non-Statutory Since the Non-Statutory Abatement document provided to the Attorn regardingregarding title to land or to any ownership or debt interest in real proregarding title to land or to any ownership or d *Id.Id.* We suggest, though, that auditors take greatWe suggest, though, that auditors take great care when reWe suggest, thoug document might have buried in it some claim on title to real property.

Documents Presented by Individual in Name of Non-Legal Entity

TheThe Attorney General s opinion is clear that an auditor may not refThe Attorney General s opinion is clear that an uponupon a belief that the entity submitting it is not legallupon a belief that the entity submitting it is not legally constitu lackslacks both the statutory authority and duty to determine the substantive validity of an ilacks both the statutory authority an recording. AGO 1996 No. 12, at 8.

Referring Questions to Prosecutor s Office

AA recordinA recording cA recording cannot be delayed to allow sufficient time for review of the documents by the Att GeneralGeneral or Department of Revenue because the statute commanding the auditor to record withoutGeneral or Departme impliesimplies that the process implies that the process musimplies that the process must be completed with deliberate speedy. 15-16.

However, a caveat to the above concerns possible consultations with the prosecutor.

AsAs the County Prosecutor, you arAs the County Prosecutor, you are the leAs the County Prosecutor, you TreasurerTreasurer as to matters relating to their official business. RCW 36.27.Treasurer as to matters relating therefore,therefore, reasonable and within the contemplation of the statute astherefore, reasonable and within the co thatthat those officers consult with you as to the legal requirements of their officers.
ThroughoutThroughout this Opinion we have repeatedly noted the genThroughout this Opinion we have repeatedly n

andand the possibiland the possibilitand the possibility that future specific transactions on the subjects we have ac could vary as to legally significant facts.

ForFor the reasons stated aFor the reasons stated aboFor the reasons stated above, we do not believe that such wouldwould justify a lengthy delay. As a generwould justify a lengthy delay. As a general mattewould justify dutiesduties to file or process documents must do so, as they [are] reduties to file or process documents must do receivedreceived for filingreceived for filing. *Pacific Pacific National Bank v. Kramer,* 77 Wn.2d 899, 904, 468 P.2d (1970).(1970). If this results in an err(1970). If this results in an erroneous r(1970). If this results in an erroneou officerofficer may correct his [or her] erorofficer may correct his [or her] errors and mistakesofficer may correct his [o fartherfarther than to make the records and files speak the truth. farther than to make the records and files speak the WeWe do not believe that this limited capacity for later correWe do not believe that this limited capacity for decisionsdecisions that lie beyond the audecisions that lie beyond the authoridecisions that lie beyond the authority of first group of questions. [allodial freehold estate and homestead exemption]

AGO 1996 No. 12, at 16.

IfIf you are in doubt about the proper action to take when dealingIf you are in doubt about the proper action to take when prosecutor.prosecutor. But as the Attorney General opinions make clear, the prprosecutor. But as the Attorney General opin are properly acknowledged and submitted with the proper fees.

Oaths of Office and Bonds

FreemenFreemen frequently challenge the authority of a public official due to the official s failure toFreemen frequently c filefile an oath and bond file an oath and bond as requiredfile an oath and bond as required by statute. RCW 36.16. concerningconcerning the obliconcerning the obligations of elconcerning the obligations of elected county officials to take an oa are also required to be filed in the same office as required of the elected official.

36.16.040.36.16.040. Oath of office. Every person elected to county office shall before he ente Every person electe upouponupon the duties of his office take and subscribe an oath or affirmation that hupon the duties of his of faithfullyfaithfully and impartially discharge the dutfaithfully and impartially discharge the dutifaithfully and impartia oath,oath, or affirmation, shall be administeroath, or affirmation, shall be administered and ceoath, or affirma administer oaths, without charge therefor.

36.16.050.36.16.050. Official bonds. Every county official before he or Every county official before he or she ente ofof his or her office shalof his or her office shall fof his or her office shall furnish a bond conditioned that he or she thethe duties of his or her office and account for and turn over all money which may come intointo his ointo his or her hands by virtue of his or her office, and that he or she, or his or her executorsexecutors or executors or admiexecutors or administrators, will deliver to his or her successor safe and un books,books, records, papers, seals, equipment, and furniture belonginbooks, records, papers, seals, equipment, a Bonds of elective county officers shall be as follows:

(1) AAsAssessor:Assessor: Amount to be fixed and sureties to be approved by proper county legislative authority;

(2) Auditor: [not less than $10,000];

(3) Clerk:Clerk: Amount to be fixed in a penal sum not less tClerk: Amount to be fixed in a penal sum not amountamount of money liable to come into his or heamount of money liable to come into his or her haamo approvedapproved by the judge or approved by the judge or a majapproved by the judge or a majority o courtcourt of which he or she is clerk: PROVIDED, That court of which he or she is clerk: PROVIDED, That fixedfixed for the clerk fixed for the clerk shall nfixed for the clerk shall not exceed in amount that re treasurer in a county of that class;

(4) Coroner: [not less than $5,000];

(5) MembersMembers of thMembers of the proper county legislative authority:Members of the proper depends on county population]

(6) Prosecuting attorney: [$5,000]

(7) Sheriff:Sheriff: [notSheriff: [not lessSheriff: [not less than $5,000 nor more than $50,000, asSheriff: [not l by county legislative authority]

(8) Treasurer:Treasurer: Sureties to be approved by theTreasurer: Sureties to be approved by t legislativelegislative authority and the amounts to be fixed by the legislative authority and the amounts to b llegislativelegislative authority at double the amount liable to come into legislative authority at doubl treasurer streasurer s handstreasurer s hands during treasurer s hands during his or her term, the maximum a bond,bond, however, not to exceed [an amount based upon counbond, however, not to exceed population]...

36.16.060.36.16.060. Place of filing oaths and bonds. Every c Every cou Every county officer, before entering upon thethe duties of his office, shall file his oath in the offthe duties of his office, shall file his oath in the office officialofficial bond in the official bond in the office of the county clerk: PROVIDED, That the official bond of the countycounty clerk, after first being recorded by the county auditor, scounty clerk, after first being recorded by the co the county treasurer.

OathsOaths and bonds of deputies shall be filed in Oaths and bonds of deputies shall be filed in the officesOaths of their principals are required to be filed.

36.16.0736.16.07036.16.070 D36.16.070 Deputies and employees. In all cases where the duties of any county office ar greatergreater than can be performed by the person elected to fill it, greater than can be performed by the perso deputiesdeputies and other necessary employedeputies and other necessary employees withdeputies and other commissioners.commissioners. The board shall fix their compensation acommissioners. The board shall fix their co shallshall give bond and the amount of the bond requishall give bond and the amount of the bond required from esha bonds must be approved by the board and the premium therefor is a county expense.

AA deputy may perform any act which his principal is authorizA deputy may perform any act which his principal is appointingappointing a deputy or other employee shall be reappointing a deputy or other employee shall be respons upon his official bond and may revoke each appointment at pleasure.

AuditorsAuditors (oaths) and County Clerks (bonds) should take great care to make sure that this stAuditors (oaths) an mandatemandate is complied withmandate is complied with by allmandate is complied with by all elected county officials. Wh thatthat an elected official s failure to strictly comply with these statutes is not grounds for removal from othat an elected officia ifif theif the iif the irregularities are subsequently cured, *see, generally In re Recall of Sandhaus,* 134 Wn.2d 662, 953 P.2dP.2d 82 (1998) (delayed fP.2d 82 (1998) (delayed filing of bond P.2d 82 (1998) (delayed filing of bond not grounds for out the failure of elected public official to follow the law.

So,So, please make sure that the oaths and bonds are executed and filed in theSo, please make sure that the oaths and b comecome into frequcome into frequecome into frequent contact with Freemen, you may want to keep a separate file handy since you will surely be asked to provide a copy of the oath of office and bond.

General Suggestions

AuditorsAuditors and asseAuditors and assessors shouAuditors and assessors should always remember to treat Freemen as re whomwhom contact is made. However, one shoulwhom contact is made. However, one should alwayswhom contact is made factionfaction within the Freemen movement. When in doubt it is wise to not engage a Freemen. Tfaction within the Fr documentdocument (and of course charge the appropriate fee) and document (and of course charge the appropriate fee) and w a suspected Freemen s property without law enforcement escort.

WhileWhile While we recoWhile we recognize that it is impossible at the time of filing to examine every document, we as auditorsauditors andauditors and assessors tryauditors and assessors try to have their staff catch liens and other documents file (usually(usually judges, prosecutors, or sheriffs for millions of dollars). If the liens or other documents are(usually judges, prose soso be it. But a document involving millions of dollars that has Freemen veso be it. But a document involving millions of do toto catch, at least at the filming stage ito catch, at least at the filming stage if sto catch, at least at the filming st documentsdocuments almost always include religious references, commas in the signdocuments almost always include r followedfollowed by sui juris. Copies of these documents should be immedifollowed by sui juris. Copies of these docu sheriff.

Lastly,Lastly, one must Lastly, one must take great cLastly, one must take great care to read Freemen documents. The doc effect a public disclosure request to which a timely response is required.

CHARGING OPTIONS H OW TO FIT A SQUARE PEG INTO A ROUND HOLE

Charging Considerations and Proper Penalties

TheThe bringing of charges against a Freeman should never be based upon a disagreemenThe bringing of charges ag individual s beliefs, for as noted by Judge Easterbrook

> SomeSome people believe with great fervor preposterous tSome people believe with great fervor preposterous thir wiwithwith their self interest &The government may not prohibit the holding of these beliefwith their self interest & but it may penalize people who act on them.

Coleman v. Commissioner of Internal Revenue, 791 F.2d 68 (7th Cir. 1986).

TheThe filing of criminal charges is only appropriate when the The filing of criminal charges is only appropriate w delivdeliverydelivery of governmental services, otherwise imperil the safety of others, or constitute a violatiodelivery of governm for which prosecution is normally brought.

ChargesCharges should not be withheld, though, merely because prosecuCharges should not be withheld, though, merely consumingconsuming or beconsuming or because consuming or because the charged person may retaliate by filing liens, etc. aga in the case.

SomeSome Freemen you encounter do not fully understand the arguments oSome Freemen you encounter do not f actions.actions. Hopefullyactions. Hopefully, these indiactions. Hopefully, these individuals will alter their behavior follow justicejustice justice system. Prejustice system. Preference should generally be given to an initial non-felony charge in or conduct without unreasonably punishing.

SomeSome individuals whSome individuals who arSome individuals who are initially charged with minor offenses, even agreements,agreements, will agreements, will up agreements, will up the ante by retaliating against every judge who presides prosecuprosecutorprosecutor who is invprosecutor who is involved in the case. Additional charges that arise from such retalia joinedjoined to the original charge or filed under a separate cause number after the first prosecution is obtaijoined to the origin TheThe benefit of waiting is that the prosecutor has the opportunity to sThe benefit of waiting is that the prosecutor has th will alter as a result of prosecution and incarceration.

IndividualsIndividuals whoIndividuals who file nuisance suits in a Washington State Court or a proper United States withoutwithout the accompanying liens are more properly dealt with under CR 11[50] or Fed. or Fed.R.Civ.P. 11 and or Fed motion to limit future in forma pauperis filings.

Available Charges

ChargesCharges that may be brought in response to typical Freemen activity range from the common drivingcommon driving while license suspended, felony elude, harassment, assault, rcommon driving while seldomseldom used. Manyseldom used. Many appseldom used. Many appropriate crimes, such as malicious prosecution, b law,law, will be found outside Chapter 9A RCW. Resort to less colaw, will be found outside Chapter 9A RCW. Reso instructiinstructionsinstructions in the WPICs instructions in the WPICs will not be available and case law discussing the offense charges that have been utilized in Kitsap County with success are discussed below.

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[50] A pro se plaintiff may be subject to CR 11 sanctions if three conditions are met: (1) the action is not well grounded in fact; (2) it is not warranted by existing law; and (3) the party signing the pleading has failed to conduct a reasonable inquiry into the factual or legal basis of the action. *See* CR 11; *Harrington v. Pailthorp,* 67 Wn.App. 901, 910, 841 P.2d 1258 (1992), *review denied,* 121 Wn.2d 1018 (1993); *Lockhart v. Greive,* 66 Wn.App. 735, 743-44, 834 P.2d 64 (1992).

Barratry

The crime of barratry is codified at RCW 9.12.010. This statute provides as follows

> EveryEvery person who brings on his or her oEvery person who brings on his or her own behalf,Every person who anotheranother to bring, any false suianother to bring, any false suit at laanother to bring, any false suit at law or in ttherebythereby to distress or harass a defendant in the suit, or who serves or sends athereby to distress or harass a de documentdocument purporting tdocument purporting to be or document purporting to be or resembling a judicial pro process,process, is guilty of a misdemeanor; and in process, is guilty of a misdemeanor; and in case the persprocess, is she may, in addition thereto be disbarred from practicing law within this state.

RCW 9.12.010. A violation of the barratry statute is a misdemeanor.

TheThe barratry statutThe barratry statute[51] contai contains two alternative means of committing the offense: (1) com barratry;barratry; and (2) pseudo-judicial process. Common law barratry consists of the filing of obarratry; and (2) pseudo- vexatiousvexatious litigation such as that whivexatious litigation such as that which would engenvexatious litigation such as judicijudiciallyjudicially judicially or legislatively adopted a rule that a prosecution under the common law prong of barratry requ thethe commithe commissithe commission of several acts, *see generally* 14 C.J.S. *Champerty and Maintenance* §§ 27-28, at 16 (1991); 14(1991); 14 Am.Jur.2d, *Champerty and Maintenance* §§ 19-20, at 854-55 (1964). §§ 19-20, at 854-55 (1964). Washingt any decisions that discuss the elements of the common law barratry prong.

TheThe pseudo-jThe pseudo-judicial The pseudo-judicial process prong of the barratry statute is the alternative means u County.County. This pseudCounty. This pseudo-judiciCounty. This pseudo-judicial process prong is violated when an indiv bebe or resembling judicial probe or resembling judicial process, tbe or resembling judicial process, that is not in fact judi KitsapKitsap County under this prong for serving writs of habeas cKitsap County under this prong for serving writs of habeas suchsuch as thsuch as the Supresuch as the Supreme Court, Washington State Republic, Common Law Venue and the KINGD LOORDORD ECCCLESIASTICAL COMMON LAW COURT. Individuals have also been charged under the pseudo-judicialjudicial process prong forjudicial process prong for sjudicial process prong for serving law enforcement officers witl

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51 RCW 9.12.010 was amended in 1995. The Division IIIcase of *Danzig v. Danzig*, 79 Wn.App. 612, 904 P.2d 312 (Div. 3 1995), *review denied*, 129 Wn.2d 1011 (1996), indicates in dicta that the barratry statute does not apply to non-attorneys. *See Danzig*, 79 Wn.App. at 617-18.

The *Danzig* decision is inapplicable to Freeman prosecutions on a number of grounds. First, the *Danzig* decision was dealing with the common law champerty alternative means portion of Washington s former barratry statute instead of the pseudo-judicial process prong that is at issue in the instant case.

Second, the statute quoted by Division III in *Danzig* differs significantly from the statute than exists today. The current barratry statute does not contain the every person, being an attorney or counselor at law clause relied upon by Division III. In fact, the current barratry statute, RCW 9.12.010, only mentions attorneys to single them out for greater punishment than the non-attorneys who are convicted of violating the same statute.

The current barratry statute clearly applies to non-attorneys to the same extent as to attorneys. The current barratry statute appears in Title 9 RCW. This title is devoted to general crimes. Statutes that are generally limited to attorneys are contained in Chapter 2.44 RCW (attorneys at law), and Chapter 2.48 RCW (State Bar Act).

The current barratry statute contains two alternative means of committing the crime: (1) common law barratry or a harassment prong which consists of the filing of engaging in vexatious litigation such as that which would engender sanctions under CR 11; and (2) serving or sending pseudo-judicial process. See RCW 9.12.010. Our courts have long recognized that non-attorneys are subject to the sanctions contained in CR 11. *See, e.g., Harrington v. Pailthorp*, 67 Wn.App. 901, 910, 841 P.2d 1258 (1992), *review denied*, 121 Wn.2d 1018 (1993). Accordingly, there is no reason to judicially exempt non-attorneys from the harassment prong of the current barratry statute. In fact, this Division, in a post-*Danzig* case, has affirmed a barratry conviction obtained against a non-lawyer. *See State v. Knowles*, 91 Wn.App. 367, 957 P.2d 797, *review denied*, 136 Wn.2d 1029 (Div. 2 1998).

52 Under Washington law, only a judge can order the State to provide a bill of particulars. *See* CrR 2.1(c); CrRLJ 2.4(e). A criminal defendant who seeks a bill of particulars must serve a motion for such upon the prosecuting attorney, not the arresting officers. *See generally* CrR 4.7(d) (defendant can only obtain information from persons other than the prosecuting attorney through a subpoena issued by the court); CrRLJ 4.7(d) (same); CrRLJ 4.8(b).

The granting of a motion for a bill of particulars rests in the sound discretion of the court and is dependent upon whether the available discovery discloses the factual basis for the charges. *State v. Grant,* 89 Wn.2d 678, 575 P.2d 210 (1978); *State v. Devine,* 84 Wn.2d 467, 527 P.2d 72 (1974); *State v. Brown,* 45 Wn.App. 571, 726 P.2d 60 (1986); *State v. Merrill,* 23 Wn.App. 577, 597 P.2d 446, *review denied,* 92 Wn.2d 1036 (1979).

officersofficers to TAKE NOTICE that the Demaofficers to TAKE NOTICE that the Demandant officers to TAKE N
isis applicablis applicable that the officis applicable that the officers of the court furnish the undersigned a Bill of Particulars
sstatementstatement regastatement regarding the process issued by you in the Above Case & and which contains the follow
warning:warning: THIS IS LEGAL PROCESS, YOU ARE COMPELLED TOwarning: THIS IS LEGAL PROCESS, Y
critical to a barratry charge.

TheThe terms purporting to be or resembling are not defined in the barratrThe terms purporting to be or resemblin
theirtheir usual meaning. The word purport is defined in a standard dictionary as follows: 1: to have the
oftenoften specious appearance of being, intending, or coften specious appearance of being, intending, or claimingoften spe
bookbook that ~s to be an objective analybook that ~s to be an objective analysibook that ~s to be an objective analysis> 2:
DICTIONARYICTIONARY 957 (957 (1985). The word resemble is defined in a standard dictionary as follows: 1: to957 (198
likelike or similar to 2 *archaic*: to: to represent as like. *Id.,* at 1002. The question of whether a particular
documentdocument sent by a Freeman to a polidocument sent by a Freeman to a police officer, othdocument sent by a Freer
process is a fact question for the jury.

NeitherNeither the term judicial process nNeither the term judicial process nor tNeither the term judicial process n
otherother Washington statute. BLACK S LAW DICTIONARY 630, 1085 (5th ed. 1983), defines judicial pr630, 1085 (5th ed. 19
as including:

> allall thall the aall the acts of a court from the beginning to the end of its proceedings in a given cause;
> butbut more specifically it means tbut more specifically it means the writ, subut more specifically it means the w
> usedused to used to inform the used to inform the defendant of the institution of proceedings against him and to compe
> his appearance, in either civil or criminal cases.

AA synonym for the phrase judicial process is legal process whiA synonym for the phrase judicial process is lega
mandate, or other process issuing from a court. *Id,* at 1085.

ManyMany of the documents prepared by Freemen that are servedMany of the documents prepared by Freemen that
summons. summons. In Washington, a summons may be si summons. In Washington, a summons may be signed by
CRLJCRLJ (4)(a)(1). The signature of a judicial officer or CRLJ (4)(a)(1). The signature of a judicial officer or clerk is not r
ththethe title of the cause, specifying the name of the court in which the action is brought and the namethe title of the cause, sp
partiesparties to parties to the actparties to the action; (2) a direction to the person receiving the summons that he or she must resp
thethe time stated in the summons; and (3) a notice that if the person receiving the the time stated in the summons; and (3) a no
withinwithin thwithin the time stated, judgment will be rendered against him or her by default; and (4) an address fwithin the t
personperson who signed the superson who signed the summons. CR 4(b)(1)person who signed the summons. CR 4(b)(1); CR
party.party. CRparty. CR 4(c);[53] CRLJ 4(c) CRLJ 4(c). Proof of service must be endorsed or attached to the summons. CR
CRLJ 4(i).

TheThe BLACK S LAWAW DICTIONARY definition of judicial process is narrower than that used by other
jurisdictionsjurisdictions in connection with jurisdictions in connection with their pjurisdictions in connection with their ps
thethe word process the word process is not limited to the word process is not limited to those items listed in BLACK S LA
S.W.2d 776 (Mo.Ct.App. 1987), the court held that

Although the documents the Freemen serve upon the arresting officers will generally be entitled a verification of demand for particulars, the document will more closely resemble interrogatories or demands for admissions. Neither of these discovery tools are available in a criminal case absent extra-ordinary circumstances. *See State v. Norby*, 122 Wn.2d 258, 265-67, 858 P.2d 210 (1993).

[53] CR 4(c) clearly indicates that the term process is not limited to summons:

> Service of **summons and process**, except when service is by publication, shall be by the sheriff of the county wherein the service is made, or by his deputy, or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Subpoenas may be served as provided in rule 45.

(Bold added.)

> TheThe term process is nThe term process is not limThe term process is not limited to summons ; as we cons "process""process" is used as a general term and denotes the means whereby a court compels a compliance with its demands.

Joos, 735 735 S.W.2d at 779. 735 S.W.2d at 779. The *Joos* court went on to find a document styled Arrest of Judgment Stay Execution Execution that was phrased as a command of the UniExecution that was phrased as a command of the United S whosewhose attention it was brought to refrain from enforcing a judgment in any manner was wewhose attention it was bro meaning and import ofthe words legal process as used in §575.130. 735 S.W.2d at 779.

CasesCases from other jurisdictions and legal treatises are consistent with the *Joos* court s analysis. These authoritiesauthorities indicate that, used in its moreauthorities indicate that, used in its more restrictiauthorities indicate that, u aa court compea court compels coma court compels compliance with its demands. The most encompassing definition of this u proc process process refers to all writs, warrants, summons and orders of courts or judicial officers. *Lister Lister v. SuperioL CourtCourt of Court of Sacramento Court of Sacramento County,* 98 Cal.App.3rd 64, 71-72, 159 Cal.Rptr. 280 (1979). In a process process is the means of compelling a defendant to appear in court after the process is the means of compelling a d inin civil cases and any means of acquiring jurisdiction is properly denomiin civil cases and any means of acquiring j *MaxbassMaxbass Secur. Bank,* 44 N.D. 12, 176 N.W. 98 44 N.D. 12, 176 N.W. 98 (1919). Wash 44 N.D. 12, 176 N broader definition.

VariousVarious Washington cases sweep a wide variety of documents within the scope of judicial processVarious Washin *See,See, e.g., State ex rel. OnSee, e.g., State ex rel. OnishiSee, e.g., State ex rel. Onishi v. Superior Court,* 30 Wn.2 depositiondeposition in civil case); *Mark v. WiMark v. Williams,* 45 45 Wn.App. 182, 191-92, 724 P.2d 428, *review denied,* Wn.2dWn.2d 1015 (1986) (administrative inspection warrant); *BatBatten v. Batten v. Abrams,* 28 Wn.App. 737, 626 P.2d 984, *reviewreview dereview denied,* 95 Wn.2d 1033 (1981) (discussing a wide variety of documents that will support an tort actionaction for abuse of judicial process); *Shutt v. Moore,* 2 26 Wn. 26 Wn.App. 450, 456-57, 613 P.2d 1188 (1980) (common(common law lie(common law liens(common law liens); *Fite v. Lee,* 11 Wn.App. 21, 521 P.2d 964, *review denied,* (writs of garnishment).

VariousVarious Washington statutes also include a wide variety of documents withiVarious Washington statutes also in process .process . *See, e.g.,* R RCW 10.27. RCW 10.27.140 (a public attorney may issue legal process and subpoena to compel witness s]witness s] attendance and production of documents); RCW 9A.72.110 (witness s] attendance and production of do witnesswitness if, by way of a threat againitness if, by way of a threat against a current owitness if, by way of a threat against eludelude legal process summoning him or her to testify); RCWelude legal process summoning him or her to testif agreementagreement which...prohibits theagreement which...prohibits the voagreement which...prohibits the voluntary or inv creationcreation or enforcement of a security interest, or attachment, levy, or other creation or enforcement of a security interes a party under the lease contract or of the lessor's residual interest in the goods...).

ManyMany of the documents in the proceeMany of the documents in the proceedMany of the documents in the proceed similarsimilar documents may be signed by an attorney for thesimilar documents may be signed by an attorney for the party *e.g.,* CR 33(a) (interrogatories); CR 45(a) (subpoenas); CR 4(a) (summons); CRLJ 4(a) (summo CR 33(a) (interrogatories); C 2626 (discovery); CRLJ 45 (subpoena); CrRLJ 426 (discovery); CRLJ 45 (subpoena); CrRLJ 4.26 (discovery); CRLJ 45 (subp not preclude a rationale trier of fact from finding that a document resembles judicial process.

Intimidating a Public Servant

The offense of intimidating a public servant is defined at RCW 9A.76.180. This statute provides

> (1) AA peA person is A person is guilty of intimidating a public servant if, by use of a threat, heA person is guilty of i toto influence a public servant s vote, opinion, decision, or other official action asto influence a public servant s vote, servant.

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54 The New Missouri Criminal Code § 575.130 defines the crime of simulating legal process as follows:

> A person commits the crime of simulating legal process if, with purpose to mislead the recipient and cause him to take action in reliance thereon, he delivers or causes to be delivered:
>
> * * *
>
> (2) Any purported summons, subpoena or other legal process knowing that the process was not issued or authorized by any court.

(2) For purposes of this section public servant shall not include jurors.

(3) Threat as used in this section means

(a) toto communicate, directly or indto communicate, directly or indirectly, theto communicate, directly against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(4) Intimidating a public servant is a class B felony.

ThisThis offense is ranked and hasThis offense is ranked and has been This offense is ranked and has been assigned a seric crimecrime is that the defendant mucrime is that the defendant must know tcrime is that the defendant must kn IntimidatingIntimidating a public servant is an offense which, if committed in connection witIntimidating a public servant is an or prosecution, will fall within the definition of criminal profiteering. *See* RCW 9A.82.010(14)(t).

The intimidating a public servant statute protects a large number of individuals, including

anyany person other than a witness who presently occupies the positionany person other than a witness who pr elected,elected, appointelected, appointed, or delected, appointed, or designated to become any officer or employ includingincluding including a legislator, judge, judicial officer, juror,[55] and any person participating as and any per advisor, consultant, or otherwise in performing a govemmental function.

RCWRCW 9A.04.110(22). Federal, state, county, and municipal workers fall within the scope of officer and public public officer. RCW 9A. public officer. RCW 9A.04.1 public officer. RCW 9A.04.110(13). The definitions however,however, may make prosecution however, may make prosecution of ohowever, may make prosecution of offe 9A.04.110(8) and (9).[56]

AA public servant is protected by this statute even if there is some irregularity with the filing A public servant is protec publicpublic servant s oath of office or bond.[57] *See generally In reSee generally In re Recall of Sandhaus,* 134 Wn.2d 134 Wn.2d 8282 (1998) (delayed filing of bond not grounds for reca82 (1998) (delayed filing of bond not grounds for recall82 (1998) 794,794, 807-09, 950 P.2d 38, *review denied,* 136 Wn.2d 1018 (Div. 2 1998) (a judge is stil136 Wn.2d 1018 (Div. 2 1998) (a even if hiseven if his or her oath has not been filed with the secretary of state); *State v. Cook,* 84 Wn.2d 342, 525 P.2d 761761 (1974) (authority of a de facto prosecutor761 (1974) (authority of a de facto prosecutor, one in actual761 (1974 exercising its duties and powers under color of title, is not subject to collateral attack).

TheThe threats described by RCWThe threats described by RCW 9AThe threats described by RCW 9A.76.180(protectedprotected speech. *State v. Kepiro,* 61 Wn.App. 116, 125, 810 P.2d 19 (1991). The 61 Wn.App. 116, 125, 810 P. RCWRCW 9A.04.110(25) include a large amount of protected freRCW 9A.04.110(25) include a large amount of protect Wn.App. 145, 856 P.2d 1116 (1993).

RCW 9A.04.110(25) provides as follows

(25) Threat means to communicate, directly or indirectly the intent:

(a) ToTo cause bodily injury in the fTo cause bodily injury in the future to To cause bodily injury in the fu person; or

(b) To cause physical damage to the property of a person other than the actor; or

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55 Although juror appears in the definition of public servant, jurors are excluded from the intimidating a public servant statute. The same theory that is discussed in the intimidating a judge portion of these materials will apply to prosecutions under the intimidating a witness and intimidating a juror statutes.

56 RCW 9A.04.110(8) and (9) provide as follows

(8) Government includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) Governmental function includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government &

57 With the rise in the number of Freemen defendants, it is only prudent for all public servants to strictly comply with constitutional and statutory provisions requiring the taking and filing of oaths of offices. Every superior court, appellate court, and supreme court judge must file his or her oath with the Secretary of State. Wash. Const. art. IV, §28; RCW 2.08.080; RCW 2.06.085; RCW 2.04.080. Every county officer must immediately file his or her oath with the county auditor. RCW 36.16.060. The oaths of deputies are filed wherever the oath of the principle was filed. *Id.*

(c) ToTo subject the person threatened or any other person to physical confineTo subject the person threatened c restraint; or

(d) ToTo accuse any person of a crimeTo accuse any person of a crime or cause crimTo accuse any pers against any person; or

(e) ToTo expose a secret or publicize an asserted fact,To expose a secret or publicize an asserted fact, whetl to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) ToTo testify or provide information or withhold testimony oTo testify or provide information or withh respect to another's legal claim or defense; or

(h) ToTo taTo take wrongful action as an official against anyone or To take wrongful action as a wrongfully withhold official action, or cause such action or withholding; or

(i) ToTo bring about or continue a sTo bring about or continue a strikTo bring about or continue a strike, boyco obtainobtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) ToTo do anyTo do any other act which isTo do any other act which is intended to harm substan threatenedthreatened or another with respect to his health, safety, business, fthreatened or another with respect to hi personal relationships &

Generally,Generally, only one or two of the types of Generally, only one or two of the types of threat contaGenerall FreemenFreemen cases. Kitsap County has proceeded under subsection (j) in a lieFreemen cases. Kitsap County has pr involvinginvolving a Common Law conteminvolving a Common Law contempt order foinvolving a Common Law contempt commoncommon law lien. Subsection (d) hacommon law lien. Subsection (d) has been used in acommon law lien. author,author, the judge, and others that they were engaged in a conspiracy against him and their failure to immediatelyimmediately release him wouldimmediately release him would result in immediately release him would result in hi ofof various federal laws.[58] S Subsection (d) is also appropriate when you receive one of the check-box citizen informations for charging public servants with various federal felonies.

WhileWhile the various subsections contained in RCW 9A.04.110(25) probably do noWhile the various subsections co meansmeans of committing the crime of intimidmeans of committing the crime of intimidating a pmeans of committing the thethe Kitsap County Prosecuting Attorney s Office limits all jury instructithe Kitsap County Prosecuting Attorney s Office lir proproveprove **and** we utilize special interrogatories in order to ensure juror unanimity. This practice is foll we utilize specia becausebecause of the free speech and overbreadth arguments that will be broubecause of the free speech and overbrea involvesinvolves acts that do not fit within the definition of a truinvolves acts that do not fit within the definition of a true *infra* in the intimidating a judge section of these materials.

ProsecutionProsecution for acts that do not fit the definition of a trProsecution for acts that do not fit the definiti chalchallenge.challenge. challenge. Such challenges may be brought by an individual even though his or her conduct falls squa

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58 The individuals who we have dealt with go to great efforts to educate state court judges and prosecutors. A frequent handout is a card with the following information on it

> The citizen Presenting This Courtesy Warning to Public Officials is NOT VOLUNTEERING for anything!
>
> **WARNING**
>
> U.S. CRIMINAL CODE
> TITLE 18, CHAPTER 13
> SECTIONS 241 & 242
>
> Make it a FELONY to use or conspire to use COLOR OF LAW to enforce a Code or Regulation which results in the violation of a person's Rights. Violaters [sic] will be prosecuted. (Exact law reproduced inside this card).
>
> U.S. CRIMINAL CODE

59 In *State v. Garvin,* 28 Wn.App. 82, 621 P.2d 215 (1980), *review denied,* 95 Wn.2d 1017 (1981), Division I of the Court of Appeals held that

> [s]econd degree extortion pursuant to RCW 9A.56.130 is extortion committed by means of a threat which is defined by RCW 9A.04.110(25)(d) through (j) &By defining [t]hreat the legislature was not creating alternative elements to, but merely defining an element of, the crime.

Garvin, at 85.

withinwithin the statute s legitimate scope, and may challenge the statute on the basis of overwithin the statute s legitimate sc drawndrawn as to sweep within its ambdrawn as to sweep with in its ambit protected spdrawn as to sweep within its ambit pro *DoranDoran v. SaleDoran v. Salem Inn, Inc.,* 422 U.S. 922, 45 L.Ed.2d 648, 95 S.Ct. 2561, 2568 (1975); *accord Ivaaccord* Wn.App.Wn.App. at 150. ApplicatioWn.App. at 150. Application of the oWn.App. at 150. Application of the overbrea courts sparingly. *State v. Halstien,* 122 Wn.2d 109, 122-23, 857 P.2d 270 (1993).

Finally,Finally, even if the statute reaches a substaFinally, even if the statute reaches a substantiFinally, even if the statute (1)(1) the court can place a sufficient limiting construction on the statute; or ((1) the court can place a sufficient limiting protectedprotected speech is permissible under the First Amendment. *UnitedUnited States v. Hicks,* 980 F.2d 963, 971, (9th Cir.Cir. 1992), *cert. denied,* 508 U.S. 508 U.S. 941 (1993); *City of Tacoma v. Luvene,* 118 Wn.2d 826, 839-40, 827 P2d 1374 (1992); *State v. Edwards,* 84 Wn.App. 5, 17, 924 P.2d 397 (1996).

DivisionDivision II of the Court of Appeals recently ruled upon the constitutionality of bringing a prosecution forfor intimidating a public servant utifor intimidating a public servant utilizing subsefor intimidating a public servant utiliz condition, or personal relationship. The Court held that

> TheThe plain language of RCW 9AThe plain language of RCW 9A.76The plain language of RCW 9A.76.180 publicpublic servants from public servants from threatspublic servants from threats of substantial harm based upon the duties.duties. *See State v. Hansen,* 122 Wn.2d 7 122 Wn.2d 712, 122 Wn.2d 712, 716-718, 862 P.2d 117 (1993) (le intentintent behintent behind similar intimidating a judge statute, RCW 9A.72.160(1), is to protect judgesjudges from retaliatory acts because of past official actions).judges from retaliatory acts because of past public spublic s interest in apublic s interest in a fair apublic s interest in a fair and independent decision-making publicpublic public interest and the law. And third, by deterring the intimidation and threats that lepublic interest and totto corrupt decision making, it helps maintain public confidence in democratic institutions.
> [Footnotes omitted.]
>
> TheThe purposes The purposes promoted by the statute are compelling in a democracy. *See, e.g., City of HoquHoquiHoquiamHoquiam v. Public Employment Relations Comm n,* 97 Wn.2d 481, 488, 646 P.2d 129 (1982)(1982) (participation in decision-making process by person potentially interested or biasedbiased is the evil the appearance of fairness dbiased is the evil the appearance of fairness doctribiased is th *Stockwell,* 28 Wn.App. 29 28 Wn.App. 295, 299, 62 28 Wn.App. 295, 299, 622 P.2d 910 (1981) (public officials must andand free as possible oand free as possible of enand free as possible of entangling influences). By targeting only harm harm that are designed to influence a public servant s vote, opinion, decision, or other officialofficial action as a public servaofficial action as a public servanofficial action as a public servant, the c tailoredtailored to address the overall problem it seeks ttailored to address the overall problem it seeks to c 9A.04.110(25)(j).9A.04.110(25)(j). It prohibits only those threats related to future decision making and to substantialsubstantial interests. It does not encompsubstantial interests. It does not encompasssubstantial interests. NorNor does it prohibit threats to doNor does it prohibit threats to do minorNor does it prohibit threats to do minor protected interests.

State v. Stephenson, 89 Wn.App. 794, 803-04, 950 P.2d 38, *review denied,* 136 Wn.2d 1018 (Div. 2 1998).

DivisionDivision II s analysis is consistentDivision II s analysis is consistent with cDivision II s analysis is con constitutionalconstitutional overbreadth of statutes withconstitutional overbreadth of statutes with simconstitutional overbrea 871871 P.2d 1189, 1871 P.2d 1189, 1192-93 (871 P.2d 1189, 1192-93 (Colo. 1994) (statute prohibiting attempts to influence p deceitdeceit or by tdeceit or by threat deceit or by threat of violence or economic reprisal not facially overbroad because it was totto enable the state to proscribe the type of conduct that rises to a level of criminal culpability and placed a minimalminimal burden on a person's speech intereminimal burden on a person's speech interests); *CISPES CISPES v. Federa* 471,471, n.2, 474-75 (5th Cir. 1985) (federal statute that criminalizes the ac471, n.2, 474-75 (5th Cir. 1985) (federal threateningthreatening a foreign official in the performance of his official duties ithreatening a foreign official in the performan anan appropriate and necessaryan appropriate and necessary means of an appropriate and necessary means of addres protecting foreign officials).

Intimidating a Judge

The crime of intimidating a judge is codified at RCW 9A.72.160. This statute provides

(1) AA person is guilty of intimidating a judge if a perA person is guilty of intimidating a judge if a person d becausebecause of a ruling or decibecause of a ruling or decision of thbecause of a ruling or decision of the judge in threatthreat directed to a judge, a person attemptsthreat directed to a judge, a person attempts threat directed to a juc in any official proceeding.

(2) Threat as used in this section means:

(a) ToTo communicate, directly or indirectly, the intent To communicate, directly or indirectly, the inter against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110(25).

(3) Intimidating a judge is a class B felony.

IntimidatingIntimidating aIntimidating a judge is Intimidating a judge is a ranked offense with a seriousness level of VI. Inti non-statutorynon-statutory element that the defendant must know the person threatennon-statutory element that the defendan used in RCW 9A.72.160 are defined in RCW 9A.04.110.

TheThe intimidating a judge offense is unique with respect to the number of arThe intimidating a judge offense is uniq alreadyalready determined do notalready determined do not already determined do not constitute defenses. The State need not p reachereachedreached the victim judge in order to convict. *State v. Hansen,* 122 Wn.2d 712, 862 P.2d 117 (1993). A 122 Wn. tthatthat is necessary to convict is that the defendant must have made a threat to the judge, either directly or indiindirectly,indirectly, because of an official ruling or decision by that particular judge. An intention or knowlindirectly, becaus thethe thrthe threat would in fact be communicated to the judge is not an element of the crime. *HansenHansen,* 122 Wn.2 122 716-718.

TheThe State also does not need to prove that the victim judge actually felt intimidatThe State also does not need to pro ororderorder to obtain a conviction. RCW 9A.72.160 does not include an element that the person threatened forder to obtain a actualactual fear. *See State v. Kepiro,* 61 Wn.App. 116, 120-21, 810 P. 61 Wn.App. 116, 120-21, 810 P.2d 19 (1991) (R 61 containcontaincontain an implied element of intent to harm or reasonably cause alarm). As recognized by the Secontain an in Circuit with regard to a federal extortion statute

> TheThe judge charged the jury that the Government must pThe judge charged the jury that the Government must ordinaryordinary person would have been put in fear of immediate bodily harmordinary person would have been put harmharm from anythharm from anything harm from anything that the defendant said or did to Weiss or Amato & It is t charge did notcharge did not require the jury to find that the persons threatenedcharge did not require the jury to find that inin fear, but it is the threin fear, but it is the threat oin fear, but it is the threat of harm which is prohibited by 18 U.S.C isis not an element of the is not an element of the offenis not an element of the offense &To be convicted, the defen makemake a threat of use, of violence or other criminal means, to cause harm to the person, reputation,reputation, or property of (anotreputation, or property of (another) reputation, or property of (another) per sustainedsustained under this statute even where the psustained under this statute even where the person sustained waswas put was put in fear by thwas put in fear by the threat &The approach chosen by the trial judge, to define the wo threat threat in the statute by referenc threat in the statute by reference to th threat in the statute by refe person, person, gives the statute a proper construction since it focuseperson, gives the statute a proper construction evilevil being attacked the defendant's conduct. Acts or statementevil being attacked the defendant's conduct. Act 1818 U.S.C. § 891(7) if they instill fear in the person to whom they 18 U.S.C. § 891(7) if they instill fear in th reasonablyreasonably calculated to do so in light of the surroundingreasonably calculated to do so in light of the surr *v.v. Curcio,* 310 F.Supp. 351, 357 (D. Conn.310 F.Supp. 351, 357 (D. Conn. 1970) (Timbers,310 F.Supp. 351, 357 (D. C calculated calculated use of threatening gestures or words to collect credit extensions which CongressCongress hasCongress has made criminal. Actual fear need not be generated, so long as the defendanCongress inteintendedintended to take actions which reasonably would induce fear in an ordinary pintended to take actions wh otherother other words, it is the conduct of the defendant, not the victim s individual state oother words, it is the con tototo whito which the thrust to which the thrust of the statute is directed. We have no doubt that Congress meant to protectprotect not only the weak and timid from extortionate threats, but the strong anprotect not only the weak and asas well & Accordingly, we reject the claim that actual fear is a necessary element of this offense.

United United States v. Natale, 526 F.2 526 F.2d 1160, 1168 (526 F.2d 1160, 1168 (2d Cir. 1975), *cert. denied,* 425 U.S. 950 andand footnotes omand footnotes omitted). RCWand footnotes omitted). RCW 9A.72.160, like the federal statute at

defenddefendant sdefendant s conduct in making the threat and not the victim s individual state of mind. Thus, a defendant s co prosecution does not require the State to convince the victim judge to testify that he or she felt afraid.

Finally, Finally, the State does not need to prove that the defendant s threats caused actuFinally, the State does not need t WashingtWashingtonWashington appellatWashington appellate case has interpreted the crimes of intimidating a public servant, R ofof intimidating a judge, RCW 9A.72.160,of intimidating a judge, RCW 9A.72.160, as of intimidating a judge, RCW 9A.72 casecase law appears to be to the contrary. *See Kepiro,* 61 Wn.App. at 125-126 (61 Wn.App. at 125-126 (As is made abu 6 byby federal case law and by our previous by federal case law and by our previous analyby federal case law and irrelevant &Allirrelevant &All that is required is that the defendant intentionally communicate the woirrelevant &All tha reasonablereasonable person would construe as a threat, and this reasonable person would construe as a threat, and this rec the communication of the threat, regardless of whether the one making the threat intends to carry it out.).

TheThe plain language of these similar statutes, moreover, does not support the The plain language of these similar st harm harm element. The term threat, as is used in both statutes includes a co harm element. The term threat, as is harmharm harm to the personharm to the person threatened or to another person. The inclusion of promises of future harm only sensesense as an elementsense as an element ofsense as an element of the crime if the physical damage, physical confinement etc.,etc., need not actually have occetc., need not actually have occuetc., need not actually have occurred. The purpose of th servicesservices and judicial activity that fservices and judicial activity that flows from the maservices and judicial activity that f whetherwhether or not the threat is actually carried out or other tangible harm is actually inwhether or not the threat is actua *Kepiro,* 61 Wn.App. 116, 123, 810 P.2d 19 (1991).

ManyMany other jurisdiMany other jurisdictions hMany other jurisdictions have intimidating public servant statutes and WhileWhile the specific wording oWhile the specific wording of these statuWhile the specific wording of these statutes va jujurisdictionjurisdictionsjurisdictions all recognize that their intimidation statutes, like Washington s statute, is to prevent pub servantsservants from undue influence orservants from undue influence or intimidatservants from undue influence or intimi reprisal. reprisal. *PeopPeople v. JanousePeople v. Janousek,* 871 P.2d 1189, 1194 (Colo. 1994).[60] These jurisdictions have theirtheir intimidating a public servant statutes, as with any other statute involving or their intimidating a public servant sta notnot require proof of actual intent to do harm nornot require proof of actual intent to do harm nor the ability to carry out the threa 1313 Fla. L. Weekly13 Fla. L. Weekly 2300, 532 So.2d 50, 52 (1988); *United StatesUnited States v. Orozco-Santillan,* 903 F.2d nn.n. 3 (9th Cir. 1990) (discussing a variety of statutes governing the intimidation of various public servantn. 3 (9th Cir. 199 andand stating that in all of thesand stating that in all of these casesand stating that in all of these cases [t]he only intent knowinglyknowingly communicates his threat, not that he intended or was knowingly communicates his threat, not that he inte *v. Kepiro, supra.*

AsAs a last note, virtually everything coAs a last note, virtually everything contained in tAs a last note, virtually e materialsmaterials applies to a charge of intimidating a judgematerials applies to a charge of intimidating a judge. Tmaterial statute,statute, in addition to an influence alternative, has a retaliation altstatute, in addition to an influence alternative,

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60 Colorado s statute, Section 18-8-306, 8B C.R.S. (1986), provides that

> Any person who attempts to influence any public servant by means of deceit or by threat of violence or economic reprisal against any person or property, with the intent thereby to alter or affect the public servant s decision, vote, opinion, or action concerning any matter which is to be considered or performed by him or the agency or body of which he is a member, commits a class 4 felony.

Janousek, 871 P.2d at 1192, n.6.

meansmeans is also present in the intimidating a juror[61] and intimidating a witness[62] statutes. An o statutes. An ov statutes challengechallenge to the retaliation alternative of intimidating a judchallenge to the retaliation alternative of intimidat 9A.04.110(25)(d)9A.04.110(25)(d) or (j) was rejected by Division II in *State v. Knowles,* 91 Wn. 91 Wn.App. 367, 957 91 W *review denied*, 136 Wn.2d 1029 (1998).

UntilUntil all challenges to the various threat Until all challenges to the various threat deUntil all challenges to the statutesstatutes are resolved, it is strongly urged that special interrogatoriestatutes are resolved, it is strongly urged that specific,specific, non-WPIC jury inspecific, non-WPIC jury insspecific, non-WPIC jury instructions that the Kitsap County *Knowles* case are set forth below

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NO.

A person commits the crime of Intimidating a Judge when, he directs a threat to a judge because of a ruling or decision of the judge in any official proceeding, or if by use of a threat directed to a judge, a person attempts to influence a ruling or decision of the judge in any official proceeding.

WPIC 4.24
RCW 9A.72.160(1)

NO.

To convict the defendant of the crime of Intimidating a Judge, as charged in count one of the information, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the period beginning on the 19th day of January, 1996, and ending on the 1st day of March, 1996, the defendant or an accomplice did direct a threat to M. Karlynn Haberly;

(2) That M. Karlynn Haberly is a judge:

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61 The crime of intimidating a juror is codified at RCW 9A.72.130. This statute provides

(1) A person is guilty of intimidating a juror if a person directs a threat to a former juror because of the juror's vote, opinion, decision, or other official action as a juror, or if, by use of a threat, he attempts to influence a juror's vote, opinion, decision, or other official action as a juror.
(2) Threat as used in this section means
(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
(b) threats as defined in RCW 9A.04.110(25).
(3) Intimidating a juror is a class B felony.

62 The crime of intimidating a witness is codified at RCW 9A.72.110. The statute provides

(1) A person is guilty of intimidating a witness if a person, by use of a threat against a current or prospective witness, attempts to:
(a) Influence the testimony of that person;
(b) Induce that person to elude legal process summoning him or her to testify;
(c) Induce that person to absent himself or herself from such proceedings; or
(d) Induce that person not to report the information relevant to a criminal investigation or the abuse or neglect of a minor child, not to have the crime or the abuse or neglect of a minor child prosecuted, or not to give truthful or complete information relevant to a criminal investigation or the abuse or neglect of a minor child.
(2) A person also is guilty of intimidating a witness if the person directs a threat to a former witness because of the witness's role in an official proceeding.
(3) As used in this section:
(a) Threat means:
(i) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
(ii) Threat as defined in RCW 9A.04.110(25).
(b) Current or prospective witness means:
(i) A person endorsed as a witness in an official proceeding;
(ii) A person whom the actor believes may be called as a witness in any official proceeding; or
(iii) A person whom the actor has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child.
(c) Former witness means:
(i) A person who testified in an official proceeding;
(ii) A person who was endorsed as a witness in an official proceeding;
(iii) A person whom the actor knew or believed may have been called as a witness if a hearing or trial had been held; or
(iv) A person whom the actor knew or believed may have provided information related to a criminal investigation or an investigation into the abuse or neglect of a minor child.
(4) Intimidating a witness is a class B felony.

(3) That the defendant knew M. Karlynn Haberly was a judge;

(4) That such threat communicated directly or indirectly, an intent to

(a) accuse M. Karlynn Haberly of a crime or cause criminal charges to be instituted against M. Karlynn Haberly, or

(b) do any act which is intended to harm substantially M. Karlynn Haberly or another person with respect to that person s health, safety, business, financial condition or personal relationships;

(5) That the defendant or an accomplice made such threat

(a) in response to a ruling or decision made by M. Karlynn Haberly in any official proceeding, or

(b) in an attempt to influence a ruling or decision of M. Karlynn Haberly in any official proceeding; and

(6) That the acts occurred in the State of Washington.

If you find from the evidence that Elements (1), (2), (3), (6) and either (4)(a) or (4)(b) and either (5)(a) or (5)(b) have been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty. Elements (4)(a) and (4)(b) are alternatives and only one need be proved. Elements (5)(a) and (5)(b) are alternatives and only one need be proved. You need not agree as to which of the alternatives is proved.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

WPIC 4.21
RCW 9A.72.160

NO.

Threat means to communicate, directly or indirectly the intent:

To accuse any person of a crime or cause criminal charges to be instituted against any person; or

To do any act which is intended to harm substantially the person threatened or another with respect to that person's health, safety, business, financial condition or personal relationships.

WPIC 2.24
RCW 9A.04.110(25)
RCW 9A.72.160(2)(b)

NO.

Judge means every judicial officer authorized alone or with others, to hold or preside over a court.

RCW 9A.04.110(11)

NO.

Official proceeding means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions.

RCW 9A.72.010(4)

NO.

If there is evidence which indicates several distinct criminal acts of Intimidating a Judge relating to any particular victim, you must unanimously agree that the same criminal act has been proved beyond a reasonable doubt in order for you to return a verdict of guilty as to a charge relating to that particular victim. You need not unanimously agree that all the acts have been proved beyond a reasonable doubt in order to return a verdict of guilty as to a charge relating to that particular victim.

State v. Petrich, 101 Wn.2d 566
WPIC 4.25 (modified)

NO.

It is not a defense to the charge of intimidating a judge that:

(1) the defendant did not cause actual harm; or

(2) the defendant did not intend to carry out the threat; or

(3) the defendant could not have carried out the threat.

State v. Kepiro, 61 Wn.App. 116, 125-26, 810 P.2d 19 (1991)
Smith v. State, 13 Fla. L. Weekly 2300, 532 So.2d 50, 52 (1988)
United States v. Orozco-Santillan, 903 F.2d 1262, 1265, n. 3 (9th Cir. 1990)

NO.

It is not a defense to the charge of intimidating a judge that:

(1) the judge to whom the threat was directed did not feel afraid; or

(2) that the judge to whom the threat was directed never received the threat.

State v. Hansen, 122 Wn.2d 712, 862 P.2d 117 (1993).
State v. Kepiro, 61 Wn.App. 116, 120-21, 810 P.2d 19 (1991)
United States v. Natale, 526 F.2d 1160, 1168 (2d Cir. 1975), *cert. denied,* 425 U.S. 950 (1976)

CAPTION FOR VERDICT FORM

We, the jury, find the defendant, VERYL EDWARD KNOWLES, _____ (not guilty or guilty) of the crime of Intimidating a Judge as charged in count one of the information.

DATED this _____ day of _____, 19___.

_____
PRESIDING JUROR

If this verdict is guilty please complete special verdict form A.

CAPTION FOR SPECIAL VERDICT

We, the jury, having found the defendant guilty of Intimidating a Judge as charged in count one of the information, make the following answers to the questions submitted by the court:

With respect to alternative elements (4)(a) and (4)(b) of Instruction No. _____:

1. Was the threat the defendant communicated directly or indirectly an intent to accuse M. Karlynn Haberly of a crime or cause criminal charges to be instituted against M. Karlynn Haberly?

[ ] Yes

[ ] No

[ ] No Unanimous Agreement

2. Was the threat the defendant communicated directly or indirectly an intent to do any act which is intended to harm substantially M. Karlynn Haberly or another person with respect to that person's health, safety, business, financial condition or personal relationships?

[ ] Yes

[ ] No

[ ] No Unanimous Agreement

With respect to alternative elements (5)(a) and (5)(b) of Instruction No.___

1. Did the defendant make the threat in response to a ruling or decision made by M. Karlynn Haberly in any official proceeding?

[ ] Yes

[ ] No

[ ] No Unanimous Agreement

2. Did the defendant make the threat in an attempt to influence a ruling or decision of M. Karlynn Haberly in any official proceeding?

[ ] Yes

[ ] No

[ ] No Unanimous Agreement

DATED this _____ day of_____, 19___.

_____
PRESIDING JUROR

WPIC 90.03 (modified)
WPIC 31.09 (by analogy)

Malicious Prosecution

The crime of malicious prosecution is defined at RCW 9.62.010. This statute provides

> Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he or she is innocent:
>
> (1) If such crime be a felony, shall be punished by imprisonment in a state correctional facility for not more than five years; and
>
> (2) If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor.

The felony is unranked.

The Kitsap County Prosecuting Attorney s Office has used this statute when dealing with an individual who sought a citizen complaint charging the elected prosecuting attorney and a chief deputy prosecuting attorney with the crime of unlawful practice of law after charges of unlawful practice of law had been filed against her. There is virtually no case law regarding this crime, but the following jury instructions should be a correct statement of the law.

NO.

A person commits the crime of Malicious Prosecution when she maliciously and without probable cause therefor, causes or attempts to cause another to be arrested or proceeded against for any crime of which he or she is innocent.

RCW 9.62.010

NO.

Malice and maliciously mean an evil intent, wish, or design to vex, annoy, or injure another person.

WPIC 2.13

NO.

A person has probable cause to proceed against another for a crime where the facts and circumstances within the person s knowledge, and of which the person has reasonably trustworthy information, are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

Slate v. Gluck, 83 Wn.2d 424, 426-27, 518 P.2d 703 (1974)
State v. Sinclair, 11 Wn.App. 523, 531, 523 P.2d 1209 (1974)

NO.

To convict the defendant of the crime of Malicious Prosecution as charged in count III, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1)That on or about the period beginning on the 6th day of March, 1998, and ending on the 19th day of March, 1998, the defendant caused or attempted to cause Jeffrey J. Jahns to be proceeded against for the crime of Unlawful Practice of Law;

(2) That during this period probable cause did not exist for charging Jeffrey J. Jahns with the crime of Unlawful Practice of Law;

(3) That Jeffrey J. Jahns is innocent of the crime of Unlawful Practice of Law;

(4) That the defendant acted with malice; and

(5) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

WPIC 4.21
RCW 9.62.010

False Representation Concerning Title

The crime of false representation concerning title is defined at RCW 9.38.020. This statute provides

> Every person who shall maliciously or fraudulently execute or file for record any instrument, or put forward any claim, by which the right or title of another to any real property is, or purports to be transferred, encumbered or clouded, shall be guilty of a gross misdemeanor.

Stevens County has prosecuted lien filers under this statute in the past. Kitsap County has not prosecuted anyone under this statute because the liens that we have received do not specifically identify any piece of property.

Unlawful Practice of Law

The crime of unlawful practice of law (UPL) is defined by RCW 2.48.180. The current version of RCW 2.48.180, which applies to offenses committed after September 1995, provides in pertinent part

> (1) As used in this section:
>
> (a) Legal provider means an active member in good standing of the state bar, and any other person authorized by the Washington state supreme court to engage in full or limited practice of law;
>
> (b) Nonlawyer means a person to whom the Washington supreme court has granted a limited authorization to practice law but who practices law outside that authorization, and a person who is not an active member in good standing of the state bar, including persons who are disbarred or suspended from membership;
>
> (c) Ownership interest means the right to control the affairs of a business, or the right to share in the profits of a business, and includes a loan to the business when the interest on the loan is based upon the income of the business or the loan carries more than a commercially reasonable rate of interest.
>
> (2) The following constitutes unlawful practice of law:
>
> (a) A nonlawyer practices law, or holds himself or herself out as entitled to practice law;
>
> (b) A legal provider holds an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business;
>
> (c) A nonlawyer knowingly holds an investment or ownership interest in a business primarily engaged in the practice of law;
>
> (d) A legal provider works for a business that is primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business; or
>
> (e) A nonlawyer shares legal fees with a legal provider.
>
> (3) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor. Each subsequent violation, whether alleged in the same or in sub-sequent prosecutions, is a class C felony. &

A felony conviction of UPL is a ranked offense with a seriousness level of II. Felony offenses of UPL, if committed for financial gain, will fall within the definition of criminal profiteering. *See* RCW 9A.82.010(14)(ee).

The most extensive discussion of UPL is contained in *State v. Hunt,* 75 Wn.App. 795, 880 P.2d 96, *review denied,* 125 Wn.2d 1009 (1994). This case contains approved jury instructions (discussed in footnotes 13 and 14). Additional jury instructions are set forth below.

NO.

A person may practice law on his or her own behalf. This is called the pro se rule. Only licensed lawyers, however, may practice law on behalf of others. A person cannot transfer his or her pro se right to practice law to any other person, including a spouse or parent.

State v. Hunt, 75 Wn.App. 795, 804, 880 P.2d 96, *review denied,* 125 Wn.2d 1009 (1994)
Hagan v. Kassler, 96 Wn.2d 443, 635 P.2d 730 (1981)
State v. Stange, 53 Wn.App. 638, 648, 769 P.2d 873 (1989) (father may not file pro se supplemental brief on behalf of juvenile offender)
City of Seattle v. Shaver, 23 Wn.App. 601, 597 P.2d 935 (1979) (layman husband could not represent wife in a prosecution for failure to yield right-of-way)

NO.

An individual who is charged with a criminal offense has a constitutional right to the assistance of counsel. A criminal defendant s right to the assistance of counsel does not include the right to be represented by an advocate who is not a member of the State Bar.

United States v. Wheat, 486 U.S. 153, 159, 100 L.Ed.2d 140, 108 S.Ct. 1692, 1697 (1988)

NO.

A power of attorney is an instrument in writing by which one person appoints another as his or her agent and confers upon that person the authority to act in his or her place for the purpose or purposes set forth in the instrument. A power of attorney does not authorize the practice of law.

State v. Hunt, 75 Wn.App. 795, 805, 880 P.2d 96, *review denied,* 125 Wn.2d 1009 (1994)

NO.

Ignorance of the law does not excuse the unauthorized practice of law.

Idaho State Bar v. Meservy, 335 P.2d 62 (Idaho 1959)

NO.

It is not a defense to a charge of Unlawful Practice of Law that the defendant received no payment or fee for the preparation of documents or other activities.

Perkins v. CTX Mortgage Company, 137 Wn.2d 93, 97-98, 969 P.2d 93 (1999)

PROCEDURAL ASPECTS OF PROSECUTING FREEMEN

Once typical or atypical charges have been filed, our judicial system and the Freeman defendant are destined for a cultural clash. Dealing with these individuals calls for prior planning on the part of judges, court staff, and prosecutors. An excellent outline prepared by the Honorable Gregory P. Mohr, Justice of the Peace and City Judge of Sidney, Montana, explaining the judicial approach that worked best in the Jordan, Montana Freemen cases is in the Appendix, at 34-36. Please feel free to share this outline with your local courts.

The issues that arise during a Freeman prosecution are obscure and responsive law can be hard to locate. Common arguments are identified below with a short legal response.

I am not the Person on the Docket Correct Name

Assuming the defendant responds to the summons and appears in court, the first challenge will be that the person before the court is not the person named in the information, citation, or complaint. RCW 10.40.050 allows the prosecution to go forward in both the name listed on the charging document and the name alleged by the defendant to be his or her correct name. Merely add the defendant s preferred spelling to the information, complaint, or citation as an AKA.

Call Me Sovereign, Sir or Sire Preferred Honorific

When the defendant provides his or her correct name, he or she will frequently ask to be addressed as Sovereign _____ , Sir ____ or with some other similar title. Do not object if the judge allows this request outside of the presence of the jury. If the case proceeds to a jury trial, an objection/motion in limine should be brought pursuant to Const. art. 4, § 16 as the use of the title tends to be a comment on the defendant s sovereign immunity or diplomatic immunity claim.

I am not a Person but a Human Being

The defendant will challenge the court s jurisdiction on the grounds that the criminal code applies to persons and the various statutory definitions of person do not include the phrase human being. *See, e.g.,* RCW 46.04.405; RCW 9A.04.110(17). These statutory definitions, however, all include the phrase natural person. BLACK S LAW DICTIONARY 1028 (5th ed. 1979) defines person, in pertinent part, as follows: In general usage, a human being (*i.e.* natural person), though by statute term may include a firm & . Case law also establishes that a natural person is a human being. *See, e.g., Hogan v. Greenfield,* 122 P.2d 850, 853 (Wyo. 1942).

See also *Infractions, infra,* for a more thorough discussion of why Freemen believe traffic laws do not apply to them.

I am not a Citizen of Your Jurisdiction Jurisdiction Over a Non-Citizen

A superior court has jurisdiction over any individual regardless of the person s citizenship or residency status if the person commits a crime or traffic infraction, in whole or in part, in the county of the state where the superior court is located. *See generally* RCW 9A.04.030; RCW 9A.04.070; RCW 46.08.190; Const. art. 4, § 6; Const. art. 1, § 22; *State ex rel. Best v. Superior Court,* 107 Wash. 238, 181 P. 688 (1919) (it requires something more than ingenious and pleasing argument to convince us that the state is powerless to maintain her dignity and enforce her laws as against any individual within her boundaries, no matter what his status may be as to citizenship or lack of it). The superior court s subject matter jurisdiction is invoked by the filing of an information or indictment. Const. art. 1, § 25; CrR 2.1; RCW 10.37.010. A grand jury indictment is not necessary. *See, e.g., State v. Jeffries,* 105 Wn.2d 398, 423-24, 717 P.2d 722, *cert. denied,* 479 U.S. 922 (1986); *Jeffries v. Blodgett,* 5 F.3d 1180, 1188 (9th Cir. 1993), *cert. denied,* 114 S.Ct. 1294 (1994).

A district court has jurisdiction over any individual regardless of the person s citizenship or residency status if the person commits a gross misdemeanor or misdemeanor crime or violates a traffic ordinance, in whole or in part, in the county of the state where the court of limited jurisdiction is located. *See generally,* RCW 9A.04.030; RCW 9A.04.070; RCW 3.66.060; RCW 7.80.010(1); Const. art. 1, § 22; Const. art. 4, § 10; *State ex rel. Best v. Superior Court,* 107 Wash. 238, 181 P. 688 (1919) (it requires something more than ingenious and pleasing argument to convince us that the state is powerless to maintain her dignity and enforce her laws as against any individual within her boundaries, no matter what his status may be as to citizenship or lack of it). The district court s subject matter jurisdiction is invoked by the filing of a complaint or citation. Const. art. 1, § 25; CrRLJ 2.1(a); RCW 10.37.010; RCW 10.37.015.

A municipal court has jurisdiction over any individual regardless of the person s citizenship or residency status if the person commits a traffic infraction within the city limits or violates a city ordinance within the city limits. RCW 7.80.010(2); RCW 35.20.030; RCW 3.50.020; *cf. State ex rel. Best v. Superior Court,* 107 Wash. 238, 181 P. 688 (1919) (it requires something more than ingenious and pleasing argument to convince us that the state is powerless to maintain her dignity and enforce her laws as against any individual within her boundaries, no matter what his status may be as to citizenship or lack of it). The municipal court s subject matter jurisdiction is invoked by the filing of a complaint or citation. CrRLJ 2.1(a); RCW 10.37.010; RCW 10.37.015.

Cases from other jurisdictions which have expressly rejected claims that a state court lacks jurisdiction because the defendant is freeborn, a citizen of the republic, or similar claim include

United States v. Hilgeford, 7 F.3d 1340, 1342 (7th Cir. 1993) (criminal tax case in which defendant claimed that he was a citizen of the Indiana State Republic and, therefore, an alien beyond jurisdictional reach of federal courts);

United States v. Sloan, 939 F.2d 499, 501 (7th Cir. 1991) (criminal tax case in which defendant claimed that he was not subject to jurisdictional laws of the United States because he is a freeborn, natural individual, a citizen of the State of Indiana, and a master not a servant of his government); and

United States v. Greenstreet, 912 F.Supp. 224, 228 (N.D. Tex. 1996) (court rejected defendant s claim that he was not subject to the jurisdiction of the court because he is of Freeman Character and of the White Preamble Citizenship and not one of the 14th Amendment legislated enfranchised De Facto colored races and because he is a White Preamble natural sovereign Common Law De Jure Citizen of the Republic/State of Texas).

I am Here Under Duress Involuntary Presence in the Court

The presence of the accused before the court gives the court jurisdiction over the accused s person regardless of the validity of the accused s arrest. *State v. Blanchey,* 75 Wn.2 d 926, 4 54 P.2d 4 81 (196 9). *See also United States v. Alvarez-Machain,* 504 U.S. 655, 119 L.Ed.2d 441, 112 S.Ct. 2188 (1992) (respondent s forcible abduction in Mexico does not prohibit his trial in a United States court for violations of this country s criminal laws); *Davis v. Rhay,* 68 Wn.2 d 496, 4 13 P.2d 6 54 (196 6) (power of court to try person is not impaired by fact that he has been brought within court s jurisdiction by reason of forcible abduction).

I have Immunity Diplomatic or Sovereign Immunity

Diplomatic immunity and sovereign immunity are premised upon recognition by the receiving state; no one is able to unilaterally assert diplomatic immunity. *United States v. Lumumba,* 741 F.2d 12 (2nd Cir. 1984); Diplomatic Relations Act, §§ 2-6, 2 2 U.S.C.A. §§ 25 4a-2 54e; The Vienna Convention on Diplomatic Relations, April 18, 1961, Art. IV, 23 U.S.T. 3227.[63] Diplomatic status only exists when there is recognition of another state s sovereignty by the Department of State.[64] In other words, recognition by the executive branch not to be second-guessed by the judiciary is essential to establishing diplomatic status. *Lumumba,* 74 1 F.2d at 15, citing *Restatement (Third) of Foreign Relations Law of the United States* § 461 Commentary at 30 (Tent. Draft No. 4, 1983).

Courts have routinely rejected claims of diplomatic and/or sovereign immunity where the defendant has not established that the United States Department of State has recognized the country that the defendant claims to head or to represent as an ambassador. *See, e.g.*

United States v. Lumumba, supra (defendant s claim of immunity from prosecution due to his proclaimed status as Vice President and Minister of Justice of the Provisional Government of the Republic of New Afrika, which is the Nation of Afrikans born in North America as a consequence of...slavery and which encompasses five southern states Alabama, Georgia, Louisiana, Mississippi and South Carolina, was rejected because there was no showing that the Department of State had recognized this country);

State v. Crisman, 123 Idaho 277, 846 P.2d 928, 931 (1993) (defendant s unilateral proclamation that he was an ambassador of the Kingdom of YHWH (Yaweh) did not entitle him to diplomatic immunity from prosecution because there is no evidence that the United States Department of State had recognized that Kingdom as sovereign or had granted the defendant immunity);

State v. Davis, 745 S.W.2d 249, 253 (Mo.Ct.App. 1988) (defendant, who claimed he was citizen and ambassador of Kingdom of God, was not entitled to diplomatic immunity in criminal prosecution because there was nothing in record to indicate the organization of which defendant was a member had been recognized as foreign state by executive branch of federal government, or that Department of State had granted immunity status to defendant).

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63 The protective provisions of the Treaty appear in Articles 29 and 31. Article 2 9 provides: The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. Article 31 establishes that: A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving state.

64 The United States Department of State produces the Diplomatic List, of missions in the U.S. This list, which is prepared quarterly by the Office of Protocol, contains the names of members of the diplomatic staffs of all missions and their spouses. Members of the diplomatic staff are the members of the staff of the mission having diplomatic rank.

These persons, with the exception of those identified by asterisks, enjoy full immunity under provisions of the Vienna Convention on Diplomatic Relations. The list may be accessed on the State Department s web page at <http://www.state.gov/www/about_state/contacts/diplist/index.html>.

Hard copies of the Diplomatic List, Department of State Publication 10424, are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Tel: (202) 512-1800, FAX: (202) 512-2250.

Washington case law does not clearly establish whether the judge or the jury decides the issue of sovereign or diplomatic immunity or who bears the burden of establishing sovereign or diplomatic immunity. In one Kitsap County case the issue was submitted to the jury, but the jury instructions were structured to ensure that a finding of immunity would not be an acquittal for purposes of double jeopardy. The instructions used are set forth below

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NO.

Jurisdiction is the power of a court to hear and determine a case. The State of Washington may exercise jurisdiction over an individual who has been charged with a crime regardless of whether the individual is a citizen or resident of the state so long as the offense occurred within the state.

RCW 9A.04.030
State v. Lane, 112 Wn.2d 464, 771 P.2d 1150 (1989)
State ex rel. Best v. Superior Court, 107 Wash. 238, 181 P. 688 (1919)

NO.

A grant of diplomatic immunity or sovereign immunity will deprive a state court of jurisdiction to try an individual for any crime. Diplomatic immunity or sovereign immunity cannot be unilaterally asserted by an individual. Diplomatic immunity or sovereign immunity can only be conferred on an individual by the United States Department of State.

The burden is on the defendant to prove the existence of diplomatic immunity or sovereign immunity by a preponderance of the evidence. Preponderance of the evidence means that you must be persuaded, considering all the evidence in the case, that it is more probably true than not true. If you find that the defendant has estabished that he is entitled to diplomatic or sovereign immunity, it will be your duty to return a verdict of no jurisdiction.

State v. Moses, 79 Wn.2d 104, 110, 483 P.2d 832 (1971) (treaty exemption defense to violation of fishing laws must be proved by the defendant by a preponderance of the evidence), *cert. denied,* 406 U.S. 910 (1972);
State v. Williams, 13 Wash. 335, 43 P. 15 (1895) (defendant bears the burden of establishing that he is an Indian by a preponderance of the evidence);
State v. Courville, 36 Wn.App. 615, 622, 676 P.2d 1011 (1983) (assertion of treaty rights as an affirmative defense must be proved by the defendant by a preponderance of the evidence);
Diplomatic immunity and sovereign immunity are premised upon recognition by the receiving state; no one is able to unilaterally assert diplomatic immunity. *United States v. Lumumba,* 741 F.2d 12 (2nd Cir. 1984);
Diplomatic Relations Act, §§ 2-6, 22 U.S.C.A. § § 254a-254e; The Vienna Convention on Diplomatic Relations, April 18, 1961, Art. IV, 23 U.S.T. 3227

NO.

Upon retiring to the jury room for your deliberation of this case, your first duty is to select a presiding juror. It is his or her duty to see that discussion is carried on in a sensible and orderly fashion, that the issues submitted for your decision are fully and fairly discussed, and that every juror has an opportunity to be heard and to participate in the deliberations upon each question before the jury.

You will be furnished with all of the exhibits admitted in evidence, these instructions, and five verdict forms and five special verdict forms.

When completing the verdict forms, you will first consider the issue of jurisdiction. If you unanimously agree on a verdict, you must fill in the blank provided on the Special Verdict Regarding Jurisdiction with the word does or the words does not, according to the decision you reach. If you find that the Court has jurisdiction, you will need to complete the remaining verdict forms.

When completing Verdict Forms A, B, C, D, and E, you must fill in blank provided in each verdict form with the words not guilty or the word guilty, according to the decision you reach. Since this is a criminal case, each of you must agree for you to return a verdict.

You will also be furnished Special Verdict Forms A, B, C, and D. If you find the defendant not guilty of any particular count of Intimidating a Judge, do not use the Special Verdict Form for that count. If you find the defendant guilty of any count of Intimidating a Judge, you must answer the questions on the Special Verdict Form relating to that count. In order to answer a question on a Special Verdict Form yes, you must unanimously be satisfied beyond a reasonable doubt that yes is the correct answer. If you have a reasonable doubt as to the question, you must answer no. If you do not unanimously agree then answer no unanimous agreement. When you have arrived at the answers, fill in the Special Verdict Form to express your decision on that count.

The presiding juror will sign the Special Verdict Regarding Jurisdiction, Verdict Forms A, B, C, D, and E, and Special Verdict Forms A, B, C, and D, if a verdict has been rendered on these forms and will notify the bailiff, who will conduct you into court to declare your verdicts.

WPIC 151.00 (modified)
WPIC 160.00 (modified)
WPIC 31.08 (by analogy)

CAPTION FOR SPECIAL VERDICT REGARDING JURISDICTION

We, the jury, find that the Court _____ (Write in Does or Does Not) have jurisdiction to try the defendant, VERYL EDWARD KNOWLES, for the crimes charged in the information.

DATED this _____ day of _____, 19___.

_____
PRESIDING JUROR

If this verdict is does have jurisdiction please complete the remaining verdict forms.

Is this an Admiralty Court? Fringe on the Flag

Washington statutes require that the American flag and the Washington flag be on display in the courtroom. RCW 1.20.015. Case law establishes that

> the mere lack of compliance per se with such an administrative provision would not inure to the benefit of a defendant.[] In itself, and in the absence of relevance to some other situation of separate significance involving a defendant s rights, non-compliance with section 753(b) gives no better basis for a new trial than would a similar provision directing judges to wear robes, deputy marshals to wear a particular sort of uniform while on duty, or court criers to use a particular formula, or to station the American flag at a particular place in the courtroom.

United States v. Sams, 219 F.Supp. 164, 166 (W.D. Pa. 1963), *aff'd in part, vacated in part on other grounds,* 340 F.2d 1014 (3rd Cir.), *cert. denied,* 380 U.S. 974 (1965).

Two recent cases contain extended discussions regarding flags with fringes. These cases, *Schneider v. Schlaefer,* 975 F.Supp. 1160 (E. D. Wisconsin 1997), and *Sadlier v. Payne,* 974 F.Supp. 1411 (D. Utah 1997), provide that

> (1) Yellow fringe on a United States flag in a courtroom does not convert a state court into a foreign state power denying due process to a defendant in state criminal proceedings.
>
> (2) Yellow fringe on a flag does not convert a court into an admiralty jurisdiction court.
>
> (3) A fringed flag adoring the courtroom does not limit a court s jurisdiction since decor is not a determinant for jurisdiction. *U.S. v. Greenstreet,* 912 F.Supp. 224, 229 (N.D. Tex. 1996).
>
> (4) Yellow fringe on a flag does not appear to violate 36 U.S.C. § 176(g) which provides that [t]he flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature. Title 36 of the United States Code, commonly referred to as the flag code, moreover, does not proscribe conduct and does not contain any penal sanctions.

Refusal to Enter Plea

Freemen will generally refuse to enter a plea because they do not recognize the court s jurisdiction. A request should be made that the court enter a not guilty plea on the defendant s behalf pursuant to RCW 10.40.190.

Refusal for Cause Return of Pleadings

Frequently, citations, informations, complaints and other pleadings that are given to Freemen will be returned with the phrase Refusal for Cause written upon it. As explained by the Federal District Court for Idaho

> the defendants refusal for cause is meaningless. The defendants claim they can refuse presentment of the plaintiff s complaint pursuant to U.C.C. 3-501. Apparently, the defendants are arguing that § 3-501(2)(c)(ii) is a defense which provides for the defendants refusal of payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule. The defendants reliance on Chapter 3 of the U.C.C. is misplaced; Chapter 3 of the U.C.C. by its own definitions is only applicable to negotiable instruments. The complaint filed by the plaintiff is not a negotiable instrument and the Uniform Commercial Code is inapplicable. The defendants do not have the choice of whether or not to be defendants. If properly served, as this court has determined the defendants were, the [defendants] became parties to this lawsuit whether they wanted to be or not.

United States v. Andra, 923 F.Supp. 157, 159 (D. Idaho 1996).

Speedy Trial

The 90/60 day time for trial contained in CrR 3.3 and CrRLJ 3.3 will begin to run when the court enters the not guilty plea on behalf of the defendant if this action occurs within 14 days (CrR 3.3) or 15 days (CrRLJ 3.3) of the defendant s first appearance in court. If the arraignment has been continued for more than 14 or 15 days as has happened in some of our cases when the judge runs out of time and/or patience for dealing with the Freemen at hearing after hearing, make sure that the trial is set within 104/74 days (superior court) or 105/75 days (court of limited jurisdiction) of the first appearance in court.

Also take care in cases filed by criminal citation in courts of limited jurisdiction to comply with *Seattle v. Bonifacio,* 127 Wn.2d 482, 900 P.2d 1105 (1995) (issuance of a citation, regardless of whether it is subsequently filed, starts the speedy trial clock running; Held: prosecution of defendant barred as proceedings did not commence within 110 days [CrRLJ 2.1(b)(3)(iv) s requirement of filing citation within 20 days of issuance plus 90 day speedy trial rule under CrRLJ 3.3] of issuance of citation even though less than 110 days had elapsed since the filing of a complaint by a city attorney).

Refusal to Sign Promise to Reappear

Release on personal recognizance can be difficult in these cases because the defendant will frequently refuse to sign the promise to appear for the next hearing. When confronted with a judge who appears willing to impose the $50,000 cash only bail requested by the prosecutor to ensure the defendant s appearance at the next hearing, the defendant will sign the promise to appear. If this happens, a copy of the signed promise to appear with the words Refused for fraud, UCC § ____, Refused for Fraud F.R.C.P. 9(b), Refusal for cause without dishonor U.C.C. 3-501, or the words Refused for cause without dishonor and without recourse to me will be received by the court and/or prosecutor within a matter of days. The defendant, nonetheless, will generally appear at the next hearing.

Request for a Bill of Particulars

A defendant has a constitutional right to be informed of the nature and cause of the accusation against him or her to enable the defendant to prepare a defense and to avoid a subsequent prosecution for the same crime.[65]

> Our prior cases indicate that an indictment is sufficient if it, first, contains the elements of the offense charged and fairly informs a defendant of the charge against which he must defend, and second, enables him to plead an acquittal or conviction in bar of future

[65] The Sixth Amendment to the United States Constitution provides that [i]n all criminal prosecutions, the accused shall enjoy the right to be informed of the nature and cause of the accusation.

Article 1, §22 of the Washington State Constitution, which contains language almost identical to the federal constitution, provides: [i]n all criminal prosecutions the accused shall have the right to demand the nature and cause of the accusation against him.

> prosecutions for the same offense. It is generally sufficient that an indictment set forth the offense in the words of the statute itself, as long as those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished. Undoubtedly the language of the statute may be used in the general description of an offence, but it must be accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offence, coming under the general description, with which he is charged.

Hamling v. United States, 418 U.S. 87, 41 L.Ed.2d 590, 94 S.Ct. 2887, 2907-08 (1974) (citations omitted.)

This constitutional right of a criminal defendant to be appraised with reasonable certainty as to the charges against him is ordinarily satisfied by a charging document which includes all of the statutory and nonstatutory elements of the offense. *State v. Kjorsvik,* 117 Wn.2d 93, 97, 812 P.2d 86 (1991); *State v. Grant,* 89 Wn.2d 678, 686, 575 P.2d 210 (1978); *State v. Merrill,* 23 Wn.App. 577, 580, 597 P.2d 446, *review denied,* 92 Wn.2d 1036 (1979). The constitution does not require that the prosecuting authority must allege its supporting evidence, theory of the case or whether or not it can prove its case in the charging document. *United States v. Buckley,* 689 F.2d 893 (1982), *cert. denied,* 460 U.S. 1086 (1983); *State v. Bates,* 52 Wn.2d 207, 324 P.2d 810 (1958). In fact, the charging document may even list inapplicable alternative means of committing the offense. *See State v. Williamson,* 84 Wn.App. 37, 42, 924 P.2d 960 (1996).[66]

In our system, a defendant may obtain additional clarification of the charging document by bringing a motion for a bill of particulars. *See* CrR2.1(c); CrRLJ2.4(e); *State v. Holt,* 104 Wn.2d 315, 320, 704 P.2d 1189 (1985). In determining whether to order a bill of particulars in a specific case, a court should consider whether the defendant has been advised adequately of the charges through the charging document and all other disclosures made by the government. *United States v. Long,* 706 F.2d 1044 (9th Cir. 1983); *United States v. Giese,* 597 F.2d 1170 (9th Cir.), *cert. denied,* 444 U.S. 979 (1979). The furnishing of a bill of particulars is discretionary with the trial court, whose ruling will not be disturbed on appeal absent a showing of an abuse of discretion. *State v. Noltie,* 116 Wn.2d 831, 844, 809 P.2d 190 (1991); *State v. Devine,* 84 Wn.2d 467, 527 P.2d 72 (1974).

A bill of particulars is not necessary when the means of obtaining the facts are readily accessible to the defendant or the facts are already known to him or her. *See United States v. Kaplan,* 470 F.2d 100 (7th Cir. 1972), *cert. denied,* 410 U.S. 966 (1973). In *State v. Paschall,* 197 Wash. 582, 85 P.2d 1046 (1939), the court held that it was not prejudicial error to deny a motion for a bill of particulars when the state's attorney had disclosed to the defendant's attorney practically all of the facts concerning which evidence the government intended to use at trial.

> Nor was it error to deny the motions for a bill of particulars and to make the information more definite and certain. It was not made to appear that the state had knowledge of any ultimate facts of which appellants themselves were not cognizant. As a matter of fact, it would appear from the record that, prior even to the filing of the information, the state's attorneys disclosed to appellants or their counsel practically all of the facts concerning which evidence was adduced at the trial. Certainly appellants suffered no prejudice by the denial of the motions.

Paschall, 197 Wash. at 588. *See also State v. Dictado,* 102 Wn.2d 277, 286, 687 P.2d 172 (1984) (court denied motion for bill of particulars stating nothing in the record indicates what information, beyond that already provided, the State could have furnished to give additional notice of the charges); *Grant,* 89 Wn.2d at 686-687 (court denied motion for bill of particulars stating the officer's report is about as much as the

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[66] While not implicated at this stage of the proceeding, it is improper to instruct a jury regarding alternate means that are not supported by the evidence. A conviction entered under such circumstances will only be sustained on appeal if the verdict forms clearly indicate that the jury was unanimous as to the factually supported alternative means. *See, e.g., State v. Chester,* 133 Wn.2d 15, 19, n.2, 940 P.2d 1374 (1997); *State v. Ortega-Martinez,* 124 Wn.2d 702, 707-08, 881 P.2d 231 (1994).

court could compel the prosecutor to furnish (the defendant)); *State v. Clark,* 21 Wn.2d 774, 778, 153 P.2d 297 (1944), *cert. denied,* 325 U.S. 878 (1945) (court denied motion for bill of particulars stating case was based on defendant s confession and a bill of particulars could not provide the defendant with any more information that was not already locked up in defendant s own breast); *Merrill,* 23 Wn.App. at 580 (court denied motion for bill of particulars where the defendant was made aware through discovery of all the information available to the prosecutor for proving the offense).

In the Freemen culture, a bill of particulars is a lengthy questionnaire similar in nature to interrogatories. The purpose of their request for a bill of particulars is to determine the facts necessary in their legal system for the exercise of its jurisdiction over you.[67] If such a defendant asks the court to order you to provide a bill of particulars you must be very clear to the court that you will provide a bill of particulars as contemplated by CrR 2.1(c) or CrRLJ 2.4(e). The form of any order granting a defendant s request for a bill of particulars should include the limiting language as contemplated by CrR 2.1(c) or CrRLJ 2.4(e).

The Court has no Jurisdiction Absent a Grand Jury Indictment

The State of Washington abandoned its mandatory grand jury practice some 80 years ago.[68] While grand juries are still convened on rare occasions in Washington, the vast majority of Washington prosecutions are instituted on information filed by the prosecutor. The use of an information is specifically authorized by the Washington Constitution.[69] Numerous cases, both state and federal, establish that a state prosecution does not require a grand jury indictment. *See, e.g., State v. Jeffries,* 105 Wn.2d 398, 423-24, 717 P.2d 722, *cert. denied,* 479 U.S. 922 (1986); *Jeffries v. Blodgett,* 5 F.3d 1180, 1188 (9th Cir. 1993), *cert. denied,* 114 S.Ct. 1294 (1994).

The Right to an Attorney

The only thing worse than prosecuting a Freeman defendant is having to retry a case because the defendant s right to an attorney was not protected. Absent an adequate *Faretta, infra,* waiver of trial counsel and/or waiver of appellate counsel, an attorney should be appointed by the court.

Reliance upon the defendant s failure to establish indigency is unlikely to shield the conviction from a subsequent challenge. *See generally State v. Nordstrom,* 89 Wn.App. 737, 950 P.2d 946 (1997). The appointment of stand-by counsel will not obviate the need for an adequate *Faretta* waiver. *State v. Barker,* 35 Wn.App. 388, 393, 667 P.2d 108 (1983); *State v. Dougherty,* 33 Wn.App. 466, 655 P.2d 1187 (1982).

A criminal defendant s right to self-representation is guaranteed by the Sixth amendment to the United States Constitution and article 1, section 22, amendment 10 of the Washington State Constitution. *Faretta v. California,* 422 U.S. 806, 45 L.Ed.2d 562, 95 S.Ct. 2525 (1975); *State v. Hoff,* 31 Wn.App. 809, 811, 644 P.2d 763, *review denied,* 97 Wn.2d 1031, *cert. denied,* 459 U.S. 1093 (1982); *State v. Jessup,* 31 Wn.App. 304, 309, 641 P.2d 1185 (1982).

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67 Examples of questions that have appeared in many of the 16+ page bill of particulars that have been received by us include

> 16. What is the true and correct Christian Appellation of the *Defendant* in the Above mentioned Case? true and correct require that you state the complete praenomen, nomen, and cognomen. &
> 20. Does the Plaintiff claim that the Demandant is an artificial, juristic, or statutory person? &
> 41. Is the American Bar Association and the Washington Bar Association organized under the power and authority of the Crown of England? Do attorney s owe allegiance to the crown of England s titles of Nobility? Do attorney s have titles of nobility i.e. Esquire?
> 48. State all facts relied upon which would put the Demandant in any jurisdiction other than that of the common law of the Organic Washington Republic. &

68 Washington Laws 1909, c. 87.

69 Const. art. 1, § 25 provides that

> Offenses heretofore required to be prosecuted by indictment may be prosecuted by information, or by indictment, as shall be prescribed by law.

> But unlike the right to assistance of counsel, the right to dispense with such assistance and to represent oneself is guaranteed not because it is essential to a fair trial but because the defendant has the personal right to be a fool. *See State v. Fritz,* 21 Wn.App. 354, 359, 585 P.2d 173, 98 A.L.R.3d 1 (1978), quoting *People v. Salazar,* 74 Cal.App.3d 875, 888, 141 Cal.Rptr. 753 (1977).

Hoff, 31 Wn.App. at 811.

To secure the constitutional right of self-representation, a defendant must make a timely request. *State v. Stenson,* 132 Wn.2d 668, 737-40, 940 P.2d 1239 (1997), *cert. denied,* 118 S.Ct. 1193 (1998). A request is generally considered timely if made prior to jury selection. *Id.*

Granting a request to proceed pro se that is made on or near the date scheduled for trial does not require the court to grant the defendant a continuance. *See State v. Honton,* 85 Wn.App. 415, 932 P.2d 1276, *review denied,* 133 Wn.2d 1011 (1997) (aggravated first degree murder case).

The wrongful denial of a timely, pre-trial request to proceed pro se requires reversal of any conviction without any showing of prejudice. *State v. Breedlove,* 79 Wn.App. 101, 900 P.2d 586 (1995); *State v. Estabrook,* 68 Wn.App. 309, 317, 842 P.2d 1001, *review denied,* 121 Wn.2d 1024 (1993).

The exercise of the right to proceed pro se must be requested by the defendant, and the court is not required to advise the defendant of the existence of the right. *State v. Garcia,* 92 Wn.2d 647, 655, 600 P.2d 1010 (1979). The request or demand to defend pro se must be (1) knowing and intelligent and (2) unequivocal. *See, e.g., Hendricks v. Zenon,* 933 F.2d 664, 669 (9th Cir. 1993); *Gomez v. Collins,* 993 F.2d 96, 98 (5th Cir. 1993); *State v. DeWeese,* 117 Wn.2d 369, 376, 816 P.2d 1 (1991); *Breedlove,* 79 Wn.App. at 106; *State v. Barker,* 75 Wn.App. 236, 238, 881 P.2d 1051 (1994); *State v. Sinclair,* 46 Wn.App. 433, 437, 730 P.2d 742 (1986).

To ensure that a waiver of counsel meets these two requirements, the court should conduct a thorough and comprehensive formal inquiry of the defendant on the record to demonstrate that the defendant is aware of the nature of charges, range of allowable punishments and possible defenses, that technical rules exist which will bind the defendant in the presentation of his case, and the other risks of proceeding pro se. *Hendricks,* 993 F.2d at 669-70; *United States v. Merchant,* 992 F.2d 1091, 1095 (10th Cir. 1993); *DeWeese,* 117 Wn.2d at 378; *Bellevue v. Acrey,* 103 Wn.2d 203, 211, 691 P.2d 957 (1984); *Barker,* 75 Wn.App. at 239; *Vermillion,* 66 Wn.App. at 340, 832 P.2d 95 (1992).

A defendant s refusal to participate in a colloquy requires the court to reject his request to proceed pro se.

Most of the Freemen we have dealt with when asked whether they wish to waive counsel will indicate that they will not be waiving their right to assistance of counsel. This response, however, relates to their desire to be assisted by someone who is not a member of the Washington State Bar Association. If your question is rephrased as whether they wish to proceed with an attorney who is a member of the Washington State Bar, the answer will be an emphatic no.

At this point, the prosecution s concern is obtaining an adequate waiver of attorney. Copies of the waiver forms used in Kitsap County for trial counsel and appellate counsel are reproduced below. While it is preferable to have the Freeman actually fill out the forms, the ensuing battle is generally not worth the fight. A compromise that will still protect the record is to have the judge review the form orally with the defendant.

If a Freeman defendant refuses to participate in an oral or written waiver of attorney, an attorney should be appointed to represent the Freeman **regardless** of his or her economic circumstances. As trial nears, Freemen often become so frustrated with court-appointed counsel s refusal to argue the Freemen view of the law that a colloquy to establish a valid waiver of attorney will become possible.

CAPTION FOR WAIVER OF TRIAL ATTORNEY

An accused has a constitutional right to represent himself or herself if he or she chooses to do so, but there are potential dangers and disadvantages of representing yourself. The following questions must be filled in so that the Court can determine that your decision to represent yourself is knowingly made.

1. What was the last grade of school you completed? _____.

2. What languages do you read and speak fluently? _____.

3. Have you ever studied law? _____.

4. Have you ever represented yourself or any other defendant in a criminal action? _____. If yes, please indicate what the charges were and whether the matter proceeded to trial and/or appeal. _____

5. Do you realize that you are currently charged with one count of Unlawful Practice of Law in violation of RCW 2.48.180 and two counts of Malicious Prosecution violation of RCW 9.62.010? _____?

6. Do you realize that the maximum penalty for Unlawful Practice of Law is confinement in the county jail for a term of up to 365 days and/or by a fine of up to $5,000.00? _____. Do you realize that if convicted, the court could also require you to pay restitution to your victim, to pay court costs, and to place certain post-release restrictions on your conduct? _____.

7. Do you realize that the maximum penalty for each count of Malicious Prosecution is confinement in the county jail for a term of up to 90 days and/or by a fine of up to $1,000.00? _____. Do you realize that if convicted, the court could also require you to pay restitution to your victim, to pay court costs, and to place certain post-release restrictions on your conduct? _____.

8. Do you realize that the sentences imposed on each count can be ordered to be served consecutively, that is one after the other? _____.

9. Do you realize that if you represent yourself, you are on your own? ____. The Court cannot tell you how you should try your case or even advise you as to how to present your case.

10. Are you familiar with the Rules of Evidence (ER)? _____. These rules control what questions can be asked of witnesses, how questions must be phrased, and what documents or other items can be admitted at trial. In representing yourself, you must abide by these rules.

11. Are you familiar with the Criminal Rules for Courts of Limited Jurisdiction (CrRLJ)? _____. These rules govern the way in which a criminal matter is presented in the municipal court. These rules will apply to you the same as they apply to an attorney. *State v. Smith,* 104 Wn.2d 497, 508, 707 P.2d 1306 (1985).

12. Do you realize that if you decide to take the witness stand, you must present your testimony by asking questions of yourself? _____. You cannot just take the stand and tell your story. You must proceed question by question through your testimony.

13. Do you realize that a lawyer would be familiar with the rules governing the presentation of evidence, skilled in following these rules, and could advise you of possible defenses to the pending claims? _____.

14. Do you realize that if you proceed pro se that if you do not properly present a defense, subpoena witnesses, or otherwise represent yourself in a competent manner that you will not be able to obtain a reversal of a conviction on the grounds that you received inept representation? _____.

15. Why do you not want an attorney? _____ If it is because you do not believe that you can afford an attorney, do you realize that an attorney can be appointed at public expense if you are indigent, or if you are partially able to contribute to the cost of counsel. Your eligibility for court appointed counsel is determined by a review of your financial resources. Do you wish to be screened for court appointed counsel? _____.

16. Do you realize that once you waive your right to an attorney that it is discretionary with the court whether you may withdraw the waiver? _____.

17. Do you realize that while the court may provide you with an attorney as a legal advisor or standby counsel, that you do not have an absolute right to receive this assistance and that you, and not standby counsel must prepare for trial? _____.

18. Have any threats or promises been made to induce you to waive your right to an attorney? _____.

19. Now, in light of the penalty that you might suffer if you are representing yourself, is it still your desire to represent yourself and to give up your right to be represented by a lawyer? _____.

20. Is your decision entirely voluntary on your part? _____.I have read and completed this form. I have no questions for the court about the risks of proceeding pro se or about my right to have a lawyer appointed to assist me. I request that the court allow me to represent myself.

DATED this _____ day of _____, 19___.

_____
DEFENDANT

I find that the defendant has knowingly and voluntarily waived his or her right to a lawyer who is admitted to the practice of law. I will therefore approve the defendant's election to represent herself.

DATED this _____ day of _____, 19___.

_____

_____
JUDGE

CAPTION FOR WAIVER OF APPELLATE ATTORNEY

An accused has a constitutional right to represent himself or herself if he or she chooses to do so, but there are potential dangers and disadvantages of representing yourself. The following questions must be filled in so that the Court can determine that your decision to represent yourself is knowingly made.

1. What was the last grade of school you completed? _____.

2. Have you ever studied law? _____.

3. Have you ever represented yourself or any other defendant in a criminal action? _____. If yes, please indicate what the charges were and whether the matter proceeded to trial and/or appeal.

_____.

4. Do you realize that you have been convicted of _____ and that you have been sentenced to ____ days in custody, a _____ fine, plus costs, and restitution? _____. Do you realize that if you lose your appeal, this sentence, if stayed, will have to be served? _____.

OR

Do you realize that you have been charged with _____ and that if convicted of this offense you can be sentenced to up to ____ days in custody, a $_____ fine, plus costs, and restitution? _____. Do you realize that if the State prevails on its appeal, that the charge of _____ will be reinstated? _____.

5. Do you realize that if you represent yourself, you are on your own? _____. The Court cannot tell you how you should write your briefs or even advise you as to how to present your arguments.

6. Are you familiar with the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ)? _____. These rules govern the way in which an appeal is presented in the superior court. These rules will apply to you the same as they apply to an attorney. *State v. Smith,* 104 Wn.2d 497, 508, 707 P.2d 1306 (1985).

7. Do you realize that a lawyer would be familiar with the rules governing appeals and the presentation of claims, skilled in following these rules, and could advise you of possible procedural bars and defenses to the pending claims? _____.

8. Do you realize that if you proceed pro se that if you do not properly present a claim in the appellate courts that you could be barred from presenting that claim in a subsequent appeal, personal restraint petition or habeas corpus action? _____.

9. Do you realize that if you proceed pro se that you do not have an absolute right to present oral argument in the appellate courts or even to be present at the proceedings in the appellate courts? _____.

10. Why do you not want an attorney? _____. If it is because of a conflict of interest between you and your prior counsel or because there is a complete breakdown of communication, do you wish the court to consider appointing new counsel? _____. If the court determines that a substitute attorney should not be appointed, do you understand that your option is to represent yourself or to remain with your current attorney? _____.

11. Have any threats or promises been made to induce you to waive your right to attorney? _____.

12. Now, in light of the penalty that you might suffer if you are representing yourself, is it still your desire to represent yourself and to give up your right to be represented by a lawyer? _____.

13. Is your decision entirely voluntary on your part? _____.

DATED this _____ day of _____, 19___.

_____
DEFENDANT

I find that the defendant has knowingly and voluntarily waived his or her right to an attorney. I will therefore approve the defendant's election to represent himself.

DATED this _____ day of _____, 19___.

_____
JUDGE

Disruptive Behavior of Pro Se Defendant

The right to self-representation does not permit a defendant to disrupt a hearing or trial, nor is it a license for a pro se defendant to not comply with the rules of procedural and substantive law. *State v. Breedlove,* 79 Wn.App. 101, 106, 900 P.2d 586 (1995). A pro se litigant is required to comply with court rules to the same degree that an attorney must comply with the rules. *See, e.g., State v. Smith,* 104 Wn.2d 497, 508, 707 P.2d 1306 (1985); *Batten v. Adams,* 28 Wn.App. 737, 739, *review denied,* 95 Wn.2d 1033 (1981). A disruptive pro se defendant may have his or her right to self-representation terminated. *State v. Jessup,* 31 Wn.App. 304, 312, 641 P.2d 1185 (1982). A disruptive pro se defendant may be removed from the courtroom. *DeWeese,* 117 Wn.2d at 380-81.

A pro se litigant, just like an attorney, must present legal authority in support of his or her objections and motions. Failure to cite legal authority requires the court to assume that, after diligent search, the moving party has found none. In such a case, courts ordinarily will not give consideration to such error unless it is apparent without further research that the assignment of error presented is well taken. *State v. Young*, 89 Wn.2d 613, 625, 574 P.2d 1171 (1978).

OK, I ll Take Your Attorney Withdrawal of Pro Se Status

Once a defendant exercises the constitutional right of self-representation and proceeds pro se, he or she does not have the absolute right to thereafter withdraw the request for self representation and receive substitute counsel. *United States v. Merchant,* 992 F.2d 1091, 1095 (10th Cir. 1993); *United States v. Solina,* 733 F.2d 1208, 1211-12 (7th Cir.), *cert. denied,* 469 U.S. 1039 (1984); *DeWeese,* 117 Wn.2d at 376-77; *State v. Canedo-Astorga,* 79 Wn.App. 518, 525, 903 P.2d 500 (1995), *review denied,* 128 Wn.2d 1025 (1996). Instead, the trial court has the discretion to grant or deny a motion to withdraw a pro se waiver. *Canedo-Astorga,* 79 Wn.App. at 526. The trial court s ruling will be upheld on appeal absent an abuse of discretion. *Id.* Judicial discretion is only abused when the court exercises its discretion on untenable grounds, or for untenable reasons. *State ex rel. Carroll v. Junker,* 79 Wn.2d 12, 26, 482 P.2d 775 (1971). In other words, an abuse of discretion occurs where no reasonable person would take the view adopted by the trial court. *State v. Blight,* 89 Wn.2d 38, 41, 569 P.2d 1129 (1977).

In exercising its discretion, the court may consider all the circumstances that exist when the request for reappointment is made. *Canedo-Astorga,* 79 Wn.App. at 526. A major factor to be considered is the timing of the request. As noted by the Tenth Circuit

> A criminal defendant has a constitutional right to defend himself; and with rights come responsibilities. If at the last minute he gets cold feet and wants a lawyer to defend him he runs the risk that the judge will hold him to his original decision in order to avoid the disruption of the court s schedule that a continuance granted on the very day that trial is scheduled to begin is bound to cause.

Merchant, 992 F.2d at 1095, citing *United States v. Solina, supra. Accord DeWeese,* 117 Wn.2d at 379 (A defendant may not manipulate the right to counsel for the purpose of delaying and disrupting trial.); *State v. Canedo-Astorga,* 79 Wn.App. at 525.

If a late motion to withdraw a waiver of counsel is granted, the newly appointed attorney may obtain a continuance of the trial over the defendant s objection. *See generally State v. Campbell,* 103 Wn.2d 1, 691 P.2d 929 (1984), *cert. denied,* 471 U.S. 1094 (1985).

I Want the Assistance of Counsel Freemen Request for Non-Attorney Counsel

Most of the Freemen we have dealt with when asked whether they wish to waive counsel will indicate that they wish to proceed with their constitutional right to counsel. This right to counsel, in their mind, includes a non-attorney. The Sixth Amendment guarantees that [i]n all criminal prosecutions, the accused shall enjoy the right &to have the Assistance of Counsel for his defence. U.S. Cont. amend. VI.

This guarantee, though, does not permit a criminal defendant to be represented by an advocate who is not a member of the bar. *United States v. Wheat,* 486 U.S. 153, 159, 100 L.Ed.2d 140, 108 S.Ct. 1692, 1697 (1988); *United States v. Nichols,* 841 F.2d 1485, 1504 (10th Cir. 1988); *see also State v. DeWeese,* 117 Wn.2d 369, 376, 816 P.2d 1 (1991) (a criminal defendant does not have the absolute right to be represented by the individual of his or her choice); *United States v. Willie*, 941 F.2d 1384, 1390 (10th Cir. 1991) ([defendant s] clear expression that he could only work with an attorney who shared his views... [inter alia] constitute[d] a valid implied waiver of his right to counsel), *cert. denied*, 502 U.S. 1106 (1992).

In Washington, it is a crime for a non-attorney to practice law in Washington. *See* RCW 2.48.180. A pro se exception to this prohibition exists. *See* RCW 2.48.190. The pro se exception permits an individual to act on his or her own behalf with respect to his or her legal rights and obligations without benefit of counsel. *See* RCW 2.48.190. This exception is very limited, and a person may not transfer his or her pro se rights to another. *See, e.g., State v. Hunt,* 75 Wn.App. 795, 805, 880 P.2d 96, *review denied,* 125 Wn.2d 1009 (1994) (statutory power of attorney does not allow an unlicensed person to practice law); *City of Seattle v. Shaver,* 23 Wn.App. 601, 597 P.2d 935 (1979) (layman husband may not represent wife in a prosecution for failure to yield right of way); *Christiansen v. Melinda,* 857 P.2d 345 (Alaska 1993) (statutory power of attorney does not remove agent from prohibition of unlicensed practice of law; principal can only engage agent to practice law on his behalf if agent is licensed attorney); *Gilman v. Kipp,* 519 N.Y.S.2d 314, 315, 136 Misc. 860 (1987) (The inherent right of a person to appear pro se in legal proceedings cannot be assigned to another by executing the power of attorney.); *In re Baker,* 85 A.2d 505, 514 (N.J. 1951) (the consequences of a UPL statute cannot be avoided merely by preparing for and having the client execute a document designating the unlicensed practitioner an attorney-in-fact).

Unauthorized practice of law (UPL) statutes have repeatedly been found to be constitutional. *See, e.g., State v. Hunt, supra* (UPL statute not unconstitutionally vague); *Monroe v. Howitch,* 820 F.Supp. 682, 686-87 (D. Conn. 1993), *aff'd,* 19 F.3d 9 (2d Cir. 1994) (unsupervised paralegal's preparation of documents in divorce action constitutes the practice of law and state statute prohibiting the unauthorized practice of law did not violate paralegal's First Amendment freedom of expression or Fourteenth Amendment rights to due process and equal protection). Accordingly any request by the defendant that he be represented by a non-attorney counselor must be rejected by the court.

Hybrid Representation

A criminal defendant does not have a right to both self-representation and the assistance of counsel. *Faretta v. California,* 422 U.S. 806, 45 L.Ed.2d 562, 95 S.Ct. 2525, 2540-41 (1975); *United States v. Shea,* 508 F.2d 82 (5th Cir.), *cert. denied,* 423 U.S. 847 (1975); *Lee v. Alabama,* 406 F.2d 466 (5th Cir. 1968), *cert. denied,* 395 U.S. 927 (1969); *United States v. Swinney,* 970 F.2d 494, 498 (8th Cir.), *cert. denied,* 113 S.Ct. 632 (1992); *State v. Romero,* ___ Wn.App. ___, 975 P.2d 564 (Div. 3 April 29, 1999); *State v. Vermillion,* 66 Wn.App. 332, 340, 832 P.2d 95 (1992); *State v. Hegge,* 53 Wn.App. 345, 349, 766 P.2d 1127 (1989).

> The right to proceed pro se and the right to assistance of counsel are mutually exclusive. As noted in *Parren,* 523 A.2d at 264: There can be but one captain of the ship, and it is he alone who must assume responsibility for its passage, whether it safely reaches the destination charted or founders on a reef. Thus, [a criminal defendant] is entitled to choose between two alternatives: proceeding pro se or relinquishing his defense to counsel. *State v. Gethers,* 497 A.2d at 415.

Hegge, 53 Wn.App. at 349. *Accord Vermillion,* 66 Wn.App. at 340. The determination of whether to allow hybrid representation remains within the sound discretion of the court. *United States v. Halbert,* 640 F.2d 1000, 1009 (9th Cir. 1981). In Freemen cases, hybrid representation will frequently be allowed for the convenience of the court.

Standby Counsel

A court may appoint standby counsel, even over the objection of the defendant, to assist the accused if and when he or she requests help and to represent the accused in the event that the defendant s self-representation is terminated. *State v. Breedlove,* 79 Wn.App. 101, 106, 900 P.2d 586 (1995). Standby counsel must carefully limit his or her role to ensure that the pro se defendant preserves actual control over the case the Freeman chooses to present to the jury, and to ensure that the jury s perception that the defendant is representing himself or herself is not destroyed. *McKaskle v. Wiggins,* 465 U.S. 168, 79 L. Ed. 2d 122, 104 S.Ct. 944 (1984); *State v. Estabrook,* 68 Wn.App. 309, 317-18, 842 P.2d 1001, *review denied,* 121 Wn.2d 1024 (1993). The appointment of a legal advisor or standby counsel does not obviate the need for a knowing and intelligent waiver of the right to counsel. *State v. Barker,* 35 Wn.App. 388, 393, 667 P.2d 108 (1983); *State v. Dougherty,* 33 Wn.App. 466, 655 P.2d 1187 (1982).

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Some Freemen believe that the phrase assistance of counsel means they control the proceedings and the attorney who has been appointed to represent them is their assistant. These Freemen will complain bitterly to the court if the attorney does not do their bidding. There are, however, only a few trial decisions which must be made by the accused in criminal proceedings and cannot be made for the accused by counsel. Those decisions include what plea to enter, whether to waive jury trial, and whether to testify. *State v. Hahn,* 106 Wn.2d 885, 892, 726 P.2d 25 (1986) (basic respect for a defendant s individual freedom requires us to permit the defendant himself to determine his plea); *State v. Stegall,* 124 Wn.2d 719, 728, 881 P.2d 979 (1994) (right to jury trial may only be waived by defendant); *State v. King,* 24 Wn.App. 495, 499, 601 P.2d 982 (1979)(defendant has an absolute right to testify on his own behalf which right cannot be abrogated by defense counsel); *see also* 1 American Bar Ass n, *Standards for Criminal Justice,* Std. 4-5.2 at 4-65 (2d ed. 1986).

Legitimate trial tactics such as making or foregoing a motion or objection and deciding which witnesses to call, other than the defendant, are primarily the responsibility of defense counsel. *See, e.g., State v. Garrett,* 124 Wn.2d 504, 520, 881 P.2d 185 (1994); *State v. Hess,* 86 Wn.2d 51, 52, 541 P.2d 1222 (1975); *State v. Allen,* 57 Wn.App. 134, 787 P.2d 566 (1990); *State v. Justiniano,* 48 Wn.App. 572, 740 P.2d 872 (1987). If the court holds firm regarding the proper role of the attorney, the Freemen will eventually enter a *Faretta* waiver and the attorney can then be reassigned to the role of standby counsel.

Court-Appointed Attorney s Request to Withdraw

Understandably, counsel who is appointed to represent a Freeman defendant over the Freeman s objection is put in a difficult position; a position that is only more uncomfortable when the victims of the charges are local judges or prosecutors.

Many attorneys appointed to represent Freemen will identify for the record the motions the defendant wishes to have heard and that the attorney believes he or she is barred from raising such frivolous motions by RPC 3.1. In such circumstances, the judge may allow hybrid representation or may merely deny the motions because they lack merit.

Some attorneys request permission to withdraw. While these attorneys deserve your sympathy, the same issues will arise with any attorney who is appointed. Agreeing that the motion to withdraw can be granted without first obtaining a proper *Faretta* waiver of attorney will result in repeated delays, and a possible appellate reversal.

A court-appointed attorney s request to withdraw because he or she has been fired by a Freeman must be denied because a criminal defendant does not have the absolute right to be represented by the individual of his or her choice. *United States v. Wheat,* 486 U.S. 153, 159, 100 L.Ed.2d 140, 108 S.Ct. 1692, 1697 (1988); *State v. DeWeese,* 117 Wn.2d 369, 376, 816 P.2d 1 (1991). Case law provides that a defendant may only discharge appointed counsel with court-approval and upon a showing of good cause. *State v. DeWeese,* 117 Wn.2d 369, 370, 816 P.2d 1 (1991).

A court-appointed attorney s request to withdraw because the defendant insists upon pursuing a course counsel finds to be imprudent should be rejected because there are only a few trial decisions which must be made by the accused in criminal proceedings and cannot be made for the accused by counsel. Those decisions include what plea to enter, whether to waive jury trial, and whether to testify. *State v. Hahn,* 106 Wn.2d 885, 892, 726 P.2d 25 (1986) (basic respect for a defendant s individual freedom requires us to permit the defendant himself to determine his plea); *State v. Stegall,* 124 Wn.2d 719, 728, 881 P.2d 979 (1994) (right to jury trial may only be waived by defendant); *State v. King,* 24 Wn.App. 495, 499, 601 P.2d 982 (1979) (defendant has an absolute right to testify on his own behalf which right cannot be abrogated by defense counsel); *see also* 1 American Bar Ass n, *Standards for Criminal Justice,* Std. 4-5.2 at 4-65 (2d ed. 1986).

Legitimate trial tactics such as making or foregoing a motion or objection and deciding which witnesses to call, other than the defendant testifying, are primarily the responsibility of defense counsel. *See, e.g., State v. Garrett,* 124 Wn.2d 504, 520, 881 P.2d 185 (1994) (ineffective assistance claim may not be based on the defense attorney's legitimate trial tactics); *State v. Hess,* 86 Wn.2d 51, 52, 541 P.2d 1222 (1975); *State v. Allen,* 57 Wn.App. 134, 787 P.2d 566 (1990); *State v. Justiniano,* 48 Wn.App. 572, 740 P.2d 872 (1987).

A court-appointed attorney s fear of community or judicial backlash due to the representation of a Freeman is not adequate grounds for withdrawal. All qualified trial lawyers should stand ready to undertake the defense of an accused regardless of public hostility toward the accused or personal distaste for the offense charged or the person of the defendant. 1 American Bar Ass n, *Standards for Criminal Justice,* Std. 4-1.5(b), at 4-19 (2d ed. 1986).

> The highest tradition of the American bar is found in the obligation, in the lawyer s oath, never to reject from any consideration personal to myself, the cause of the defenseless or oppressed. A lawyer has the duty to provide legal assistance even to the most unpopular defendants. The great tradition of the bar is reflected in the history of eminent lawyers such as John Adams, who defended the British redcoats after the Boston Massacre who have risked public disfavor to defend a hated defendant. The sure way to guarantee adherence to this tradition of denying no defendant competent legal preparation is for all trial lawyers to prepare themselves to act in criminal cases. Consistent with these standards, the ABA Code of Professional Responsibility admonishes lawyers not to decline proffered employment lightly. However, declining to accept a case is justified when the intensity of &personal feeling, as distinguished from a community attitude, may impair &effective representation of a prospective client.

(Footnotes omitted). 1 American Bar Ass n, *Standards for Criminal Justice,* Std. 4-1.5(b), at 4-20 to 4-21 (2d ed. 1986).

Challenges to the Legality of the Prosecutor

Oath. The prosecuting attorney is a constitutionally created office and is part of the executive branch of government. Const. art. 11, §§ 4 and 5. The constitutional provisions creating the office specifically require the election of the prosecuting attorney on a county-wide basis. Once elected, the prosecuting attorney must take an oath of office prior to assuming office. RCW 36.16.040. This oath must be filed with the county auditor and a bond obtained and filed with the county clerk. RCW 36.16.060. A failure to strictly comply with these requirements is not grounds for removal from office if the irregularities are subsequently cured. *See generally In re Recall of Sandhaus,* 134 Wn.2d 662, 953 P.2d 82 (1998) (delayed filing of bond not grounds for recalling prosecutor). *See* the Appendix, at 37, for a filed oath.

De Facto Prosecutor. Under Washington law, authority of a *de facto* prosecutor, i.e., one in actual possession of the office of prosecutor and exercising its duties and powers under color of title, is not subject to collateral attack. *State v. Carroll,* 81 Wn.2d 95, 500 P.2d 115 (1972); *State v. Gibson,* 79 Wn.2d 856,

490 P.2d 874 (1971); *State v. Britton,* 27 Wn.2d 336, 178 P.2d 341 (1947). As the supreme court has recognized, this rule necessarily mandates the proposition that an accused does not have the right to choose the prosecutor. *State v. Cook,* 84 Wn.2d 342, 350, 525 P.2d 761 (1974).

While RCW 36.27.030 authorizes the court to appoint some qualified person to discharge the duties of prosecuting attorney in the event that the elected prosecuting attorney is disabled or is otherwise unable to perform, most Freemen-asserted irregularities in the prosecutor s oath or bond will not constitute a disability. *In re Recall of Sandhaus, supra.*

Conflict of Interest. [A] Public prosecutor is a quasi-judicial officer. He represents the state, and in the interest of justice must act impartially. *State v. Huson,* 73 Wn.2d 660, 663, 440 P.2d 192 (1968), *cert. denied,* 393 U.S. 1096 (1969). If a prosecutor s interest in a criminal defendant or in the subject matter of the defendant s case materially limits his or her ability to prosecute a matter impartially, then the prosecutor is disqualified from litigating the matter, and the prosecutor s staff may be disqualified as well. *See generally State v. Stenger,* 111 Wn.2d 516, 520-23, 760 P.2d 357 (1988).

A prosecuting attorney s impartiality to act can be impacted by his or her prior representation of a defendant. *State v. Stenger, supra.* A prosecuting attorney s impartiality to act is not considered to be impaired by a defendant s threat to file bar complaints or lawsuits. *See, e.g., United States v. Kember,* 685 F.2d 451, 458 (D.C. Cir.), *cert. denied,* 459 U.S. 832 (1982); *State v. Tyler,* 587 S.W.2d 918, 929 (Mo. App. 1979).

Some Court of Appeals cases have intimated that the appearance of fairness doctrine may apply to a prosecutor s charging decision. *See, e.g., State v. Perez,* 77 Wn.App. 372, 891 P.2d 42 (Div. 3 1995); *State v. Ladenburg,* 67 Wn.App. 749, 754, 840 P.2d 228 (1992) (appearance of fairness doctrine may apply to charging decisions). The Washington Supreme Court, however, has held that the doctrine does not apply to a prosecutor s determination to file criminal charges, to seek the death penalty, or to plea bargain. *State v. Finch,* ___ Wn.2d ___, 975 P.2d 967, 1999 WL 274135, *6 (May 6, 1999).

This does not mean that careful thought does not need to be taken before filing a charge against a Freeman involving a prosecutor victim or one in which a prosecutor is a necessary witness.[70] A primary consideration in whether to retain such a case or to seek the appointment of a special prosecuting attorney is whether the anticipated Freemen defendant is likely to sue or victimize any prosecutor who is assigned to the case. If the Freeman s past behavior will support a finding that whoever is appointed as a special prosecutor will be subject to the same criminal activity as the already victimized office, then the ancient rule of necessity that applies to judges would appear to allow the retention of the case for charging and prosecution. *See generally Filan v. Martin,* 38 Wn.App. 91, 684 P.2d 769 (1984). After all, if all prosecutors will be subjected to the same tactics, why refer the case to another prosecuting authority?

Applications for Writs of Quo Warranto

A quo warranto proceeding seeks to test the right of an individual to hold title to a public office. *See generally* RCW 7.56.010. The substantive right and procedure for a writ of quo warranto is controlled by statute in Washington. *State ex rel. Carter v. Superior Court,* 18 Wn.2d 130, 132, 138 P.2d 843 (1943). By statute, a quo warranto action

> may be filed by the prosecuting attorney in the superior court of the proper county, upon his own relation, whenever he shall deem it his duty to do so, or shall be directed by the court or other competent authority, or by any other person on his own relation, whenever he claims an interest in the office, franchise or corporation, which is the subject of the information.

RCW 7.56.020.

[70] RPC 3.7 discusses the propriety of having a member from the same prosecuting attorney s office that is trying the defendant appear as a witness. *State v. Bland,* 90 Wn.App. 677, 953 P.2d 126, *review denied,* 136 Wn.2d 1028 (Div. 1 1998).

A mere citizen, a voter or a taxpayer or any person other than the prosecuting attorney may not initiate a quo warranto proceeding unless the person has an interest in the office separate from the common interest of the general public. *State ex rel Dore v. Superior Court,* 167 Wash. 655, 658, 9 P.2d 1087 (1932). *Accord State ex rel. Quick-Ruben v. Verharen*, 136 Wn.2d 888, 893-96, 969 P.2d 64 (1998); *Manlove v. Johnson,* 198 Wash. 280, 285-287, 88 P.2d 397 (1939); *Mills v. State ex rel. Smith,* 2 Wash. 566, 572-73, 27 Pac. 560 (1891). The separate interest that will support a private quo warranto action filed by an individual, as opposed to a public quo warranto action filed by a prosecutor, is the right of that individual to assume the office that will be vacated upon the issuance of the writ. *See Verharen,* 136 Wn.2d at 896-97; *State ex rel. Dore,* 167 Wash. at 657- 59; *Mills,* 2 Wash. at 573.

The Washington Supreme Court has original jurisdiction over a quo warranto action directed toward a state official. Const. art. 4, § 4; RAP 16.2; *Verharen,* 136 Wn.2d at 893. A quo warranto action may be filed in the superior court pursuant to Chapter 7.56 RCW.

Challenges to the Legality of the Judge

Oath. A judge is not subject to disqualification for failing to properly file his or her oath of office. *State v. Stephenson*, 89 Wn.App. 794, 807-09, 950 P.2d 38, *review denied,* 136 Wn.2d 1018 (Div. 2 1998) (a judge is still a public servant even if his or her oath has not been filed with the secretary of state). A judge who has failed to file his or her oath is still acting as an officer de facto.

> To constitute a person an officer de facto, he must be in actual possession of the office, exercising its functions and discharging its duties under color of title. *State v. Britton,* 27 Wn.2d 336, 178 P.2d 341 (1947). Color of title distinguishes him from a usurper; active possession, despite a defect in title, distinguishes him from a de jure office holder. As an officer de facto, he must be submitted to as such until displaced by a regular direct proceeding for that purpose. The proper and exclusive method of determining the right to public office is through a quo warranto proceeding. *Green Mountain School Dist. v. Durkee,* 56 Wn.2d 154, 351 P.2d 525 (1960).

State v. Franks, 7 Wn.App. 594, 596, 501 P.2d 622 (1972).

Bias. A judge is presumed to perform his or her functions regularly and properly without bias or prejudice. *Jones v. Halvorson-Berg*, 69 Wn.App. 117, 127, 847 P.2d 945, *review denied,* 122 Wn.2d 1019 (1993). *See also In re Bochert,* 57 Wn.2d 719, 722, 359 P.2d 789 (1961) (bias or prejudice on the part of an elected judicial officer is never presumed). Compliance with RCW 4.12.050 will be sufficient to overcome the presumption that the judge is free from prejudice. *State v. Belgarde,* 119 Wn.2d 711, 715, 837 P.2d 599 (1992). But once a defendant disqualifies a judge as a matter of right pursuant to RCW 4.12.050, subsequent motions to disqualify the trial judge involve an exercise of sound discretion in passing on the sufficiency of the showing made in support of the motion. *State v. Palmer,* 5 Wn.App. 405, 411-12, 487 P.2d 627, *review denied,* 79 Wn.2d 1012 (1971).

This same rule applies to motions to disqualify a judge brought after the judge makes a discretionary ruling in an action or has presided over the trial. *See, e.g., State v. Belgarde,* 119 Wn.2d 711, 715-17, 837 P.2d 599 (1992) (actual bias must be shown to disqualify a judge from presiding over a retrial following a reversal on appeal); *Howland v. Day,* 125 Wash. 480, 490-91, 216 P. 864 (1932) (actual bias must be shown to disqualify a judge from presiding over a motion for new trial); *State v. Clemons*, 56 Wn.App. 57, 782 P.2d 219 (1989), *review denied,* 114 Wn.2d 1005 (1990) (actual bias must be shown to disqualify a judge from presiding over a retrial following a mistrial). The trial court s decision on a nonmandatory disqualification motion must be upheld absent an abuse of discretion. *Palmer,* 5 Wn.App. at 411-12.

Casual and nonspecific allegations of judicial bias do not provide a basis for recusal. *State v. Cameron,* 47 Wn.App. 878, 884, 737 P.2d 688 (1987). Claims that the trial judge is prejudiced against the defendant based upon the trial judge having rendered prior rulings that were adverse to the defendant, whether in the same case or a different case, is insufficient to force recusal. *See generally, Palmer,* 5

Wn.App. at 411; *See generally,* Annot., *Disqualification of Judge for Having Decided Different Case Against Litigant,* 21 A.L.R.3d 1369 (1968). This rule exists because the bias and prejudice necessary to disqualify a judge must generally come from an extra-judicial source. *See, e.g., State v. Thompson,* 150 Ariz. 554, 724 P.2d 1223, 1226 (1986); *United States v. Boffa,* 513 F.Supp. 505 (D.C. Del. 1981).

Similarly, claims that the trial judge is biased as a result of a party filing a lawsuit against a judge for a judicial act as to which the judge is immune from suit will not constitute grounds for disqualification. *See, e.g., Matter of Extradition of Singh,* 123 F.R.D. 140, 149 (D.N.J., Jul 29, 1988); *Ronwin v. State Bar*, 686 F.2d 692, 701 (9th Cir. 1981), *rev d on other grounds sub nom Hoover v. Ronwin,* 466 U.S. 558, 80 L.Ed.2d 590, 104 S.Ct. 1989 (1984) (mere filing of lawsuit against judge will not disqualify him or her); *United States v. Grismore,* 564 F.2d 929, 933 (10th Cir. 1977), *cert. denied,* 435 U.S. 954 (1978); *United States v. Bray,* 546 F.2d 851, 857-59 (10th Cir. 1976) (failure to recuse upheld where plaintiff stated, *inter alia,* that he had filed a brief with the court accusing the judge of bribery, conspiracy and obstruction of justice); *United States v. Alberico,* 453 F.Supp. 178, 187 (D. Colo. 1977) (no disqualification where plaintiff s affidavit indicated that judge would be sued); *Filan v. Martin,* 38 Wn.App. 91, 95, 684 P.2d 769 (1984) (rule of necessity allows a judge to remain on a case after being sued for actions performed in his or her judicial role when a defendant has established a propensity for suing all judges).[71] In fact, the *Ronwin* court stated that such an easy method for obtaining disqualification should not be encouraged or allowed. 686 F.2d at 701.

Finally, even a criminal defendant s threat or use of force against a judge in a courtroom does not mandate the recusal of the judge on the grounds of actual or potential bias. *See generally State v. Bilal,* 77 Wn.App. 720, 893 P.2d 674, *review denied,* 127 Wn.2d 1013 (1995).

Pro Tempore Judge in Courts of Limited Jurisdiction. The constitution grants sole authority in the Legislature to govern the jurisdiction and powers of inferior courts. The constitution places no restrictions on the Legislature in regard to pro tempore judges in inferior courts, and the supreme court has declined to do so. A defendant has neither a constitutional nor statutory right to withhold consent to the authority of a judge pro tempore in a court of limited jurisdiction. *State v. Hastings,* 115 Wn.2d 42, 793 P.2d 956 (1990).

Visiting Superior Court Judges. A duly elected superior court judge has the authority to preside over a case in a county other than the one in which he or she was elected. Const. Art. IV, § 7; RCW 2.08.150.

When in a county other than the one in which he or she was elected, the visiting judge has the same powers as a regularly elected judge of the county. *Demaris v. Barker,* 33 Wash. 200, 203-4, 74 P.2d 362 (1903). A visiting judge s authority to hear a case is not contingent upon the parties consent. *State v. Holmes,* 12 Wash. 169, 40 P.2d 887 (1895).

Challenges to the Legality of Courtroom Personnel

Court Reporters. Court reporters are required to obtain a certificate. *See generally* RCW 18.145 .010. Official court reporters are individuals who have been appointed to serve a superior court judge or a superior court judicial district pursuant to RCW 2.32.180. All official court reporters are considered to be officers of the court.

Such reporters before entering upon the discharge of his duties shall take an oath to perform faithfully the duties of his office, and file a bond in the sum of two thousand dollars for the faithful discharge of his duties. RCW 2.32.180. The location(s) for filing the oath and the bond are not specified in the statute. It

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71 The ancient rule of necessity is a common law principle which provides that

> although a judge had better not, if it can be avoided, take part in the decision of a case in which he has any personal interest, yet he not only may but must do so if the case cannot be heard otherwise. F. Pollack, a First Book of Jurisprudence 270 (6th ed. 1929).

United States v. Will, 449 U.S. 200, 213, 101 S. Ct. 471, 480-82, 66 L. Ed. 2d 392 (1980).

is recommended that the bond be filed in the clerk s office and the oath in the county auditor s office. *See generally* RCW 36.16.060; RCW 36.16.070. The cost of the court reporter s bond appears to be a county expense. RCW 36.16.070.

If an official reporter is absent or unable to act, the presiding judge my appoint a competent reporter to act pro tempore. RCW 2.32.270. The reporter pro tempore shall possess the qualifications and take the oath prescribed for the official reporter, and shall file a like bond, and shall receive the same compensation. RCW 2.32.270.

A court reporter may not act in a case in which a personal conflict of interest exists without the consent of the judge and all parties. *Cf.* WAC 308-14-130(6) (Certified shorthand reporters shall &Disclose conflicts, potential conflicts, or appearance of conflicts to all involved parties.). The most common conflict of interest that will arise in Freemen prosecutions is that a court reporter should not report proceedings in a case in which the reporter is also a witness. Care should be made to ensure that any court reporter who has been endorsed as a prosecution witness in a case does not report any hearings held in that case.

Court Bailiffs. Bailiffs are appointed by each court. *See* RCW 2.32.320; RCW 2.32.330. There is no statutory oath or bond requirement for bailiffs. *See State v. Lane,* 37 Wn.2d 145, 150, 222 P.2d 394 (1950).[72] An error in the administration of an oath to a bailiff will not constitute grounds for reversing a conviction absent a timely objection and a showing of prejudice. *Lane,* 37 Wn.2d at 150.

Care should be taken to avoid conflicts of interest and no bailiff should be allowed to care for a jury in a case in which the bailiff will be or has been a witness.

Court Clerks. The clerk is required to take an oath and to file the oath with the auditor. RCW 36.16.060. The oaths of deputy clerks are also filed with the auditor. *Id.* The clerk s bond is filed with the treasurer after having first been recorded by the county auditor. *Id.* The amount of the clerk s bond is set by a majority of the judges presiding over the court the clerk serves. RCW 36.16.050(3); RCW 36.23.020.

Care should be taken to avoid conflicts of interest and no clerk should be allowed to serve in the courtroom or to care for exhibits in a case in which the clerk will be or has been a witness.

Challenges to the Legality of the Revised Code of Washington

Absence of Enacting Clauses and Titles. The Revised Code of Washington is a compilation of the session laws and is evidence of the laws of this state. RCW 1.04.020. The Revised Code of Washington is prepared by the code reviser. RCW 1.08.013; RCW 1.08.015. The Revised Code of Washington omits the titles to acts and enacting clauses, but these sections are still part of a session law. RCW 1.08.017. The omissions of these sections from the Revised Code of Washington does not invalidate the session laws. *Id.*

Need for Exemplified or Certified Copies of the Session Laws. The State is not required to admit a copy of the statute into evidence and the information/complaint is not required to contain the full text of all statutes. *See, e.g., State v. Tribble,* 26 Wn.App. 367, 369, 613 P.2d 173, *review denied,* 94 Wn.2d 1024 (1980); RCW 10.37.160. The State need not attach a certified or exemplified copy of a session law to the charging document because a charging document need not contain matters of which judicial notice may be taken. RCW 10.37.150. Evidence Rule 201 authorizes a party to request a court to take judicial notice of adjudicative facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. ER 201(a), (b) and (d). This rule applies at all stages of proceedings, including appeals. ER 201(f); *State v. Royal,* 122 Wn.2d 413, 417-18, 858 P.2d 259 (1993). A court may take judicial notice of session laws. RCW 5.24.010. The trial court, therefore, does not lack subject matter

[72] The *Lane* case talks about an oath having been administered to the bailiff who had care of the jury. Neither the statute regarding the appointment of an officer to take custody of the jury, RCW 4.44.300, nor the court rules regarding the appointment of an officer to take custody of the jury, CrR 6.7(b) and CrRLJ 6.7(b), contain a requirement that such officer take an oath that the officer will faithfully discharge his or her duties.

If such an oath is administered to bailiffs, it is recommended that the oath be filed with the county auditor. RCW 36.16.060.

jurisdiction solely because the State did not make copies of the legislative titles and enacting provisions of the crimes charged a part of the record.

Copyright Infringement. A frequent Freemen objection to prosecutor pleadings is that the prosecution has not established that they have permission to cite or quote copyrighted laws, cases, and court rules. The Freemen concept of copyright law is obviously skewed, but even if correct, Freemen do not have standing to raise the copyright holder s rights. *See* 17 U.S.C. § 501(b) (only the legal and beneficial owners of copyright have standing to sue infringers).

Challenges to the Legality of the Jury

Number of Jurors. In *Chaff v. Schnackenberg,* 384 U.S. 373, 16 L.Ed.2d 629, 86 S.Ct. 1523 (1966), the United States Supreme Court determined that crimes carrying penalties up to 6 months do not require a jury trial if they otherwise qualify as petty offenses. This ruling, proscribing the minimum constitutional requirement however, does not prohibit Washington state from providing a greater right to jury. Wash. Const. art. 1, § 21, provides for a right to jury trial in all criminal cases, including misdemeanor offenses. *Pasco v. Mace,* 98 Wn.2d 87, 653 P.2d 618 (1982). The right to jury trial in misdemeanor cases under Washington law, however, is a right to a six person jury. *Seattle v. Hessler,* 98 Wn.2d 73, 83, 653 P.2d 631 (1982).

Vicinage. The right to have jurors selected from the place at which the trial is to be held, sometimes called the right of vicinage, was considered to be of great importance both at the common law and by the Founding Fathers. Both the Federal and State Constitutions preserve a right to vicinage. U.S. Const. Amend. VI guarantees an accused a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed and Wash. Const. Art. I, § 22, guarantees a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed.

In view of the positive vicinage requirements of both the Federal and State Constitutions, it is difficult to see how a jury can be constituted of persons who are not residents of Washington. Such persons, by their residency, are not deemed to be implicitly biased in favor of the State. *See, e.g., Mironski v. Snohomish County,* 115 Wash. 586, 197 P. 781 (1921) (pecuniary interest of taxpayers in action against county for damages is not such as to disqualify them from serving as jurors and necessitate transfer of cause to another county for trial); *State v. Krug,* 12 Wash. 288, 41 P. 126 (1895) (fact that juror is taxpayer is not ground for challenge on trial of public officer charged with embezzlement of public funds); *Rathbun v. Thurston County,* 8 Wash. 238, 35 P. 1102 (1894) (interest of jurors as taxpayers of county in action against county will not disqualify them from serving as jurors to try cause).

Prosecution Violates Freemen s Constitutional Right to Travel in a Private Vehicle

A common Freemen motion to dismiss in cases involving a motor vehicle is that the instant prosecution infringes upon the Freeman s constitutional right to travel.[73] It has been long established, however, that states may rightfully prescribe uniform regulations necessary for public safety and order in the operation upon its highways of motor vehicles, and the state may require the licensing of drivers. *E.g., Hendrick v. Maryland,* 235 U.S. 610, 59 L.Ed. 385, 35 S.Ct. 140 (1915); *State v. Clifford,* 57 Wn.App. 127, 787 P.2d 571, *review denied,* 114 Wn.2d 1025 (1990); *Spokane v. Port,* 43 Wn.App. 273, 275-76, 716 P.2d 945, *review denied,* 106 Wn.2d 1010 (1986).

The burden that traffic laws and licensing requirements impose upon a single mode of transportation does not implicate the right to interstate travel. *See, e.g., Miller v. Reed*, ___ F.3d ___ (9th Cir. May 24,

[73] Freemen assert that state traffic laws do not apply to them since they were not involved in interstate commerce, arguing that the Commerce Clause (Article I, Section 8) only permits Congress to regulate interstate commerce, and Sovereign Freemen are not bound by any state legislation.

1999); *Monarch Travel Servs., Inc. v. Associated Cultural Clubs, Inc.*, 466 F.2d 552, 554 (9th Cir. 1972) (A rich man can choose to drive a limousine; a poor man may have to walk. The poor man's lack of choice in his mode of travel may be unfortunate, but it is not unconstitutional.); *City of Houston v. FAA*, 679 F.2d 1184, 1198 (5th Cir. 1982) (At most, [the air carrier plaintiffs] argument reduces to the feeble claim that passengers have a constitutional right to the most convenient form of travel. That notion, as any experienced traveler can attest, finds no support whatsoever in [the Supreme Court s right of interstate travel jurisprudence] or in the airlines own schedules.). The Supreme Court of Rhode Island in *Berberian v. Petit*, 374 A.2d 791 (R.I. 1977), put it this way:

> The plaintiff s argument that the right to operate a motor vehicle is fundamental because of its relation to the fundamental right of interstate travel is utterly frivolous. The plaintiff is not being prevented from traveling interstate by public transportation, by common carrier, or in a motor vehicle driven by someone with a license to drive it. What is at issue here is not his right to travel interstate, but his right to operate a motor vehicle on the public highways, and we have no hesitation in holding that this is not a fundamental right.

Berberian, 374 A.2d at 794 (citations and footnotes omitted).

The ability to enforce traffic laws is not dependent upon whether the defendant is a resident of the state. RCW 46.08.070. *See also* the following

Tanner v. Heise, 672 F.Supp. 1356 (D. Idaho 1987), *aff d in part, rev d in part on other grounds,* 879 F.2d 572 (9th Cir. 1989) (driver s claim that as an ambassador for the Kingdom of God he was not subject to driver licensing requirements was rejected);

Jones v. City of Newport, 29 Ark. App. 42, 780 S.W.2d 338, 340 (1989) (driver s claim that he was exempt from a driver licensing requirement because he was an individual freeman at common law was rejected);

Parsons v. State, 113 Idaho 421, 745 P.2d 300 (Idaho App. 1987) (driver s claim that as a free person she was not bound by manmade laws, including driver licensing requirements, absent a contract or agreement in equity with the government rejected); and

State v. Von Schmidt, 109 Idaho 736, 710 P.2d 646 (Idaho App. 1985) (driver s claim that as a free man he was not subject to state driver licensing and motor vehicle laws rejected).

The ability to enforce traffic laws is not dependent upon whether the defendant has a Washington driver s license. RCW 46.20.022.[74] As noted by the Idaho Court of Appeals when it rejected a driver s argument that, in the absence of his acceptance of a motor vehicle operator s license, he has not consented to be regulated by the state

> [Driver] entered into our society when be began to live in it. He has no right to unilaterally withdraw from that society, rejecting his obligations to that body, while at the same time retaining the advantages of that society advantages for which others have sacrificed part of their liberty.

State v. Gibson, 108 Idaho 202, 697 P.2d 1216, 1218 (Idaho App. 1985). *See also Parsons v. State,* 113 Idaho 421, 745 P.2d 300 (Idaho App. 1987) (driver s claim that as a free person she was not bound by man-made laws, including driver licensing requirements, absent a contract or agreement in equity with the government rejected).

The driver s licensing statute applies to non-commercial operators of motor vehicles. *Spokane v. Port,* 43 Wn.App. 273, 277-78, 716 P.2d 945, *review denied,* 106 Wn.2d 1010 (1986); *accord State v. French,* 77

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[74] RCW 46.20.022, which was adopted after Division II s opinion in *Aberdeen v. Cole*, 13 Wn.App. 617, 537 P.2d 1073 (1975), essentially abrogates the holding of *Aberdeen v. Cole*. RCW 46.20.022 provides that

> Any person who operates a motor vehicle on the public highways of this state without a driver's license or nonresident privilege to drive shall be subject to all of the provisions of Title 46 RCW to the same extent as a person who is licensed.

Hawai i 222, 883 P.2d 644 (1994) (rejecting argument that traffic statutes apply only to businesses and State vehicles, not to a sovereign individual who utilizes his vehicle only for personal needs).

My Religious Beliefs Prevent Me From Getting a Driver s License

The State s compelling interest in law enforcement and highway safety justifies licensing of drivers even if it has a coercive effect on an individual s practice of a sincerely held religious conviction. *State v. Clifford,* 57 Wn.App. 127, 787 P.2d 571, *review denied,* 114 Wn.2d 1025 (1990); *see also Miller v. Reed*, ___ F.3d ___, Docket No. 97-17006 (9th Cir. May 24, 1999) (petitioner s § 1983 action claiming that California is violating his religious beliefs by requiring him to disclose his social security number in order to obtain a valid driver s license dismissed as the facially neutral statute is rationally related to California s legitimate interests in locating the whereabouts of errant parents for purposes of carrying out child support programs, collecting tax obligations, and collecting amounts overdue and unpaid for fines, penalties, assessments, bail, and vehicle parking penalties.).

Prosecution for Driving While Suspended When Suspension Due to Failure to Pay Tickets is Unconstitutional Imprisonment for a Debt

Const. art. I, § 17, provides that [t]here shall be no imprisonment for debt, except in cases of absconding debtors. Freemen interpret this section as rendering criminal prosecutions for driving while license suspended in the third degree unconstitutional because such license suspensions are generally the result of failing to pay the fines assessed for traffic infractions.

This interpretation, however, is contrary to decisions rendered by the Washington Supreme Court. *See, e.g., Treffry v. Taylor*, 67 Wn.2d 487, 494, 408 P.2d 269 (1965) (the imposition of a fine or imprisonment for failing to comply with a statute requiring construction contractors to register and post a bond is not imprisonment for debt as proscribed by Const. art. I, § 17, but is a statutory penalty imposed upon any person who knowingly and intentionally violates a lawful mandate of the legislature); *Austin v. Seattle*, 176 Wash. 654, 660-62, 30 P.2d 646 (1934) (a license or excise tax on an occupation does not constitute a debt within Const. art. I, § 17 s prohibition upon imprisonment for debt).

I Do Not Trust Your Record I Want My Own Tape or Video Recording

Frequently Freemen defendants will bring their own tape or video recorder into court. Proceedings in open court are not private communications that require the consent of all the participants in order to record. *See generally State v. Clark,* 129 Wn.2d 211, 226, 916 P.2d 384 (1996); *State v. Slemmer,* 48 Wn.App. 48, 738 P.2d 281 (1987). Nonetheless, the judge has the authority to preclude the use of unofficial recording devises in the courtroom. *See, e.g., Bly v. Henry,* 28 Wn.App. 469, 624 P.2d 717 (1980), *review denied,* 95 Wn.2d 1020 (1981); RCW 2.28.010; RCW 2.28.060.

Frequently Freemen defendants wish to record every conversation they have with a prosecutor, perhaps surreptitiously. Case law would appear to allow this to occur with or without the prosecutor s permission. *Cf. State v. Flora,* 68 Wn.App. 802, 807, 845 P.2d 1355 (1992) (statements made by police officers when effecting an arrest in their official capacity do not constitute "private conversations" within the meaning of RCW 9.73.030, which makes criminal the recording of private conversations without all parties consent). Statements made by a prosecutor as part of plea negotiations, though, are not admissible in court. *See* ER 410[75]; *United States v. Robertson,* 582 F.2d 1356, 1366 (5th Cir.1978); *United States v. Verdoorn,* 528 F.2d

[75] ER 410 provides as follows

> Except as otherwise provided in this rule, evidence of a plea of guilty, later withdrawn, or a plea of nolo contendere, or of an offer to plead guilty or nolo contendere to the crime charged or any other crime, or of statements made in connection with, and relevant to, any of the foregoing pleas or offers, is not admissible in any civil or criminal proceeding against the person who made the plea or offer. However, evidence of a statement made in connection with, and relevant to, a plea of guilty, later withdrawn, a plea of nolo contendere, or an offer to plead guilty or nolo contendere to the crime

103, 107 (8th Cir.1976); *State v. Woodsum,* 137 N.H. 198, 624 a.2d 1342 (1993); *State v. Davis,* 70 Ohio App.2d 48, 51, 434 N.E.2d 285, 287-88 (1980); *State v. Pearson,* 818 P.2d 581, 583 (UtahCt.App. 1991).

Let Me Out of Jail Now!!! Writs of Habeas Corpus

Jurisdiction. The superior court, the court of appeals, and the supreme court have concurrent jurisdiction in habeas corpus proceedings. RCW 7.36.040; *Tolliver v. Olsen,* 109 Wn.2d 607, 610, 746 P.2d 809 (1987). A superior court s jurisdiction over the writ, however, is limited to persons in actual custody in the county in which the superior court is located. Washington Const. art. IV, § 6 (Said courts and their judges shall have power to issue &writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties); *Conway v. Cranor,* 37 Wn.2d 303, 233 P.2d 452 (1950), *cert. denied,* 304 U.S. 915 (1951).

Availability Pre-Trial. The function of the writ of habeas corpus was to set free people who had been imprisoned illegally. The writ was not a substitute for appeal and the celebrated Habeas Corpus Act of 1679 explicitly excluded from its operation persons convicted of a felony. 31 Car. 2, ch. 2.

In this country, the writ was guaranteed against suspension in the original Constitution. See U. S. Const., Art. I, § 9, cl. 2. This clause, however, was well understood to refer to habeas for **federal** prisoners. The First Congress, consisting largely of the same people who wrote and ratified the Constitution, flatly prohibited the issuance of habeas for state prisoners by federal courts, except to bring them into federal court to testify. *See* Judiciary Act of 1789, § 14, 1 Stat. 81. This provision was found to be constitutional. See *Calder v. Bull*, 3 U.S. 386, 390 (1798).

The Washington Constitution also contains a guarantee against the suspension of the writ of habeas corpus. *See* Wash. Const. art. 1, § 13. This provision of the Washington Constitution preserves the writ of habeas corpus as it existed when the constitution was adopted. *In re Personal Restraint of Runyan*, 121 Wn.2d 432, 441, 853 P.2d 424 (1993).

RCW 7.36.130 is derived from a statute passed by the first legislature of Washington Territory. As originally enacted, the statute was a strict limitation on the writ of habeas corpus

> No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge him when the term of confinement has not expired, in either of the cases following:
>
> 1. Upon any process issued on any final judgment of a court of competent jurisdiction...
>
> 3. Upon a warrant issued by the superior court upon an indictment or information.

Laws of 1854, p. 213, §445 (codified as Remington s Revised Statutes § 1075). This statute remained in effect without amendment for over 90 years. The decisions of the Supreme Court made two points unmistakably clear: R.R.S. § 1075 was constitutional, and it meant what it said.

Shortly after Washington became a state, this statute was unanimously upheld by the Washington Supreme Court. *In re Lybarger*, 2 Wash. 131, 25 P. 1075 (1891). The petitioner in *Lybarger* claimed that R.R.S. § 1075 was unconstitutional because it did not allow the court, in habeas corpus proceedings, to go behind the final judgment of a court of competent jurisdiction for any purpose whatsoever. The petitioner claimed that the writ of habeas corpus is a high prerogative writ known to the common law, and that it is this common-law writ that is secured to us by the constitution of the United States and of this state. *Lybarger*, 2 Wash. at 134.

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charged or any other crime, is admissible in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath and in the presence of counsel. This rule does not govern the admissibility of evidence of a deferred sentence imposed under RCW 3.66.067 or RCW 9.95.200 to .240.

While some commentators have questioned whether the phrase against the person who made the plea or offer covers statements made by the prosecution, these commentators recognize that such statements would be protected by ER 408. *See, e.g.,* 5 K. Tegland, Wash. Prac., *Evidence Law and Practice* § 138, at 499 (3d ed. 1989).

The court s opinion was authored by John P. Hoyt, the president of the 1889 constitutional convention that had drafted Const. art. 1, § 13. *See* B. Rosenow, THE JOURNAL OF THE WASHINGTON STATE CONSTITUTIONAL CONVENTION (1889; B. Rosenow ed. 1962), at 468. The opinion was concurred in by two other former delegates to the constitutional convention, R. O. Dunbar and Theodore L. Stiles. *Id*.

The Court examined the common law practice, and determined that it had been **more** restrictive than R.R.S. § 1075. Under the common law, a return to the writ of habeas corpus could not be challenged. If the return claimed that the prisoner was held by virtue of process issued by a court of competent jurisdiction, further inquiry was precluded: the court would not even decide whether the alleged process **existed**. *Lybarger*, 2 Wash. at 134-36.

Justice Hoyt ruled:

> in the absence of a statute authorizing it, the supreme court could not go behind a judgment of a court of general jurisdiction to inquire as to the fact of jurisdiction in a particular case...[and that based upon] an examination of all the cases that we have been able to find we think our statute is constitutional, and that under it we are precluded from questioning a judgment of a court of general jurisdiction fair upon its face.

Lybarger, 2 Wash. at 136. Surely these judges understood the constitution that they themselves had adopted two years earlier.

Over the ensuing years, the Washington Supreme Court consistently refused to consider the challenges that were not apparent on the face of the judgment or to determine the validity of a detention upon an untried information. For example, the Court would not consider claims that the judge lacked authority to impose sentence, unless that fact appeared on the face of the judgment. *Compare In re Horner*, 19 Wn.2d 51, 141 P.2d 151 (1943) (claim considered because facts appeared on face of judgment) *with In re Voight*, 130 Wash. 140, 226 P. 482 (1924) (claim not considered because facts did not appear on face of judgment). The Court would not consider a claim that the defendant had been tricked into pleading guilty by the prosecutor s false promises. *In re Gerard*, 25 Wn.2d 237, 170 P.2d 332 (1946). The Court would not even consider a claim that the petitioner had been convicted of violating a statute that did not exist at the time

> To say that an unconstitutional law or a repealed law is no law is both logical and sound, but to say that a judgment of a court of competent jurisdiction is no judgment, because some question of law properly before it was decided erroneously, is ... a non sequitur. The rule here announced fully satisfies the constitutional guaranties respecting the writ of habeas corpus, and prescribes an orderly system for the administration of public justice.

In re Newcomb, 56 Wash. 395, 404, 105 P. 1042 (1909).

The Court would not consider a claim that a petitioner who was detained pending trial was charged with statutes that had been repealed. *See Ex parte Hamilton*, 56 Wash. 405, 105 P.2d 1046 (1909). The Court would not consider a claim that a petitioner was detained pending trial on an illegal information that charged an unconstitutional statute. *Ex parte Putnam*, 58 Wash. 687, 109 P. 111 (1910).

The Washington Supreme Court reemphasized the scope of the constitutional privilege of the writ of habeas corpus in *In re Grieve*, 22 Wn.2d 902, 158 P.2d 73 (1945). The decision was written to make it clear to certain unnamed and unknown advocates that were clogging the motion calendar with improper habeas corpus writs that

> the writ of habeas corpus cannot be used as a medium to review trial errors, but that its authorized use is limited by law to those cases where it appears that the judgment and sentence, by virtue of which the petitioner is held in confinement, is void on its face.

Grieve, 22 Wn.2d at 904.

The Court went on to state that

> In this opinion, we have, in addition to deciding the instant case, endeavored to make it clear that allegations that the petitioner was convicted by a confession secured by third-degree methods, or pleaded guilty upon the promise that he would receive a light sentence, or under a threat of the prosecuting attorney that he would be shot unless he did so, or was convicted because the trial judge refused to suppress evidence secured without a search warrant, all of which allegations, with others of a similar nature, have been hopefully set up as a basis for many of the numerous petitions, hereinabove referred to, furnish no basis for the issue of a writ of habeas corpus by the courts of this state to release a petitioner detained by virtue of a judgment and sentence fair on its face.

Grieve, 22 Wn.2d at 911-12.

These restrictions on the scope of habeas corpus were never altered by the Supreme Court; they were changed by the legislature. In 1947, the legislature expanded the scope of review in habeas corpus petitions filed after conviction. See R.R.S. § 1075. The legislature, however, has never removed the restriction applicable to individuals who are detained upon a warrant issued from the superior court upon an indictment or information. Current RCW 7.36.130 provides as follows

> No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge the party when the term of commitment has not expired, in either of the cases following:
>
> (1) Upon any process issued on any final judgment of a court of competent jurisdiction except where it is alleged in the petition that rights guaranteed the petitioner by the Constitution of the state of Washington or of the United States have been violated and the petition is filed within the time allowed by RCW 10.73.090 and 10.73.100.
>
> (2) For any contempt of any court, officer or body having authority in the premises to commit; but an order of commitment, as for a contempt upon proceedings to enforce the remedy of a party, is not included in any of the foregoing specifications.
>
> (3) Upon a warrant issued from the superior court upon an indictment or information.

Thus, Freemen claims that the court lacks jurisdiction over them because of the nature of the flag, the absence of a grand jury indictment, the capitalization of their names, etc., are not cognizable in a pre-trial habeas corpus action.

Standing. Neither a federal court nor a state court has jurisdiction over an action unless the litigant demonstrates standing. *Whitmore v. Arkansas*, 495 U.S. 149, 110 S.Ct. 1717, 109 L. Ed. 2d 135, (1990); *Improvement Ass'n. v. Pierce County*, 106 Wn.2d 797, 710, 724 P.2d 1009 (1986). The doctrine of standing requires that a person must have a stake in the outcome of a case in order to bring the action. *Gustafson v Gustafson*, 47 Wn.App. 272, 276, 734 P.2d 949 (1987). [O]ne seeking relief must show a clear legal or equitable right and a well-grounded fear of immediate invasion of that right. *Id.* It is well settled that a person whose only interest in a legal controversy is one shared with citizens in general has no standing to invoke the power of courts to resolve the dispute. *Casebere v. Civil Service Comm'n.*, 21 Wn.App. 73, 76, 584 P.2d 416 (1978); *see also Vovos v. Grant*, 87 Wn.2d 697, 555 P.2d 1343 (1976).

The doctrine of standing prohibits a litigant from raising another s legal rights. *Omega Nat'l Ins. Co. v. Marquardt*, 115 Wn.2d 416, 432, 799 P.2d 235 (1990); *Haberman v. WPPSS*, 109 Wn.2d 107, 138, 744 P.2d 1032 (1987). One limited exception to this requirement is the doctrine of next friend standing, in which a non-party is allowed to pursue an action (most commonly, a habeas corpus petition) on behalf of the real party in interest. The threshold inquiry in a next friend action does not depend in any way upon the merits of the claims, but instead upon the standing of the friend to file the action on behalf of the real party in interest. *Whitmore v. Arkansas*, 495 U.S. at 163.

There are at least two firmly-rooted prerequisites for next friend standing

> First, a next friend must provide an adequate explanation such as inaccessibility, mental incompetence, or other disability why the real party in interest cannot appear on

> his own behalf to prosecute the action....Second, the next friend must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate, ...and it has been further suggested that a next friend must have some significant relationship with the real party in interest.

Whitmore, 495 U.S. at 163-64 (citations omitted); *Demosthenes v. Baal*, 495 U.S. 731, 736, 110 S.Ct. 2223, 2225, 109 L. Ed. 2d 762 (1990). The purported next friend bears the heavy burden clearly to establish the propriety of her status. *Baal, supra; Whitmore*, 495 U.S. at 164; *Wells by Kehne v. Arave*, 18 F.3d 656, 658 (9th Cir. 1994). These limitations on the next friend doctrine are driven by the recognition that [i]t was not intended that the writ of habeas corpus should be availed of, as a matter of course, by intruders or uninvited meddlers, styling themselves next friends . *Whitmore*, 495 U.S. at 164 (quoting *United States ex rel. Bryant v. Houston*, 274 F. 915, 916 (2d Cir. 1921)). In the absence of any meaningful evidence of incompetency, there is no basis for next friend standing, nor is there any reason to hold an evidentiary hearing on the subject. *Baal*, 495 U.S. at 736.

In the context of a state habeas corpus action, a next friend may bring a petition on behalf of an incarcerated individual only when the terms of RCW 7.36.020 are met. This statute provides that

> Writs of habeas corpus shall be granted in favor of parents, guardians, limited guardians where appropriate, spouses, and next of kin, and to enforce the rights, and for the protection of infants and incompetent or disabled persons within the meaning of RCW 11.88.010; and the proceedings shall in all cases conform to the provisions of this chapter.

Case law establishes that this statute is only met in the context of criminal cases when the defendant has been established to be mentally incompetent by a court of competent jurisdiction. *See generally In re Hews*, 108 Wn.2d 579, 741 P.2d 983 (1987) (court appointed defendant s mother as guardian to litigate a personal restraint petition on behalf of her son who was incompetent to assist counsel).

Note, though, that no one may serve as next friend who has been convicted of a felony or of a misdemeanor involving moral turpitude. *See* RCW 11.88.020.

Non-Lawyer Preparation of Pleadings. Washington prohibits the practice of law by individuals who have not been admitted to the practice of law by the Washington Supreme Court.[76] *See* RCW 2.48.170. An individual who has not been admitted to the practice of law by the Washington Supreme Court who nonetheless practices law is guilty of a crime. *See* RCW 2.48.180.[77]

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[76] Only the Supreme Court can authorize an individual to practice law in Washington. Statues that purport to authorize someone to practice law are unconstitutional as a violation of the separation of power doctrine. *Hagan v. Kassler Escrow, Inc.*, 96 Wn.2d 443, 451-52, 635 P.2d 730 (1981); *State v. Hunt*, 75 Wn.App. 795, 805, 880 P.2d 96, *review denied*, 125 Wn.2d 1009 (Div. 2 1994).

[77] *See Charging Options How to Fit a Square Peg Into a Round Hole, supra,* for basic jury instructions for unlawful practice of law prosecutions. Additional instructions for this situation include

> NO.
> An individual who is charged with a criminal offense has a constitutional right to the assistance of counsel. A criminal defendant s right to the assistance of counsel does not include the right to be represented by an advocate who is not a member of the State Bar.
>
> *United States v. Wheat,* 486 U.S. 153, 159, 100 L. Ed. 2d 140, 108 S.Ct. 1692, 1697 (1988)

> NO.
> A next friend or guardian is an individual who directs an action for another person. A next friend or guardian may prosecute a habeas corpus petition seeking the release of an incarcerated person only if the incarcerated person has been found to be incompetent or disabled. Next friend or guardian status does not authorize the practice of law.
>
> RCW 7.36.020
> *Whitmore v. Arkansas,* 495 U.S. 149, 110 S.Ct. 1717, 109 L. Ed. 2d 135, (1990) (next friend doctrine in the context of habeas corpus litigation requires that the next friend establish an adequate explanation such as inaccessibility, mental incompetence, or other disability why the real party in interest cannot appear on his own behalf to prosecute the action.)
> *Demosthenes v. Baal,* 495 U.S. 731, 736, 110 S.Ct. 2223, 2225, 109 L. Ed. 2d 762 (1990) (in the absence of any meaningful evidence of incompetency, there is no basis for next friend standing)

Although an individual may prepare a habeas corpus petition and related pleadings for himself or herself under the pro se exception to the unauthorized practice of law, *see* RCW 2.48.190, an individual may not transfer his or her pro se rights to another. *See, e.g., Washington State Bar Ass'n v. Great W. Union Fed. Sav. & Loan Ass'n*, 91 Wn.2d 48, 57, 586 P.2d 870 (1978) (The pro se exceptions are quite limited and apply only if the layperson is acting solely ***on his own behalf*** [emphasis in the original]); *State v. Hunt*, *supra* (paralegal was not allowed to exercise his client s pro se rights); *Gilman v. Kipp*, 519 N.Y.S.2d 314, 315, 136 Misc. 860 (1987) (The inherent right of a person to appear pro se in legal proceedings cannot be assigned to anther by executing the power of attorney.); *In re Baker*, 85 A.2d 505, 514 (N.J. 1951) (the consequences of a UPL statute cannot be avoided merely by preparing for and having the client execute a document designating the unlicensed practitioner an attorney-in-fact.).

The pro se exception does not allow a next friend or guardian to practice law on behalf of an incompetent person. *See Chisholm v. Rueckhaus*, 124 N.M. 255, 948 P.2d 707, 709-10, *cert. denied*, 124 N.M. 268, 949 P.2d 282 (1997) (rule allowing representative to sue or defend on behalf of child or one otherwise legally incompetent does not create exception to general prohibition on unauthorized practice of law); *State v. Hunt*, 75 Wn.App. 795, 805, 880 P.2d 96, *review denied*, 125 Wn.2d 1009 (Div. 2 1994) (a statutory power of attorney does not authorize the agent to act pro se in the place of the principal.... Furthermore, to the extent that Washington s statutes allowing use of powers of attorney would allow the unlicensed practice of law, they are unconstitutional....If the Legislature purported to allow laypersons to practice law, it impermissibly usurped the power of the courts and violated the separation of powers doctrinee); *Christiansen v. Melinda*, 857 P.2d 345, 347-349 (Alaska 1993) (rejecting the argument that because a durable power of attorney allows the agent to act as the principal, and the principal would be able to proceed to court pro se, therefore the agent with a power of attorney can litigate pro se for the principal); *J.W. v. Superior Court*, 17 Cal.App.4th 958, 22 Cal.Rptr.2d 527, 529-33 (Ct.App.1993) (neither common law nor guardianship statutes sanction an exception to the State Bar Act prohibition against the unauthorized practice of law in favor of guardians acting for their wards). The pro se exception also does not allow a person to prepare habeas corpus pleadings on behalf of a spouse or child. *See, e.g., State v. Stange*, 53 Wn.App. 638, 648, 769 P.2d 873 (1989) (father may not file pro se supplemental brief on behalf of juvenile offender); *City of Seattle v. Shaver,* 23 Wn.App. 601, 597 P.2d 935 (1979) (layman husband could not represent wife in a prosecution for failure to yield right-of-way). Thus, even if a Freeman can establish next friend status, unless the Freeman is admitted to practice law in Washington, he or she will have to hire an attorney to prepare the legal pleadings and to present argument to the court on behalf of the incompetent detainee.

Chisholm v. Rueckhaus, 124 N.M. 255, 948 P.2d 707, 709-10, *cert. denied,* 124 N.M. 268, 949 P.2d 282 (1997) (rule allowing representative to sue or defend on behalf of child or one otherwise legally incompetent does not create exception to general prohibition on unauthorized practice of law)

State v. Hunt, 75 Wn.App. 795, 805, 880 P.2d 96, *review denied,* 125 Wn.2d 1009 (Div. 2 1994) (a statutory power of attorney does not authorize the agent to act pro se in the place of the principal....Furthermore, to the extent that Washington s statutes allowing use of powers of attorney would allow the unlicensed practice of law, they are unconstitutional....If the Legislature purported to allow laypersons to practice law, it impermissibly usurped the power of the courts and violated the separation of powers doctrine.)

Christiansen v. Melinda, 857 P.2d 345, 347-349 (Alaska 1993) (rejecting the argument that because a durable power of attorney allows the agent to act as the principal, and the principal would be able to proceed to court pro se, therefore the agent with a power of attorney can litigate pro se for the principal)

J.W. v. Superior Court, 17 Cal.App.4th 958, 22 Cal.Rptr.2d 527, 529-33 (Ct.App.1993) (neither common law nor guardianship statutes sanction an exception to the State Bar Act prohibition against the unauthorized practice of law in favor of guardians acting for their wards)

NO.

No person is qualified to serve as a next friend or guardian who has been convicted of a felony or of a misdemeanor involving moral turpitude

RCW 11.88.020(3)

Removal of Action to Federal Court Diversity Claims

Federal district courts have been granted original jurisdiction of all suits of a civil nature, at common law or in equity, where there is the requisite diversity of citizenship and the amount in controversy exceeds $50,000. 28 U.S.C. § 1332(a), formerly codified as 28 U.S.C. § 41(1). This grant of jurisdiction has essentially remained unaltered since the adoption of the Judiciary Act of 1911, except for an upward adjustment of the amount in controversy. *Compare* 28 U.S.C. § 1332(a) *with* § 24(1), Judiciary Act of 1911, 36 Stat. 1091.

In discussing the scope of the district court s diversity jurisdiction under the Judiciary Act of 1911, the Supreme Court stated that:

> In this grant of jurisdiction of causes arising under state as well as federal law the phrase suits of a civil nature is used in contradistinction to crimes and offenses, as to which the jurisdiction of the District Courts is restricted by section 24(2), 28 U.S.C.A. § 41(2), to offenses against the United States. Thus, suits of a civil nature within the meaning of the section are those which do not involve criminal prosecution or punishment, and which are of a character traditionally cognizable by courts of common law or of equity. Such are suits upon a judgment, foreign or domestic, for a civil liability, of a court having jurisdiction of the cause and of the parties, which were maintainable at common law upon writ of debt, or of indebitatus assumpsit. [Footnote omitted.]

Milwaukee County v. M.E. White Co., 296 U.S. 268, 56 S.Ct. 229, 231, 80 L. Ed. 220 (1935).

Removal of state criminal prosecutions to federal court on the grounds of diversity of citizenship are, therefore, properly rejected. In addition, a federal court may not become involved in a state criminal prosecution where, as in Washington courts, there is a mechanism for litigating federal constitutional claims until after the criminal defendant fully exhausts all of his state court remedies. *See generally Harris v. Reed*, 489 U.S. 255, 109 S.Ct. 1038, 103 L. Ed. 2d 308 (1989); *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L. Ed. 2d 669 (1971).

Removal of a state infraction to federal court on a diversity theory is impossible because of the amount in controversy. The amount in controversy on a civil infraction is the amount of the fine plead on the infraction. *See City of Bremerton v. Spears*, 134 Wn.2d 141, 151, 949 P.2d 347 (1998). In general, the amount sought is well under $500.00. *See generally* IRLJ 6.2; RCW 46.63.110(a) (amount of infractions not to exceed $250.00).

You Owe Me Money Damages Under 42 U.S.C. 1983

It is well-established that a litigant who claims an underlying state court conviction was obtained through unconstitutional conduct must first have his or her conviction overturned on those grounds through a federal or state habeas petition before the litigant may seek damages under Section 1983. *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994). A failure by the litigant to establish that he or she was acquitted or that any conviction was subsequently overturned is fatal to such a claim. *See, e.g., Schneider v. Schlaefer*, 975 F.Supp. 1160, 1164-65 (E.D. Wis. 1997) (dismissing civil rights action predicated upon a claim that all prior court proceedings were unconstitutionally conducted under authority of form of flag representing foreign power); *Sadlier v. Payne,* 974 F.Supp. 1411, 1412 (D. Utah 1997) (same).

A Freeman s claims against a judge for damages under Section 1983 are subject to dismissal on grounds of absolute judicial immunity, insofar as the conduct the judges are alleged to have taken fell within their jurisdiction and the scope of their judicial duties. *See Stump v. Sparkman*, 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978).

A Freeman s claims against a prosecutor will be subject to dismissal on grounds of absolute prosecutorial immunity, insofar as the conduct the prosecutor is alleged to have taken falls within the scope

of their prosecutorial duties and functions. *See Imbler v. Pachtman*, 424 U.S. 409, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976); *Kalina v. Fletcher,* 522 U.S. 118, 118 S.Ct. 502, 139 L.Ed.2d 471 (1997).

Actions that are entitled to absolute immunity include: (1) those performed as an advocate for the State such as the initiation of prosecution and the presentation of testimony; and (2) the out-of-court professional evaluation of the evidence assembled by the police and appropriate preparation for its presentation at trial or before a grand jury after a decision to file charges has been made. *See, e.g., Buckley v. Fitzsimmons*, 509 U.S. 259, 113 S.Ct. 2606, 125 L.Ed.2d 209 (1993); *Fletcher, supra*.

Challenges to Payment of Court Obligation with Paper Money

Money as defined in Washington includes gold, silver, and legal tender of the United States of America. RCW 84.04.060. Legal tender is valid under Washington law for the payment of taxes, debts, fines, and other obligations. *See generally Trohimovich v. Labor & Industries,* 73 Wn.App. 314, 319, 869 P.2d 95 (1994); *Federal Land Bank v. Redwine*, 51 Wn.App. 766, 769, 755 P.2d 822 (1988) (land patent filed by Freeman litigant in order to avoid foreclosure of family farm).

I Want My Property Returned Fingerprints, Etc.

The question of the return or expunction of arrest records spurred a flurry of litigation in the 1970s. In *Eddy v. Moore*, 5 Wn.App. 334, 487 P.2d 211, *review denied*, 79 Wn.2d 1012 (Div. 1 1971), Division I of the Washington Court of Appeals held that police retention of an exonerated defendant s fingerprints and photograph violated her constitutional right of privacy. Subsequent to the release of the *Eddy* opinion, the United States Supreme Court issued an opinion in which the Court rejected an individual s post-dismissal of charges claim that the chief of police s distribution of his name and photograph in an active shoplifter s flyer violated his constitutional right to privacy. *Paul v. Davis*, 424 U.S. 693, 96 S.Ct. 1155, 47 L. Ed. 2d 405 (1976).

Following the Supreme Court s decision in *Eddy*, Division II of the Washington Court of Appeals had an opportunity to revisit the question of whether an exonerated defendant s right to privacy is violated by police retention of fingerprints and booking photographs. In *State v. Adler*, 16 Wn.App. 459, 558 P.2d 817 (Div. 2 1976), *review denied*, 88 Wn.2d 1011 (1977), Division II held that an individual has no constitutional right to privacy in photograph taken of him in connection with an earlier criminal charge that resulted in acquittal.

Since the *Adler* decision, no other Washington case has addressed the return of fingerprints issue. Our appellate courts, however, have addressed the limits of the court s authority over records held by police agencies. In *State v. Gilkinson*, 57 Wn.App. 861, 790 P.2d 1247 (1990), the Court of Appeals determined that courts lack the inherent authority to delete and expunge criminal records. Rather, any alteration of criminal records may only be conducted pursuant to statute.

While a prior statute[78] permitted the destruction of identifying information held by the Washington State Patrol following an acquittal or the dismissal of charges, no statute currently allows a court to order the purging of fingerprints maintained by a city or county police agency. *See generally State v. Gilkinson*, 57 Wn.App. at 864 n.2 (court s authority to delete or modify non-conviction records under RCW 10.97.060 does not extend to ordering the destruction or expungement of the police records). *See also* RCW 13.50.050(22) (No identifying information held by the Washington state patrol in accordance with chapter

78 Former RCW 43.43.730 provided that

> When any person, having no prior criminal record, whose fingerprints and/or other identifying data were submitted to and filed at the section, shall be found not guilty of the offense for which the fingerprints and/or other identifying data were sent to the section, or be released without a conviction being obtained, his fingerprints and/or other identifying data and all copies thereof on file at the section shall be destroyed by the section, Provided such person requests said destruction after the finding of not guilty or after the release.

Former RCW 43.43.730(1), quoted in *State v. Adler*, 16 Wn.App. 459, 464, 558 P.2d 817 (Div. 2 1976), *review denied*, 88 Wn.2d 1011 (1977). This statute only applied to State Patrol records and not to records held by city or county police agencies. *Adler*, 16 Wn.App. at 464.

43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.).

TRIAL ISSUES

Defendant s Clothes

In our experience, most Freemen who have been detained prior to trial will insist upon wearing jail clothing during trial. A defendant s wearing of jail clothing during a jury trial does not violate the defendant s constitutional rights unless the defendant has been compelled to wear such clothing. *Estelle v. Williams,* 425 U.S. 501, 96 S.Ct. 1691, 48 L.Ed.2d 126 (1976). A defendant s failure to arrange for civilian clothing or to object at the time of trial to the jail garb is sufficient to negate the presence of compulsion necessary to establish a constitutional violation. *Estelle v. Williams,* 96 S.Ct. at 1697.

The best course to follow when dealing with a pro se Freeman who has been detained prior to trial is to have the jail offer to assist him or her in obtaining civilian clothing for trial. If the defendant rejects the offer, the defendant should be brought before the court to be advised by the judge that the jury might draw adverse inferences from the Freeman s appearance in jail attire, and that the court is willing to assist the Freeman in obtaining civilian clothing for the trial. If the defendant still rejects civilian clothing, the colloquy with the court will ensure a knowing and intelligent waiver of any prejudice that might inure to the wearing of jail clothing.

Defendant s Refusal to Leave the Jail

Some Freemen defendants have refused to leave their cell to come to court. If the hearing is a non-evidentiary one, such as an arraignment, the video conference procedure contained in GR 19 may be used. If video conferencing equipment is not available, the court, essential court personnel, the prosecutor, and the defense attorney, if any, may choose to hold the hearing in the hallway immediately adjoining the defendant s cell. The final option, when a jury is not present, is to bring the defendant under force to court in a wheelchair.

If the defendant refuses to come to court for trial, a colloquy should be conducted by the court with the defendant regarding the fact that the defendant s refusal to attend the proceedings will be deemed to be a knowing and intelligent waiver of the defendant s presence at trial. *See generally State v. Hammond,* 121 Wn.2d 787, 854 P.2d 637 (1993).

The defendant s refusal to answer questions during the colloquy will not bar a court from finding an implicit waiver of the defendant s right to attend the trial so long as there is a record that the detained defendant was personally advised that the trial would be starting at a certain time and his presence is required at that time in the courtroom. *See, e.g., Taylor v. United States,* 414 U.S. 17, 38 L.Ed.2d 174, 94 S.Ct. 194 (1973) (defendant s mid-trial flight from courtroom waived his right to attend the remainder of the trial); *State v. DeWeese,* 117 Wn.2d 369, 380-81, 816 P.2d 1 (1991) (pro se defendant waived his right to be present during trial by engaging in disruptive behavior); *State v. Rice,* 110 Wn.2d 577,619-20,757 P.2d 889 (1988), *cert. denied,* 491 U.S. 910 (1989) (capital defendant implicitly waived his right to be present when the special sentencing proceeding verdict was returned by attempting to commit suicide).

Witness Etiquette

In most state courtrooms, the attorneys are allowed to freely roam the courtroom and no restriction is placed upon where the attorney stands during questioning. Some witnesses have expressed discomfort with how close a pro se Freeman defendant stood next to them while conducting cross-examination. The best practice when dealing with a pro se defendant is to ask the court, pursuant to ER 611(a), to restrict how close any questioner can stand vis-a-vis the witness.

Disruptive Defendant

A judge does not have to accept disruptive behavior on the part of a criminal defendant. As noted by the United States Supreme Court

> It is essential to the proper administration of criminal justice that dignity, order, and decorum be the hallmarks of all court proceedings in our country. The flagrant disregard in the courtroom of elementary standards of proper conduct should not and cannot be tolerated. We believe trial judges confronted with disruptive, contumacious, stubbornly defiant defendants must be given sufficient discretion to meet the circumstances of each case. No one formula for maintaining the appropriate courtroom atmosphere will be best in all situations. We think there are at least three constitutionally permissible ways for a trial judge to handle an obstreperous defendant &(1) bind and gag him, thereby keeping him present; (2) cite him for contempt; (3) take him out of the courtroom until he promises to conduct himself properly.

Illinois v. Allen, 397 U.S. 337, 343-44, 25 L.Ed. 2d 353, 90 S.Ct. 1057 (1970). The manner of maintaining order in the courtroom is within the trial judge s discretion, but the least severe remedy to accomplish the result is preferable. *State v. DeWeese,* 117 Wn.2d 369, 380, 816 P.2d 1 (1991); *Burgess v. Towne,* 13 Wn.App. 954, 960, 538 P.2d 559 (1975).

Summary Contempt. Supreme Court justices and commissioners, court of appeals judges and commissioners, superior court judges and commissioners, municipal court judges, and district court judges and commissioners may all punish an individual for direct contempt under RCW 7.21.050. *See* RCW 7.21.020.

A jury is not required, *State v. Hobble,* 126 Wn.2d 283, 892 P.2d 85 (1995), but the sanction that may be imposed is limited to a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both, for each separate incident of contempt. RCW 7.21.050(2).

Any summary contempt order should recite that the contempt was seen or heard by the judge and should recite the facts of the contempt. *Hobble,* 126 Wn.2d at 295; RCW 7.21.050(1). The contemnor must also be provided with an opportunity to speak in mitigation of the circumstances. *Hobble,* 126 Wn.2d at 296; RCW 7.21.050(1).

Coercive Contempt. A defendant s refusal to comply with a lawful order of the court can yield a coercive contempt order. Such an order is appropriate when the defendant refuses to affix his or her fingerprints to the judgment and sentence, to provide a handwriting exemplar, or to perform other similar affirmative acts. A coercive contempt order may be summarily imposed. RCW 7.21.050(1). A coercive contempt order for failure to comply with a lawful discovery order will toll the speedy trial period. *State v. Miller,* 74 Wn.App. 334, 344-45, 873 P.2d 1197 (1994).

A coercive contempt order can provide the Freeman, the prosecutor, and the judge with breathing room. Often continuing the matter for a week or two pursuant to a coercive contempt order will result in the loss of the Freeman s audience. Once fellow supporters are absent, the Freeman defendant may be willing to voluntarily affix his or her fingerprints to the judgment and sentence,[79] or may agree to comply with other discovery orders. A coercive contempt order that has been used in a Freeman prosecution follows.

CAPTION FOR ORDER RE: CONTEMPT

THIS MATTER having come on for sentencing following the jury's verdict of "guilty" on all counts; the defendant appearing pro se after having previously waived counsel; the State of Washington appearing by and through Patricia M. Stuart and Pamela B. Loginsky, Deputy Prosecuting Attorneys in and for Kitsap County;

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[79] A defendant s continued refusal to affix his or her fingerprints to the original judgment and sentence can be responded to with the use of force. *See generally* RCW 43.43.750. While the officer who obtains the fingerprints through force has statutory immunity from civil and criminal liability, RCW 43.43.750, it is always preferable for the officer to obtain the fingerprints in open court under the direct order of the judge so that judicial immunity will offer another layer of protection from suit.

and the court having directly observed VERYL EDWARD KNOWLES refusal to place his fingerprints upon the judgment and sentence as required by RCW 10.64.110, now therefore, enters the following:

FINDINGS OF FACT

I.

The defendant, VERYL EDWARD KNOWLES, has been ordered by the court to place his fingerprints upon the judgment and sentence that has been entered by this court on the 20th day of May, 1996.

II.

The defendant, VERYL EDWARD KNOWLES, refused to obey this direct order of the court in the presence of the undersigned judge.

III.

The defendant s refusal to obey the lawful order of this court constitutes contempt.

IV.

The defendant, VERYL EDWARD KNOWLES, has the power to perform the required act and to purge the contempt.

Based upon the foregoing findings of fact, the court enters the following:

CONCLUSIONS OF LAW

I.

That the above-entitled Court has jurisdiction over the subject matter and parties of this action.

II.

Every original judgment and sentence is required to have the fingerprints of the defendant affixed to it. RCW 10.64.110.

Based upon the foregoing findings of fact and conclusions of law, the court enters the following:

ORDER

I.

The defendant, VERYL EDWARD KNOWLES, is found in contempt of court.

II.

The remedial sanction of incarceration as authorized by RCW 7.21.030(2)(a) is imposed until the defendant, VERYL EDWARD KNOWLES, is willing to affix his fingerprints to the judgment and sentence.

III.

While the defendant is incarcerated pursuant to this contempt order, he shall receive no credit for time served against the judgment and sentence entered in this cause number or against the judgment and sentence entered in Kitsap County cause number 95-1-01138-0.

IV.

The defendant, VERYL EDWARD KNOWLES, may request a hearing at any time in order to advise the court of his willingness to purge the instant contempt.

V.

The defendant, VERYL EDWARD KNOWLES, shall be brought before the court on _____, at _____ p.m./a.m., and on every _____ _____, thereafter, so that inquiry can be made upon whether the defendant is now willing to purge the instant contempt.

Gagging and binding. There appears to be only one Washington appellate case in which a disruptive defendant was gagged. While affirming the defendant s convictions, *State v. Crawford,* 21 Wn.App. 146, 150, 584 P.2d 442 (1978), *review denied,* 91 Wn.2d 1013 (1979) does not establish a specific test to be used in determining whether to gag a defendant.

Removal of Defendant. If the defendant is removed from the courtroom, efforts should be made to allow the defendant to still observe the proceedings over a video monitor. *See, e.g., State v. DeWeese,* 117 Wn.2d 369, 380, 816 P.2d 1 (1991). The defendant should periodically be provided with an opportunity to return to the courtroom.

If the removed defendant is pro se, he should be provided the opportunity to write out cross-examination questions for the State s witnesses to either be asked by stand-by counsel or the court with a proper instruction to the jury that the questions are those of the defendant and not those of counsel or the court. *See State v. Estabrook,* 68 Wn.App. 309, 313-14, 842 P.2d 1001, *review denied,* 121 Wn.2d 1024 (1993).

Physical Restraints

The rule that a criminal defendant is entitled to appear at trial free of manacles or bonds is described as ancient and was recognized as early as 1722. *State v. Williams,* 18 Wash. 47, 49, 50 P. 580 (1897); *see Illinois v. Allen,* 397 U.S. 337, 344, 90 S.Ct. 1057, 25 L.Ed.2d 353 (1970).

This right is based upon the legal principle that a person accused of a crime is presumed innocent until guilt has been established beyond a reasonable doubt. *United States v. Samuel,* 431 F.2d 610 (4th Cir. 1970). Courtroom practices that unnecessarily mark the defendant as dangerous or guilty undermine the presumption of innocence. *Samuel,* 431 F.2d at 614. If a defendant is to be presumed innocent, he or she must be allowed the indicia of innocence. *Id.*

Shackling or handcuffing a defendant has also been discouraged because it restricts the defendant's ability to assist his counsel during trial, it interferes with the right to testify in one's own behalf, and it offends the dignity of the judicial process. *See Allen*, 397 U.S. at 344; *State v. Finch*, ___Wn.2d ___, 975 P.2d 967, 1999 WL 274135 (May 6, 1999).

In Washington, the constitutional basis for the rule against using physical restraints on an accused is article I, section 22 (amendment 10), which provides: [i]n criminal prosecutions the accused shall have the right to appear and defend in person[.] This has been held to mean that if a defendant appears in chains or irons, the jury must necessarily conceive a prejudice against the accused, as being in the opinion of the judge a dangerous man, and one not to be trusted, even under the surveillance of officers. *Williams,* 18 Wash. at 51.

This right is balanced against the State's interest in an orderly trial. *State v. Maryott,* 6 Wn.App. 96, 103, 492 P.2d 239 (1971). Consequently, the State may take measures to ensure an orderly trial but the measures should not be imposed upon the defendant until a need has been shown, and the control imposed should insure an orderly trial with the least interference with a defendant's rights. *Id.*; *Loux v. United States,* 389 F.2d 911, 919 (9th Cir.), *cert. denied,* 393 U.S. 867 (1968). As a general rule, restraints may be used only when necessary to prevent injury to those in the courtroom, to prevent disorderly conduct at trial, or to prevent escape. *State v. Finch*, ___ Wn.2d ___, 975 P.2d 967, 1999 WL 274135 (May 6, 1999).

The extent to which security measures are necessary is within a trial judge's discretion. *State v. Hartzog,* 96 Wn.2d 383, 400, 635 P.2d 694 (1981). That discretion must be founded upon a factual basis set forth in the record. *Id.* To this end, the trial court must conduct a hearing[80] at which the following non-exclusive factors should be considered

(1) The seriousness of the present charge against the defendant;

(2) The defendant's temperament and character;

(3)The defendant's age and physical attributes;

(4)The defendant's past record;

(5)The defendant's past escapes or attempted escapes, and evidence of a present plan to escape;

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80 The exact nature of the hearing is not firmly established in Washington. The North Carolina Supreme Court has noted

> While the cases have established no definitive rule as to the exact form of evidentiary hearing to determine whether shackling of the defendant is necessary, the most prevalent conclusion is that the hearing may be informal and that the ordinary rules of evidence need not be observed, although the trial judge may decide, particularly where the need for physical restraint is controverted, to conduct a full evidentiary hearing with sworn testimony and formal findings of fact.

State v. Tolley, 290 N.C. 349, 226 S.E.2d 353, 368 (1976).

See also State v. Flieger, 91 Wn.App. 236, 955 P.2d 872 (Div. 3 1998), *review denied,* 137 Wn.2d 1003 (1999) (conviction reversed due to failure of trial court to conduct a hearing on the necessity of using a shock box to physically restrain defendant during trial; trial court incorrectly noted that it was not the one to determine necessary security precautions, preferring to defer to sheriff's office).

(6)Whether the defendant has made any threats to harm others or cause a disturbance;

(7)Whether the defendant has demonstrated any self-destructive tendencies;

(8)The risk of mob violence or of attempted revenge by others;

(9)The possibility of rescue by other offenders still at large;

(10)The size and mood of the audience;

(11)The nature and physical security of the courtroom; and

(12) The adequacy and availability of alternative remedies.

Hartzog, 96 Wn.2d at 400.

It is clear that the existence of one or more factors does not necessarily mean that a defendant should be restrained. Courts must only consider those factors which indicate that compelling circumstances that some measure [is] needed to maintain security of the courtroom. *Duckett* [*v. Godinez*, 67 F.3d 734] at 748 [(9th Cir. 1995)] (citations omitted). The trial court must base its decision to physically restrain a defendant on evidence which indicates that the defendant poses an imminent risk of escape, that the defendant intends to injure someone in the courtroom, or that the defendant cannot behave in an orderly manner while in the courtroom. To do otherwise is an abuse of the trial court's discretion.

State v. Finch, ___ Wn.2d ___, 975 P.2d 967, 1999 WL 274135, *33 (May 6, 1999) (reversing death sentence and remanding case for new penalty phase on the grounds that the defendant, who was charged with the aggravated first degree murder of a blind man and of a police officer, was improperly restrained during the trial). Unless the defendant has a past history of escape, has acted out during court proceedings, or has been violent during his pre-trial detention, the use of restraints will probably be error. *Finch*, *supra*.

If restraints are found necessary, the court should take steps to conceal the restraints from the jury. Placing skirting on the counsel tables, requiring counsel to remain at the tables during questioning of witnesses, and having the defendant take the witness chair out of the presence of the jury are all appropriate steps to take.

Conflicts of Interest Due to Courtroom Personnel as Witnesses

Prosecution of Freemen often involves testimony from judges, bailiffs, court reporters, and court clerks. A witness judge, bailiff, court reporter, or court clerk should not perform any official duties in the cause in which he or she testifies. The prohibition upon serving as a witness and judge in the same action arises in the Code of Judicial Conduct, ER 605, and the appearance of fairness doctrine.

The prohibition upon court reporters serving as a witness in the same action being reported stems from WAC 308-14-130(6) which requires all court reporters to disclose any actual or potential conflicts of interest and from the appearance of fairness doctrine. The prohibition upon other court officers serving in their official role in a case in which they will or have testified lies in the appearance of fairness doctrine.

Freemen Request for Subpoenas for Judges and Other Elected Officials

While a defendant has a constitutional right to compulsory process, this right is not absolute. The Supreme Court limits the right to compel witnesses to those witnesses who are material to the defense. Error from the denial of a request for compulsory process will only be found if the defendant is denied access to a witness who was physically and mentally capable of testifying to events that he had personally observed, and *whose testimony would have been relevant and material to the defense*. *State v. Smith*, 101 Wn.2d 36, 41, 677 P.2d 100 (1984), quoting *Washington v. Texas*, 388 U.S. 14, 23, 18 L. Ed. 2d 1019, 87 S.Ct. 1920 (1967).

The burden is upon the defendant to establish a colorable need for the person to be summoned. *Smith*, 102 Wn.2d at 41-42. This burden is not met by a desire to have the witness testify to irrelevant or inadmissible

evidence. *State v. Maupin*, 128 Wn.2d 918, 925, 913 P.2d 808 (1996). Pursuant to this authority, the a court may generally reject requests for subpoenas for the governor, president, and other public servants.

A request for a subpoena for a judge is subject to an even higher level of scrutiny.

> Only in the rarest of circumstances should a judge be called upon to give evidence as to matters upon which he has acted in a judicial capacity, and these occasions, we think, should be limited to instances in which there is no other reasonably available way to prove the facts sought to be established. A record of trial or a judicial hearing speaks for itself as of the time it was made. It should reflect, as near as may be, exactly what was said and done at the trial or hearing.

State ex rel. Carroll v. Junker, 79 Wn.2d 12, 20, 482 P.2d 775 (1971).

I Cannot Swear Challenges to the Witness Oath

Every person who wishes to testify in court must declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness conscience and impress the witness mind with the duty to do so. ER 603.

The form of the oath may be varied to accommodate a witness religious beliefs, but some form of swearing in a witness is required. *In re Ross,* 45 Wn.2d 654, 277 P.2d 335 (1954). As a general rule, a witness must: (1) agree to tell the truth or understand that the witness must tell the truth; and (2) understand that a failure to tell the truth will subject the witness to prosecution under the jurisdiction s perjury laws. *See, e.g., United States v. Ward*, 989 F.2d 1015 (9th Cir. 1992).

You Cannot Ask Me Any Questions Cross-Examination of Defendants

Once a criminal defendant takes the stand, the defendant is subject to all rules relating to the cross-examination of witnesses. A criminal defendant s constitutional right to remain silent may not be employed to defeat cross-examination of him as to a subject he has opened on direct examination after voluntarily taking the stand. *State v. Robideau,* 70 Wn.2d 994, 425 P.2d 880 (1967); *State v. Crowder,* 119 Wash. 450, 453, 205 Pac. 850 (1922).

I Did Not Intend to Violate Your Laws Ignorance of the Law and Mens Rea

A statute may punish conduct alone, without making intent an element of the crime. Strict liability crimes are not unconstitutional. *Smith v. California*, 361 U.S. 147, 80 S.Ct. 215, 4 L. Ed. 2d 205 (1959); *State v. Rivas*, 126 Wn.2d 443, 452, 896 P.2d 57 (1995) (citing *State v. Cleppe*, 96 Wn.2d 373, 378, 635 P.2d 435 (1981), *cert. denied*, 456 U.S. 1006 (1982)); *State v. Stroh*, 91 Wn.2d 580, 583-84, 88 P.2d 1182, 8 A.L.R.4th 760 (1979); *Morissette v. United States*, 342 U.S. 246, 72 S.Ct. 240, 96 L. Ed. 288 (1952)); *State v. Winger*, 41 Wn.2d 229, 248 P.2d 555 (1952). Whether intent is an element of a crime depends upon the intent of the legislature. If intent is not made an element, the doing of the prohibited act constitutes the crime. *Stroh*, 91 Wn.2d at 584.

Where a statute does not specify a mental element, legislative intent may be determined by resort to another body of law generally guiding such an inquiry. Although there is no fixed test, courts have considered several factors in deciding whether a criminal statute provides for a strict liability crime where it does not specify a mental element. Whether a mental element is an essential element of a crime is a matter to be determined by the Legislature. *State v. Bash*, 130 Wn.2d 594, 604, 925 P.2d 978 (1996). Thus, deciding whether a statute sets forth a strict liability crime is a statutory construction question aimed at ascertaining legislative intent.

Numerous statutory crimes which are mala prohibita and which are upheld without proof of an evil intent or any mental element at all are crimes that are generally called public welfare or regulatory offenses. These public welfare offenses

> are not in the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes a duty. Many violations of such regulations result in no direct or immediate injury to person or property but merely create the danger or probability of it which the law seeks to minimize.

Morissette, 342 U.S. at 255-56.

Examples of public welfare laws that are enacted in the exercise of a legislature s police power and which may be enforced as laws mala prohibita include statutes relating to pure food and drugs, labeling, weights and measures, building, plumbing and electrical codes, fire protection, air and water pollution, sanitation, highway safety and numerous other areas. *Bash*, 130 Wn.2d at 607; *State v. Turner*, 78 Wn.2d 276, 280, 474 P.2d 91, 41 A.L.R.3d 493 (1970).

Generally, a Freeman s claim that the prosecution must prove intent is really an argument that no conviction is possible since the Freeman was unaware of the particular law he or she is accused of violating when the acts underlying the charge were committed. The traditional rule in American jurisprudence is, however, that ignorance of the law is no defense to a criminal prosecution. *Cheek v. United States*, 498 U.S. 192, 199, 111 S.Ct. 604, 112 L.Ed.2d 617 (1991) (citations omitted); *see also Bryan v. United States*, ___ U.S. ___, 118 S.Ct. 1939, 1947, 141 L.Ed.2d 197 (1998) (traditional rule is that ignorance of the law is no excuse); *Lambert v. People of the State of California*, 355 U.S. 225, 228, 78 S.Ct. 240, 2 L.Ed.2d 228 (1957) (rule that ignorance of the law will not excuse is deeply rooted in American law); *State v. Reed*, 84 Wn.App. 379, 384, 928 P.2d 469 (1997) (ignorance of the law is no excuse....Furthermore, a good faith belief that a certain activity does not violate the law is also not a defense in a criminal prosecution.).

I Was Acting in Self Defense in Response to Your Violence The Defense of Necessity

Freemen will frequently contend that they filed a lien, served a bill of particulars, represented a friend, etc. in defense of themselves or others who had been kidnapped by the government (arrest), subject to extortion (bail or plea bargaining), or other similar crime. No Washington case exists that allows an individual to raise a claim of self-defense outside the context of an assault or murder prosecution. To the extent non-assault or murder cases allow a justification defense, the defense is limited to that of necessity. *See, e.g., State v. Jeffrey*, 77 Wn.App. 222, 225-26, 889 P.2d 956 (1995) (necessity defense in unlawful possession of a firearm prosecution); *State v. Niemczyk*, 31 Wn.App. 803, 644 P.2d 759 (1982) (necessity defense to escape charge); *State v. Diana*, 24 Wn.App. 908, 604 P.2d 1312 (1979) (medical necessity defense to marijuana charges); *State v. Pittman,* 88 Wn.App. 188, 943 P.2d 713 (Div. 1 1997) (medical necessity); *State v. Williams,* ___ Wn.App. ___, 968 P.2d 26 (Div. 2 1998) (medical necessity).

A necessity defense will rarely be available to a defendant. The defense is available when the physical forces of nature or the pressure of circumstances[81] cause the accused to take unlawful action to avoid a harm which social policy deems greater than the harm resulting from a violation of the law. *Diana*, 24 Wn.App. at 913. But,

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[81] More recent cases hold that the pressure that led to the illegal actions must come from a force of nature and not from people. *See, e.g., State v. Jeffrey*, 77 Wn.App. 222, 225, 889 P.2d 956 (1995) (necessity defense not available to a defendant who recklessly places himself in a situation where he would be forced to engage in criminal conduct); *State v. Turner*, 42 Wn.App. 242, 247, 711 P.2d 353 (1985), *review denied*, 105 Wash.2d 1009 (1986) (trial court properly refused to instruct jury on defense of necessity, even though defendant had been threatened with harm to herself and her husband if she refused to carry drugs to husband in penitentiary); *State v. Gallegos*, 73 Wn.App. 644, 871 P.2d 621 (1994) (friend s need for assistance insufficient to support a jury instruction on the necessity defense in an attempting to elude a police vehicle prosecution).

if there [is] a reasonable, legal alternative to violating the law, a chance both to refuse to do the criminal act and also to avoid the threatened harm, the defense will fail. LaFave & Scott 379.

United States v. Bailey, 444 U.S. 394, 410, 100 S.Ct. 624, 635, 62 L.Ed.2d 575 (1980). *Accord, Diana*, 24 Wn.App. 913-14.

For the defense to succeed, the defendant must prove by a preponderance of the evidence that: (1) the defendant believed the commission of the crime was necessary to avoid or minimize a harm, (2) the harm sought to be avoided was greater than the harm resulting from the violation of the law, (3) no legal alternative existed, and (4) the defendant did not recklessly place himself or herself in a situation where the defendant would be forced to engage in criminal conduct. *State v. Jeffrey*, 77 Wn.App. 222, 225, 889 P.2d 956 (1995); *State v. Gallegos*, 73 Wn.App. 644, 651, 871 P.2d 621 (1994). Most Freemen claims of necessity will fail the third and fourth prongs of the test.

Jury Nullification

Jury nullification[82] is permitted in some jurisdictions, such as Indiana,[83] where the jury decides both the facts and the law. In Washington, however, the jury only decides the facts and the law is provided by the judge. Wash. Const. art. IV, § 16 ([j]udges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law.). While juries have the power to ignore the law through their verdicts, courts have no obligation to tell them they may do so. *See, e.g., United States v. Edwards,* 101 F.3d 17, 19 (2d Cir. 1996); *United States v. Powell,* 955 F.2d 1206, 1212 (9th Cir. 1991); *United States v. Krzyske,* 836 F.2d 1013 (6th Cir.), *cert. denied,* 488 U.S. 832 (1988); *State v. Meggyesy,* 90 Wn.App. 693, 958 P.2d 319, 322, *review denied,* 136 Wn.2d 1028 (Div. 1 136 Wn.2d 1028 (Div. 1 1998); *StateState v. Bonisisio,* 92 Wn.App. 78 94, 964 P.2d 1222 (Div. 2 1998), *review denied,* 137 Wn.2d 1024 (1999) (citing *Meggyesy* with approval).

A party s arguments to the jury regarding the law is limited to the law as defined by the court. *State v. Rice,* 110 Wn.2d 577, 601-02, 757 P.2d 889 (1988), *cert. denied,* 491 U.S. 910 (1989). Accordingly, it is improper for a defendant to argue that the jury may acquit once it finds that the defendant s guilt is clear beyond a reasonable doubt.

Testimony Regarding the Law

By constitution, the judge is responsible for determining the law that is applicable to a particular case. *See* Wash. Const. art. IV, § 16; *State v. Meggyesy*, 90 Wn.App. 693, 704, 958 P.2d 319, *review denied*, 136 Wn.2d 1028 (Div. 1 1998). It is a usurpation of this obligation for any witness to attempt to establish what the law is in a particular action. *See, e.g., State v. O Connell*, 83 Wn.2d 797, 816, 523 P.2d 872 (1974); *Valley Land Office, Inc. v. O Grady*, 72 Wn.2d 247, 253-54, 432 P.2d 850 (1967); *Marx & Co., Inc. v. Diners Club Inc.*, 550 F.2d 505 (2d Cir.), *cert. denied*, 434 U.S. 861(1977) (error to allow securities expert to testify as to the legal obligations of the parties to a contract; It is not for witnesses to instruct the jury as to applicable principles of law, but for the judge. As Professor Wigmore has observed, expert testimony on law is excluded because the tribunal does not need the witness judgment .); 32 C.J.S. *Evidence* § 546 (86), at 314-17 (1964); 7 Wigmore, *Evidence* § 1952 (3d ed. 1940). Thus, neither a Freeman defendant nor any other witness may testify regarding the scope of the law of searches, the validity of any statute, the need for a grand jury indictment, nor whether any actions taken in the prosecution were illegal.

To the extent that the Freeman defendant wishes to get Freemen views about the law before the jury, the appropriate way is through jury instructions. A Freeman defendant s proposed instructions, if they accurately state the law and are relevant to the charges filed, should be tendered to the jury. No instruction

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82 Andrew D. Leipold, *Rethinking Jury Nullification,* 82 Va. L.Rev. 253 (1996) (Nullification occurs when the defendant s guilt is clear beyond a reasonable doubt, but the jury, based on its own sense of justice or fairness, decides to acquit.)

83 Article 1, § 19 of the Indiana Constitution, provides: In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

proposed by a Freeman defendant, however, that is inaccurate in any way should be included in the instructions to the jury. *See generally State v. Robinson*, 92 Wn.2d 357, 361, 597 P.2d 892 (1979).

Juror Protection

Since most Freemen jury trials will be tried by pro se defendants, the prosecutor has a duty to bring appropriate motions in limine to restrict the areas of inquiry in order to preserve the jurors privacy. A motion to preclude the questioning of jurors about their religious views should almost always be brought. *See* Wash. Const. art. I, § 11. In all felony cases, a juror protective order that restricts both the State and the defendant from initiating any post-verdict contact with the jurors absent specific court approval should be obtained prior to jury selection. *See generally State v. Finch,* ___ Wn.2d ___, 975 P.2d 967, 1999 WL 274135, *43 (May 6, 1999) (upholding an order restricting the parties or their agents from initiating contact with jurors post-verdict).

INFRACTIONS

The Infraction Calendar

A common intersection between Freemen culture and our legal culture occurs on the traffic infraction calendar. The concept of traffic laws is foreign to many Freemen and is frequently believed to be a violation of the constitutional right to travel.[84] An additional problem is that the Common Law (following Posse Comitatus dogma) does not recognize non-victim crimes such as speeding which do not result in damage to another individual s person or property. Finally, Freemen, who have signed their driver s licenses with the phrase refused for fraud or who have simply returned their driver s license to the Department of Licensing,[85] believe that they have opted out of the state and federal adhesion contracts which allows for the imposition of traffic rules, regulations, and fines.

Many of the issues discussed in the criminal prosecution section of these materials will arise during civil infraction proceedings and will not be repeated here. There are, however, some issues that are unique to traffic infractions because of their civil nature.

Most Freemen will request a contested hearing on an infraction. They will appear promptly and be respectful throughout the proceeding, which they will generally lose. The loss will almost certainly be followed by the filing of a RALJ appeal. This is the point at which most prosecutors become involved.

RALJ Appeal Waiver of Fees

Many Freemen are in economic distress. This means that they will generally be seeking a waiver of the superior court filing fee and other costs of appeal. In responding to this request, it is critical to recall that traffic infractions are civil. *City of Bremerton v. Spears,* 134 Wn.2d 141, 150, 949 P.2d 347 (1998); RCW 46.63.010; RCW 46.63.120(1).

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84 It has been long established that states may rightfully prescribe uniform regulations necessary for public safety and order in the operation upon its highways of motor vehicles and the state may require the licensing of drivers. *E.g., Hendrick v. Maryland,* 235 U.S. 610, 59 L.Ed. 385, 35 S.Ct. 140 (1915); *Spokane v. Port,* 43 Wn.App. 273, 275-76, 716 P.2d 945, *review denied,* 106 Wn.2d 1010 (1986).

85 Washington traffic laws apply to everyone who operates a vehicle upon our highways regardless of whether or not they have a driver s license or whether they are a resident of the state. RCW 46.08.070; RCW 46.20.022.

Along with their Common Law sovereignty philosophy, Freemen often assert the following sophomoric statutory analysis in support of their position that Title 46 RCW (Washington s traffic code) does not apply to their activities. Their arguments rely heavily on the use of a thesaurus, and go something like this

> RCW 46.20.022 says that Title 46 applies to any person who operates a motor vehicle on public highways regardless of residency or driver s license status.
>
> A Freemen is not a person as defined in RCW 46.04.405 (Person includes every natural person, firm, copartnership, corporation, association, or organization.) but rather a human being. Thus, Title 46 does not apply. [*See* also *I am not a Person but a Human Being, supra.*]
>
> A Freemen does not operate a motor vehicle as defined in RCW 46.04.370 (Operator or driver means every person who drives or is in actual physical control of a vehicle.), but rather runs, pilots, uses, or sets in motion. Thus, Title 46 does not apply.
>
> A Freemen is not operating a vehicle as defined in RCW 46.04.670 (Vehicle includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway...), i.e. a device, but rather a mechanical contraption or conveyance. Thus, Title 46 does not apply.
>
> A Freemen is not operating a motor vehicle as defined in RCW 46.04.320 (Motor vehicle shall mean every vehicle which is self-propelled...) because the mechanical contraption is not self-propelled. A human being must use a key to start the contraption and keep it running, and a human being must also put the contraption in gear, depress the gas pedal, and steer it. The contraption is unable to run on its own. Thus, Title 46 does not apply.

There is no constitutional right to appeal in civil cases; the right exists in civil cases when granted by the legislature or at the discretion of the court. *City of Bremerton v. Spears,* 134 Wn.2d 141, 148, 949 P.2d 347 (1998); *In re Dependency of Grove,* 127 Wn.2d 221, 239, 897 P.2d 1252 (1995).

A right to appeal an order entered in a traffic infraction matter has been granted by the legislature. RCW 2.08.020; IRLJ 5.2. This right, however, is not accompanied with legislation authorizing the appeal to be prosecuted at public expense. In fact, the only general legislative grant for public funds for appeals is limited to those occasions for which a litigant has a constitutional right to appeal. *See* RCW 4.88.330 (limits provision of counsel and other costs to those cases where it has been judicially determined that the indigent party has a constitutional right to obtain review).

Absent legislation that specifically authorizes the expenditure of public funds to allow an indigent citizen to appeal a finding that he or she committed a traffic infraction, no municipal, district, or superior court,[86] can provide public funds for an attorney, preparation of transcripts, or preparation of the record. *See, e.g., Moore v. Snohomish County,* 112 Wn.2d 915, 774 P.2d 1218 (1989) (fees of expert witness appointed by court pursuant to court rule could not be paid out of public funds in the absence of express language authorizing the expenditure); *Honore v. State Board of Prison Terms,* 77 Wn.2d 660, 678, 466 P.2d 485 (1970) (courts have no power over public funds collected for public purposes absent legislative authorization); Const. article 8, § 4 (amendment 11) (no funds can be disbursed from the public treasury except upon appropriation).

This means that the individual who is appealing the finding an infraction was committed must pay the $40.00 record preparation fee, RCW 3.62.060(7), and the cost of transcripts in order to proceed.

Case law, however, establishes that even in the absence of an express statute, a court has the inherent authority to waive **its own** filing fee. *See, e.g., Ashley v. Superior Court,* 83 Wn.2d 630, 521 P.2d 711 (1974); *O Connor v. Matzdorff,* 76 Wn.2d 589, 458 P.2d 154 (1969).[87] The Washington Supreme Court, however, has refused to

> say that, in every action brought or appeal pursued by a poor person, his court fees should be automatically waived. If an action or petition is patently frivolous, or brought for purposes of harassment, the court should not lend its encouragement by waiving its fees. But where a case appears to have been brought in good faith and to have probable merit, the exercise of a sound discretion dictates that a litigant should not be denied his day in court simply because he is financially unable to pay the court fees.

O Connor, 76 Wn.2d at 603. A mere finding that an appeal is not patently frivolous is not sufficient to justify waiver of fees. Rather, the judge being asked to approve the waiver must find that the indigent

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86 The Washington Supreme Court

> has the inherent power to waive the fees and costs of litigation in civil cases in those rare cases where justice demands it. *Saylors,* 87 Wn.2d at 742; *O Connor v. Matzdorff,* 76 Wn.2d 589, 458 P.2d 154 (1969). We have held that in such cases, a litigant must prove indigency, good faith in bringing the appeal, probable merit of the issues raised and, further, that a miscarriage of justice has occurred. *In re Lewis,* 88 Wn.2d 556, 559, 564 P.2d 328 (1977); *Saylors,* 87 Wn.2d at 743; *Bowman v. Waldt,* 9 Wn.App. 562, 571, 513 P.2d 559 (1973). Additionally, the court, in determining whether to exercise its inherent power, may properly consider not only the interests of the indigent litigant, but the interest of the general public and other affected individuals as well. *Bowman,* 9 Wn.App. at 571.

Grove, 127 Wn.2d at 241.

An example of how compelling a showing of need must be for a court to authorize the expenditure of public funds is demonstrated in the *Grove* case. The third litigant in *Grove*, whose request for public funds was **denied**, was a worker who claimed that exposure to industrial chemicals resulted in an occupation-related illness. Pursuant to RCW 51.52 of the worker's compensation statute, the case was appealed first to the Board of Industrial Insurance Appeals which found in favor of the worker, and then to the superior court where a jury rendered a verdict in favor of the employer. *Grove,* 127 Wn.2d at 237 and 241.

87 The rule announced in the *Ashley* and *O Connor* cases means that the $110.00 filing fee, RCW 36.18.020(2)(b), may be waived by the **superior** court. The district or municipal court, however, has no jurisdiction to waive the filing fee of another court. If a court of lower jurisdiction enters such an order, it is worth the effort to bring a CRLJ 60(b) motion to vacate the order to avoid future improper expenditure of public monies.

appellant has a significant chance of prevailing on appeal. *Carter v. University,* 87 Wn.2d 483, 554 P.2d 338 (1976).

In order to obtain a waiver of a filing fee, the Freeman defendant must establish: (1) good faith; (2) indigency; and (3) probable merit. In our experience, the application for waiver of filing fee can generally be opposed under the indigency or probable merit prongs.

RALJ Appeal Waiver of Fees Indigency

The burden of proof of establishing indigency is on the party seeking appellate review. *State v. Clark,* 88 Wn.2d 533, 534, 563 P.2d 1253 (1977). General statements of need are insufficient to satisfy the burden. *Jefferson v. United States,* 277 F.2d 723, 725 (9th Cir.), *cert. denied,* 364 U.S. 896 (1960) (where affidavits in support of motion of defendant in Court of Appeals for leave to pursue his appeal in forma pauperis recited that defendant was unable to pay costs but failed to state that he could not give security therefor, and did not state defendant s poverty with some particularity, definiteness and certainty, motion would be denied); *Dreyer v. Jalet,* 349 F.Supp. 452, 459 (S.D. Tex. 1972), *aff d,* 479 F.2d 1044 (5th Cir. 1973) (In order to preclude fraudulent or careless motions of poverty, the applicant moving for in forma pauperis status should state with some particularity, definiteness and certainty the facts as to his poverty &Further, when the totality of the circumstances involved are weighed against the applicant s statement of poverty, and the result suggests incongruity, the Court may go beyond the mere statement of income and inquire into additional relevant matters including the applicant s earning capacity and ability. (citations omitted)); *Bey v. Syracuse University,* 155 F.R.D. 413, 92 Ed. Law Rep. 875 (N.D.N.Y. 1994) (plaintiffs motion to proceed in forma pauperis denied because plaintiffs did not submit an affidavit which the court considered statutorily sufficient).

In order to prevail on a claim of indigency, the Freeman must demonstrate by a preponderance of the evidence that the funds to which the Freemen has access, whether in an account in the Freeman s name or in the custody of another, are insufficient to pay the expected costs of litigation and still meet the Freeman s personal needs. *State v. Rutherford,* 63 Wn.2d 949, 953-54, 389 P.2d 895 (1964) (Indigence is a relative term, and must be considered and measured in each case by reference to the need or service to be met or furnished ; the burden rests upon a defendant to demonstrate to the satisfaction of the court, by affidavit or otherwise, his inability to advance or secure the costs of litigation); *State v. Buelow,* 122 Wis.2d 465, 363 N.W.2d 255, 258 (1984) (to sustain a claim of indigency, defendant must prove by a preponderance of the evidence that he or she is financially unable to afford the costs of litigation; a defendant s claim of indigency certainly should be rejected when he puts his own assets into others names and those assets remain at his disposal); *Braden v. Estelle,* 428 F.Supp. 595 (S.D. Tex. 1977) (because inmates are provided the necessities of life, even small bank accounts may be able to afford the costs of litigation).

Courts have found inmate assets of far less than $2000.00 to be adequate to fund the costs of litigation. *See, e.g., Temple v. Ellerthorpe,* 586 F.Supp. 848, 851 (D. R.I. 1984) (surveying cases in which in forma pauperis status was denied for prisoners who had access to funds ranging from $45.00 to $500.00).

RALJ Appeal Waiver of Fees Probable Merit

Many Freemen applications for waiver of filing fees and/or notice of RALJ appeal will establish a disagreement with the factual determination made by the district or municipal court. The RALJ court, however, is barred from second-guessing the factual determinations of the district court. RALJ 9.1(b). Mere disagreement over factual matters will not, therefore, provide a basis for waiving the filing fee since probable merit on appeal cannot be shown on that basis.

Another common issue identified in an application for waiver of filing fee is the contention that the district or municipal court erred by considering the officer s statement on the citation. This claim will not provide a basis for waiving the filing fee if the district or municipal court record does not contain a timely, written demand by the defendant that the officer attend the hearing. *See* RCW 7.80.100.

The late filing of the notice of infraction is another frequent situation. IRLJ 2.2(d), however, grants the district or municipal court the discretion to dismiss an untimely notice of infraction without prejudice. Because the burden of establishing an abuse of discretion is so high and because any dismissal is without prejudice which would allow the refiling of the infraction, *see* IRLJ 2.2(b) and (c), this claim will not provide a basis for waiving the filing fee.

The fourth most frequent claim that will be asserted in a Freeman RALJ infraction appeal is that the case should have been dismissed because the plaintiff was not represented at the hearing. This practice, however, is authorized by RCW 7.80.090(3), and will not provide a basis for waiving the filing fee.

RALJ Appeal Cost Awards

If a traffic infraction appeal does proceed, the prevailing party is entitled to certain costs on appeal. If the prosecution was the respondent, the costs will generally be limited to the $125.00 statutory attorney fees available in civil cases. *See generally* IRLJ 5.2 (An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.); RALJ 9.3(c)(1) (Expenses Allowed as Costs &(1) statutory attorney fees allowed for a superior court nonjury trial); *State v. Obert,* 50 Wn.App. 139, 747 P.2d 502 (1987) (statutory attorney fees are only allowed in civil cases); RCW 4.84.010(6); RCW 4.84.080(1).

RCW 46.63.151 does not preclude this award because RALJ 1.1(d) and (e) make it clear that RALJ 9.3(c)(1) supersedes RCW 46.63.151 since RCW 46.63.151 was adopted after RALJ 9.3, and yet, it does not specifically reference RALJ 9.3(c)(1) by number. In addition, RCW 7.80.140, which specifically applies to civil infraction cases, authorizes the court to award attorney fees.

Further Review

The availability of post-superior court review of traffic infractions is extremely limited. *See generally City of Bremerton v. Spears, supra.* The cost of such an appeal is high, and the procedure for obtaining a waiver of the filing fee is cumbersome. *See* RAP 15.2(b)(3) and (c).

CITIZEN COMPLAINTS

The Citizen Complaint Court Rule Is Unconstitutional

A recent form of retaliation being experienced by prosecutors, judges, law enforcement officers, and other public officials who come into contact with Freemen is the filing of citizen complaints by Freemen. Many of these citizen complaints seek to charge various federal felonies and constitutional crimes. These complaints are generally sent by the Freemen to the local United States Attorney for processing.

Some of the citizen complaints, however, are filed in courts of limited jurisdiction pursuant to CrRLJ 2.1(c). These complaints allege crimes including unlawful practice of law in violation of RCW 2.48.180, official misconduct in violation of RCW 9A.80.010, search without warrant in violation of RCW 10.79.045, corporation doing business without license in violation of RCW 9.24.040, and misprison of treason in violation of RCW 9.82.030.

There is virtually no case law regarding the proper court procedure for dealing with an application for a citizen complaint. Further, the constitutionality of the citizen complaint process, which allows the judicial branch to impinge upon the executive branch s discretionary charging authority, is questionable.

It is the Kitsap County Prosecutor s Office s position that CrRLJ 2.1(c) is a judicial usurpation of a legislative and executive function, and accordingly violates the separation of powers doctrine. We have been successful in getting citizen complaints dismissed by the Kitsap County District Court based on this argument. *See Lorraine Kirtley v. Diane Frost, Carol Rainey, Michael Stowell, and Does 1-100,* Kitsap County District Court No. 98000004. A copy of the court s Findings of Fact and Conclusions of Law is attached in the Appendix, at 38-44. Our memorandum of authorities regarding the unconstitutionality of CrRLJ 2.1(c) is as follows

THE CITIZEN COMPLAINT RULE IS AN UNCONSTITUTIONAL USURPATION BY THE JUDICIAL BRANCH OF THE EXECUTIVE BRANCH S POWER TO DECIDE WHO IS OR IS NOT CHARGED WITH VIOLATION OF THE CRIMINAL LAWS

CrRLJ 2.1(c), governing a request for citizen complaint, provides as follows in pertinent part

> **(c)Citizen Complaints.** Any person wishing to institute a criminal action alleging a misdemeanor or gross misdemeanor shall appear before a judge empowered to commit persons charged with offenses against the State, other than a judge pro tem. The judge may require the appearance to be made on the record, and under oath. The judge may consider any allegations on the basis of an affidavit sworn to before the judge. The court may also grant an opportunity at said hearing for evidence to be given by the county prosecuting attorney or deputy, the potential defendant or attorney of record, law enforcement or other potential witnesses. The court may also require the presence of other potential witnesses.
>
> In addition to probable cause, the court may consider:
>
> (1) Whether an unsuccessful prosecution will subject the State to costs or damage claims under RCW 9A.16.110, or other civil proceedings;
>
> (2) Whether the complainant has adequate recourse under laws governing small claims suits, anti-harassment petitions or other civil actions;

(3) Whether a criminal investigation is pending;

(4) Whether other criminal charges could be disrupted by allowing the citizen complaint to be filed;

(5) The availability of witnesses at trial;

(6) The criminal record of the complainant, potential defendant and potential witnesses, and whether any have been convicted of crimes of dishonesty as defined by ER 609; and

(7) Prosecution standards under RCW 9.94A.440.

If the judge is satisfied that probable cause exists, and factors (1) through (7) justify filing charges, and that the complaining witness is aware of the gravity of initiating a criminal complaint, of the necessity of a court appearance or appearances for himself or herself and witnesses, of the possible liability for false arrest and of the consequences of perjury, the judge may authorize the citizen to sign and file a complaint in the form prescribed in CrRLJ 2.1(a). The affidavit may be in substantially the following form &

The separation of powers doctrine is not expressly set forth in either the United States or Washington constitution, but is nonetheless considered a fundamental tenet of our political structure. *In re Juvenile Director,* 87 Wn.2d 232, 237-245, 552 P.2d 163 (1976) (lengthy historical discussion of separation of powers and checks and balances doctrines). The separation of powers doctrine has some different meanings depending upon context, but its core concern is with protecting the powers and duties of the three branches of government. Although some small overlap can occur without violating the doctrine, one branch of government can not assume or exercise the power or duties of another branch, nor act to deprive the others of their lawful powers. *Id.; State Bar Association v. State,* 125 Wn.2d 901, 907, 890 P.2d 1047 (1995); *State v. Blilie,* 132 Wn.2d 484, 939 P.2d 691 (1997).[88]

The criminal prosecution function is an executive branch responsibility. Both the county Prosecuting Attorney and the state Attorney General are executive officials. *See, e.g.,* Wash. Const. Art. III, §1 (Attorney General is member of executive branch); *State v. Campbell,* 103 Wn.2d 1, 25-26, 691 P.2d 929 (1984), *cert. denied,* 471 U.S. 1094, 105 S.Ct. 2169, 85 L.Ed.2d 526 (1985) (recognizing prosecuting attorney as executive branch official); *State ex rel. Schillberg v. Cascade District Court,* 94 Wn.2d 772, 781-782, 621 P.2d 115 (1980) (same); *State v. Thorne,* 129 Wn.2d 736, 762, 921 P.2d 514 (1996) (same). The courts, of course, are members of the judicial branch of government. Wash. Const. Art. IV, §1.

The decision to file or not file charges, or the number of such charges, is a matter left to the discretion of the prosecuting attorney. *State v. Ammons,* 105 Wn.2d 175, 713 P.2d 719, 718 P.2d 796, *cert. denied,* 479 U.S. 930, 107 S.Ct. 398, 93 L.Ed.2d 351 (1986); *State v. Lewis,* 115 Wn.2d 294, 797 P.2d 1141 (1990). The prosecutor is given wide discretion since he must necessarily consider both the strength of the case and the public interest before making the charging decision. *Bordenkircher v. Hayes,* 434 U.S. 357, 54 L.Ed.2d 604, 98 S.Ct. 663 (1978); *State v. Judge,* 100 Wn.2d 706, 713, 675 P.2d 219 (1984).

The Constitution of this state authorized the Legislature to establish the powers and duties of the county prosecutor. Wash. Const. Art. XI § 5. It has responded by adopting chapter 36.27 RCW. One of the express duties imposed is to Prosecute *all* criminal and civil

[88] Court rulings, including the common law as well as court rules and regulations, are subject to constitutional challenges. *Gossett v. Farmer s Insurance,* 133 Wn.2d 954, 975, 948 P.2d 1264 (1997).

actions in which the state or county may be a party &. RCW 36.27.020(4) (emphasis added). No legislation has been found that grants any portion of that power to the judiciary or to a private citizen of this state.[89] The Legislature however has seen fit to authorize another executive branch officer, the Attorney General, to seek criminal prosecution in some instances. *See* RCW 43.10.232; RCW 10.01.190.

CrRLJ 2.1 violates the separation of powers doctrine on two levels. First, it appears that the judiciary, through its own rule, is taking on the executive function of filing and prosecuting criminal charges, or is asserting that it can delegate that authority to a private citizen, who may or may not even be an attorney. This is a clear invasion of executive authority. *State v. Lewis, supra.* The Legislature has not seen fit to give this power or oversight to the judicial branch. The judiciary can not assume this power on its own.

Second, if the rule is interpreted to mean that the court can order the prosecutor s office to act upon the newly filed charge, it fails since the court has not been granted such authority by the Legislature, nor does it have inherent authority to do so. *Westerman v. Cary,* 125 Wn.2d 277, 298, 885 P.2d 827 (1994); *Ladenburg v. Campbell,* 56 Wn.App. 701, 784 P.2d 1306 (Div. 2 1990) (district court judge had no power to appoint special prosecutor to handle case that prosecutor refused to proceed with). Indeed, since the power to initiate charges is exclusively an executive one, the courts simply could not claim such authority. *State v. Lewis, supra* (number and nature of charges left to the prosecuting attorney).

The policy argument that a judicial citizen review process is a necessary check on the prosecutor s powers is one which must be addressed to the Legislature, not the courts. *See, e.g., Waggoner v. Ace Hardware,* 134 Wn.2d 748, 755, 953 P.2d 88 (1998). To the extent such a check was seen as necessary, the Legislature has provided for the Attorney General to intervene in appropriate criminal cases. RCW 43.10.232. The Legislature has not seen fit to give the courts that power.[90]

CrRLJ 2.1(c) is a judicial usurpation of a legislative branch decision to delegate to the executive branch the power to decide who is or is not charged with violation of Washington s criminal laws. CrRLJ 2.1(c) violates the separation of powers doctrine, and accordingly is unconstitutional.

The court s usurpation of the charging power presents multiple problems in the Freemen context due to the fact that most citizen complainants will provide the court with a one-sided version of events and the citizen complainants, unlike a prosecuting attorney or an attorney general exercising prosecutorial functions, is not subject to RPC 3.8 s duty of fairness to the potential defendant. The following procedure is designed to reduce the potential for harassment of innocent defendants until the constitutionality of CrRLJ 2.1(c) is fully established.

Model Procedure

Prior to the Kitsap County District Court holding CrRLJ 2.1(c) unconstitutional, the court established the following procedure for dealing with applications for citizen complaints. This procedure allows for ample prosecutor input.

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[89] A territorial statute which survived until modern times authorized an indictment obtained by a private prosecutor and also made the complainant liable for costs if maliciously brought. *See* former RCW 10.28.160; repealed by c. 67, 1971 ex. Sess., §20. The only case construing that statute arose after a jury acquitted the defendant, assessed costs against the complaining witness, and then jailed him pending payment. *In re Permstick,* 3 Wash. 672, 29 Pac. 350 (1892).

[90] The Legislature knows how to do so when it desires, as can be seen in another statute dating from territorial days, RCW 10.16.110. There the Legislature empowered the superior court to direct a prosecutor to proceed with a case after an indictment has been returned by a grand jury if the court is not satisfied with the prosecutor s written reasons for refusing to prosecute. The Legislature has not seen fit to create a similar check on the prosecutor s decision not to file an information or complaint.

1. A court file is opened that bears the case name "[Name], Complainant v. [Name(s)], Potential Defendant(s)" and a special citizen complaint cause number is assigned.

2. A summons is sent to the complainant by the court staff for a hearing before an elected judge for the determination of probable cause. Notice of this hearing along with a copy of the application is sent to the county prosecuting attorney and, in appropriate cases, to any public servant who has been listed as a defendant in the application for citizen complaint.

3. At the hearing, the complainant is provided an opportunity to present the facts that will support the charge and reasons why the court should authorize a citizen complaint to be filed. Any potential defendant who wishes to speak to the court is given an opportunity to do so. Finally, the prosecutor's office is given an opportunity to address the adequacy of the showing and the seven factors contained in CrRLJ 2.1(c). Aside from lack of probable cause, the most common grounds for opposing the citizen complaint are: (1) prosecution is contrary to legislative intent, RCW 9.94A.440(1)(a); (2) antiquated statute, RCW 9.94A.440(1)(b); (3) improper motives of complainant, RCW 9.94A.440(1)(g); and (4) unconstitutionality of CrRLJ 2.1(c).

4. If the request for the filing of a citizen complaint is denied, a formal order with findings of fact and conclusions of law should be drafted by the prosecutor and entered. The court's findings should cover every element of crimes the Freemen may have committed in the filing of the citizen complaint (such as malicious prosecution and/or intimidating a judge or public servant). If the request is granted, a complaint will then be ordered to be filed. It is anticipated that such a complaint will be entitled "State of Washington ex rel. [Name], Complainant v. [Name(s)], Defendant(s)".

Who prosecutes a filed and authorized citizen complaint is far from clear. The ethical obligations of prosecutors may prevent the prosecutor from proceeding with the case if a conviction is unlikely or the prosecution is contrary to the office's standards. *See, e.g.,* RPC 3.8; 1 American Bar Association, *Standards for Criminal Justice* §§ 3.6, 3.7, 3.9 (2d ed. 1980). The citizen/victim may wish to further control the processing of the case and the ultimate sentencing recommendation, even though a victim's wishes, though relevant to a prosecution, is not dispositive. *See, e.g., State v. Garrison,* 71 Wn.2d 312, 315, 427 P.2d 1012 (1967) (the opinion of the victim of a crime regarding whether the defendant is guilty of the offense is irrelevant to the issue of whether there is sufficient evidence to support a verdict); *State v. Haga,* 8 Wn.App. 481, 491-92, 507 P.2d 159, *review denied,* 82 Wn.2d 1006 (1973) (same).

A citizen complaint is not required to be dismissed if the prosecutor does not agree to proceed, and the district court lacks the power to appoint a special attorney. *Ladenburg v. Campbell,* 56 Wn.App. 701, 784 P.2d 1306 (1990); *Eggan v. State*, 4 Wn.App. 384, 481 P.2d 571 (1971). The citizen complainant should, therefore, have to retain his or her own attorney. Public funds, of course, do not exist for such an appointment. *Cf.* Const. art. I, § 35 ("This provision shall not constitute a basis &for providing a victim or the victim's representative with court appointed counsel").

For further discussion on this issue, at least by analogy, *see Westerman v. Cary,* 125 Wn.2d 277, 892 P.2d 1067 (1994) (prosecutor's representation of two public bodies with directly adverse positions ruled a conflict necessitating appointment of a special prosecutor) and *Osborn v. Grant County,* 130 Wn.2d 615, 926 P.2d 911 (1996) (while prosecutor had conflict of interest in representing clerk in a position contrary to commissioners, prosecutor had no duty to bring litigation on behalf of county officer against the county; appointment of special prosecutor improper so superior court award of public monies for attorney's fees reversed).

Post-District Court Review

At least one individual whose application for citizen complaint was denied has sought review of that decision by the superior court pursuant to a writ of error. The Kitsap County Prosecuting Attorney s Office takes the position that a criminal action is only begun by the actual filing of a complaint. Because the denial of an application for citizen complaint occurs prior to the actual initiation of a criminal proceeding, the case is civil in nature and the aggrieved person s ability to obtain a waiver of the filing fee and/or the preparation of the record is limited to the same degree as any other civil appellant.[91]

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91 A full discussion of the law concerning indigent civil appeals is contained in the *Infraction* section of these materials, *supra*.

COPING WITH FREEMEN DOCUMENTS

The variety of documents that have been filed by Freemen in various state offices is staggering. A non-exhaustive list includes

In a felony theft prosecution: (1) a "Part One Non-Statutory Abatement" from the "supreme Court, Kitsap county, Washington"; (2) an "Order to Quash" and a "Part Two Non-Statutory Abatement" from the "Supreme Court, Washington State Republic, Common Law Venue"; (3) a "notice of removal of action from the "Supreme Court, Washington State Republic, Common Law Venue"; and (4) a "writ of habeas corpus from" in the venue of the "Kingdom Of God under the jurisdiction of God's Law, Kingdom Of The Lord Ecclesiastical Common Law Court, Ecclesiastical Court and common law Court with original and exclusive jurisdiction, our one supreme Court, Washington state republic, common law venue" in and for the "People of the Kingdom Of The Lord located as de jure Washington state republic, Kingdom of God."

A "Distress (Bonded)" which instructed the bank to "distress All of the funds of the Lewis County Treasury, which are held in your case and custody and trust, until this Distress is satisfied."

In a felony theft prosecution: (1) a 31 page document entitled "Constructive Notice of Non-Judicial/Pre-Judicial Commercial Process and Intent to File Security Instrument and Commercial/Common Law Lien" that was recorded with the Kitsap County Records Department. The Freemen document sought $7,914,100.00 from two superior court judges, the prosecuting attorney, a deputy prosecuting attorney, and a legal assistant for prosecuting the Freemen lien filer without a grand jury indictment, for causing the issuance of bench warrants, for compelling the defendant to submit samples of his handwriting, and for generally violating their oaths of office; and (2) UCC-2 Fixture Filings and Claims of Commercial Liens against the property of the prosecuting attorney, a deputy prosecuting attorney, and two superior court judges.

A Declaration of Independence which purportedly expatriated the declarant's "res in trust to the foreign jurisdiction known as the municipal corporation of the District of Columbia &". This declaration was served by mail upon Ralph Munro, Christine Gregoire, Madeleine Albright, Janet Reno, Queen Elizabeth the Second, and Pope John Paul II. The declarant also paid $297.06 to have published a legal notice of his Declaration of Independence in the legal newspaper for Thurston County.

A federal citizen complaint charging the prosecuting attorney and a deputy prosecuting attorney with numerous constitutional felonies and asking for an award of $10,000.00 per count per defendant; received from a Freeman defendant in a misdemeanor barratry prosecution.

A "public servant questionnaire" that was directed to the sheriff and to various school district personnel after the individual received a written notice pursuant to RCW 28A.635 to stay off school property pending an investigation of an incident that occurred on school property.

An "Official Act Reaffirmation of Oath of Office (Non-Statutory) and Private Security Agreement (To Protect and Affirm Unalienable Rights)" requesting Kitsap Prosecutor Russell D. Hauge to re-affirm by way of a private security agreement that he will not allow other government officials to knowingly violate the Freeman's rights and to waive any rights of immunity from any civil or criminal prosecution brought by the Freeman to redress any grievances received in a civil infraction case.

A certification of administrative judgment that was recorded with the Kitsap County Records Department after the Kitsap County Clerk refused to accept the document in connection with a prosecution for failing to pay city taxes and for operating a business without a license. This document purported to be an affidavit from a Freeman acting as a "Private Administrative Hearings Officer." This Freeman identifies himself as having "been certified as qualified, effective 20 May, 1996, to be a

Judicial Officer in and for STATE OF WASHINGTON by Barbara Durham, Chief Justice, Washington State Supreme Court, and Nancy [sic] McQueen, Administrator of the Courts of STATE OF WASHINGTON* & *In Resume: Qualified STATE OF WASHINGTON GR-8 Judicial Officer .[92] This judgment provided that the Freeman defendant had no further duty to attend proceedings in the municipal court and that the municipal court had no authority in law to compel the Freeman defendant s attendance because the Freeman defendant was not a named party to the municipal court action and the prosecutor stipulated to the loss of jurisdiction by not responding to the Freeman defendant s bill of particulars.

A demand for bill of particulars served directly upon law enforcement officers following a traffic stop in cases in which charges had not yet been filed.

These documents are frequently lengthy and often contain a glossary of terms. Careful attention must be paid to the definitions assigned to various words, because these definitions are frequently at odds with our legal system s understanding of the same term.

Each document must be carefully read. Often, buried in the document, will be a reference to the **public disclosure act** or the **freedom of information.** If these words appear, a prompt answer must be sent with a copy of the documents being requested that are in the possession of the office that received the document unless the requested document(s) is exempted from disclosure by RCW 42.17.310. The answer may properly request clarification of exactly what documents are being requested, so long as the clearly identifiable public documents are sent or made available for review.

The document(s) most frequently requested are copies of the oaths of office of the judges and/or prosecutors who have been involved in any manner with the Freeman. A lot of effort and time can be saved by collecting copies of every local judges and prosecutors oath in one place.

If a document has been recorded with the county auditor or recording officer, a decision must be made regarding whether a notice of invalidity should be filed or whether to proceed with a show cause procedure under Chapter 60.70 RCW. The cautious approach is to file a notice of invalidity with every document that names a public official or employee as a defendant or respondent regardless of whether the document uses the word lien or includes a money judgment.

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92 General Rule 8 establishes a procedure for administering a qualifying examination for lay candidates for judicial office. These judicial officers are limited to practicing in district courts, municipal courts, police courts, and other courts that are inferior to the superior court, and as court commissioners and administrators. An individual who successfully passes the qualifying examination receives a certificate from the Chief Justice of the Washington Supreme Court and the Administrator of the Courts. A successful applicant may then be appointed or elected to certain courts.

GR 8 currently provides no mechanism for licensing such judges. The rule provides no mechanism for disciplining a successful test taker who uses the GR 8 label of approval improperly. An individual who successfully passes the test, but who is not appointed or elected to serve as a judicial officer in a Washington state court is not subject to regulation by the C.J.C.

Individuals who misuse the GR 8 label may be subject to criminal prosecution under a number of statutes, including RCW 9.12.010 (barratry); RCW 40.16.030 (offering false instrument for filing or recording); RCW 9.38.020 (false representation); and RCW 42.20.030 (intrusion into public office).

CLEARING FREEMEN LIENS

A lien is an encumbrance which one person places upon the property of another as security for some debt or charge. Rights to a lien on another s property are usually created by statute, through agreement of the parties, or through a court-imposed lien.

A common law lien is one granted under principles developed through judicial case law as distinguished from liens created by the agreement of the parties or by statute. The only common law lien which has been recognized in Washington pertains to personal property and requires that the one claiming the lien have independent and exclusive possession of the property. This type of common law mechanic s lien is issued in favor of persons who by their labor and skill have given additional value to the property in question. *See, e.g., Murray v. Eisenberg,* 29 Wn.App. 42, 627 P.2d 146 (1981) (involving asserted possessory lien upon aircraft for cost of repairs).

Freemen frequently file Common Law liens upon the property of public officials and employees because they are dissatisfied with public officials or employees decision. Freemen will also file Common Law liens upon the property of public officials and employees to secure the fines assessed by the Common Law courts for violations of a Freeman s Common Law rights.[93] A few examples of such filings include

A Freeman with the result of state and federal court proceedings, and with the disposition of a complaint before Judicial Conduct Commission, filed purported liens against six state court judges, two prosecuting attorneys and a deputy prosecuting attorney, a federal bankruptcy judge and the court bailiff and two former chairs of the Judicial Conduct Commission:

A Freeman who wanted certain legislation enacted filed liens against nine state senators;

A Freeman who received a speeding ticket filed liens against the state trooper who issued the speeding ticket and the district court judge who upheld the ticket;

Freemen who claimed eight statewide elected officials did not have a right to hold office filed liens against these officials and a number of state representatives and senators.

These non-consensual, Common Law liens create the potential for delays in conveyance of property unless they are stricken by a court order. Although these purported liens are invalid under the provisions of RCW 60.70.030 and the common law of Washington,[94] they can potentially cloud title to property if a title company posts the bogus lien. This can be particularly troublesome because the property owner may not discover that a purported lien has been filed until in the midst of a transaction involving the property.

A person may file a purported lien by simply taking a piece of paper to the recording officer and paying a nominal fee. While county auditors and recording officers are not required to accept such liens for filing,

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93 The order issued by the Supreme Court, Washington State Republic, Common Law Venue in relationship with the theft prosecution of Veryl Edward Knowles provided in part that

> It is further ordered that Sovereign Veryl Edward, Knowles, sui juris, shall be immediately released from the custody of SUPERIOR COURT OF WASHINGTON, COUNTY OF KITSAP, and KITSAP COUNTY JAIL;
>
> It is further ordered that all private property taken from Sovereign Veryl Edward, Knowles, sui juris, be immediately returned to him;
>
> It is further ordered that should SUPERIOR COURT OF WASHINGTON, COURT OF KITSAP, fail to comply with this order, the JUDGE who is served with this order and fails to comply, will be held in contempt of court and fined one hundred million dollars. Said fine shall be secured by consensual commercial lien upon all property of said JUDGE and payable to the damaged party, Sovereign Veryl Edward, Knowles, sui juris. Failure to comply with this order is consent to lien any and all property of said JUDGE.

State v. Knowles, Kitsap County Cause No. 96-1-00235-4, Ex. 5, at 1-2.

94 *Shutt v. Moore,* 26 Wn.App. 450, 455-56, 613 P.2d 1188 (1980).

they do not have a duty to reject for filing or recording any claim of lien. County staff have indicated that the high volume of filings and the difficulty of ascertaining the legal basis for each filing makes it impossible to decline such filings.

Prior to 1995, once a purported lien was recorded, the document would remain on file as a possible cloud on the title of property until legal action was initiated seeking a court order striking the purported lien. While such an order was liberally given, the legal expenses incurred, the waste of limited judicial resources, the difficulty of locating the individual who filed the lien in order to effect personal service, and the disruption in the personal affairs of the public officials and employees led the Legislature to enact legislation to make it easier to remove the purported liens.

Laws of 1995, Ch. 19, which was codified in Chapter 60.70 RCW, changed existing law in the following way

RCW 60.70.010 was amended to make the definition of nonconsensual common law lien more accurate. The new definition makes clear that a nonconsesual common law lien is any lien that is: (1) not provided for by a specific statute; (2) does not depend upon the consent of the owner to the property affected for its existence; and (3) is not a court-imposed equitable or constructive lien.

RCW 60.70.010 was amended by the addition of definitions for the terms state or local official or employee and federal official or employee.

RCW 60.70.060 was adopted. This section provides an expedited, less expensive judicial procedure for removal of frivolous liens. The expedited procedure is available to any person who believes a claim of Common Law lien is invalid, regardless of whether he or she is a private citizen or public official or employee. The particular features of the expedited procedure include

An expedited show cause procedure that will allow a person whose property is subject to a claim of Common Law lien to have the validity of the lien determined by a court in a time frame as short as six days.

The court may allow for service by mail upon the person who filed the lien.

The filing fee for a petition to strike invalid liens is set at $35.00.

The court must provide the prevailing party with costs and attorney s fees.

RCW 60.70.070 was adopted. This section clearly states that Washington law does not recognize any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official s or employee s duties, unless based on a specific court order or unless a specific statute authorizes the filing of such lien. This statement that such liens are not recognized will reduce the likelihood that a title company will give any credence to such liens.

A new subsection (3) was added to RCW 60.70.030 to provide that a notice of invalid lien may be filed with the appropriate recording office by an attorney who represents the governmental entity which employs the individual against whom a lien has been filed. The attorney who files the notice of invalid lien is required to mail a copy of the notice to the person who filed the lien to seek to establish the validity of the lien if he or she chooses to do so.

A sample notice of invalid lien and sample show cause forms prepared by the Attorney General s Office are contained in the Appendix, at 45-58.

FINAL THOUGHTS ON OUR RESPONSES

Dealing with Freemen has been frustrating at times, and our patience has frequently been exhausted. The following thoughts from David Neiwert should be considered by all public officials and employees

> The spirit of respect has been notably absent from most discussions of the Patriots, in large part because the Patriots themselves are so openly contemptuous of everything outside their belief system that it is difficult not to respond in kind. The Movement challenges so many of Americans everyday assumptions about the core foundations of society that it is often difficult to even begin to respond. But that response ultimately, to be effective, must reflect the very values the Patriot s beliefs most deeply corrode: a public discourse based on mutual respect; a sense of fair play and decency; and an appreciation of the value of community and cooperative action.

David Neiwert, *Ash on the Sills: The Significance of the Patriot Movement in America,* 58 Montana L. Rev. 19, 43 (1997).

The inflammatory nature of the Freemen s pleadings and arguments usually inspires one of two responses: an equally heated counterargument, or stony silence, neither of which is effective.

> There is a third course: to respond with respect and courtesy, but firmly, with facts and reality. Point out that there is a legitimate, perfectly rational explanation for literally every piece of evidence the Patriots can produce for their theories that the government is part of a grand conspiracy to destroy the nation. Explain that the legal arguments they present for their constitutionalist beliefs have long been answered by real court rulings, many dating back to the Civil War, and that the web of pseudo-legal theory the Patriots espouse is a sham with no recognizable legitimacy, especially not in the body of law as practiced in America today.

Id. at 42.

Appendix