

# **A Rebellion of Furious Paper: Pseudolaw as a Revolutionary Legal System**

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## **Abstract**

Pseudolaw is a collection of legal-sounding but false rules that purport to be law. Though pseudolaw is now encountered by courts and government actors in many countries world-wide, pseudolaw is remarkably constant, nation-to-nation.

This observation is explained by the crystallization circa 1999-2000 of a matrix of pseudolaw concepts interwoven with a conspiratorial anti-government narrative. This Pseudolaw Memplex was incubated in the US Sovereign Citizen community. The Memplex then spread internationally and into additional anti-government communities. That expansion either complemented or replaced other pre-existing pseudolaw systems.

The Sovereign Citizen Pseudolaw Memplex has six core concepts:

- 1) everything is a contract,
- 2) silence means agreement,
- 3) legal action requires an injured party,
- 4) government authority is defective or limited,
- 5) the "Strawman" duality, and
- 6) monetary and banking conspiracy theories.

Only the defective government authority component shows significant national- and community-based variation. This adaptation is necessary for the Memplex to plausibly operate with a new non-Sovereign Citizen host population. The "Strawman" duality is second-order pseudolaw, in that the

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“Strawman” builds on and ties together the first four concepts for its operation.

Together, the components of the Memplex cause a radical re-balancing of individual vs government and institutional authority. The Memplex promises free money, immunity from legislation and government regulation, and grants an unprecedented authority for individuals to force obligations on others. The Memplex also incorporates a powerful conspiratorial anti-bank and anti-state narrative. The Memplex therefore promises both benefits and a justification for aggrieved anti-authority populations to take illegal action against perceived enemies.

## **I. Introduction**

In 2012, Alberta Court of Queen’s Bench Associate Chief Justice Rooke released a very unusual judgment, *Meads v Meads* [*Meads*],<sup>2</sup> which described and responded to a collection of law-like principles employed by persons in Canadian courts, starting in the late 1990s. These purported rules often used familiar Canadian legal terms and components of Canadian law, but in a manner that led to results that were different from ‘conventional’ Canadian law. This variant or dissident set of law-like rules is “pseudolaw”, though the people who attempted to apply pseudolaw claimed that these concepts were the true but concealed law of the nation (Netolitzky 2018a; Netolitzky 2018b). *Meads* coined a term for this class of ideas: “Organized Pseudolegal Commercial Arguments” [OPCA].

*Meads* collected Canadian case law which had rejected pseudolaw, and identified several broad themes in the pseudolaw which had been ineffectively employed in Canadian courts up to 2012 (Netolitzky 2018c:IV). *Meads* subsequently became a key resource for courts in Canada and other Commonwealth countries as these courts also responded to pseudolaw (Netolitzky 2018c:III(A)). Quite unexpectedly, *Meads* has been embraced as a kind of introductory textbook to describe the pseudolaw phenomenon, and the communities which endorse and employ those concepts (Netolitzky 2018c:III(D)).

The fact the *Meads* turned out to be relevant across the Commonwealth leads to two inferences:

1. pseudolaw is not simply restricted to Canada, but is an international phenomenon; and
2. pseudolaw came to Canada from somewhere else and had spread internationally.

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<sup>2</sup> *Meads v Meads* (2012) as of April 2018 has been cited in 163 Canadian court and tribunal decisions and in other Commonwealth jurisdictions including Australia, New Zealand, Scotland, the Republic of Ireland, Northern Ireland, and Jersey (Netolitzky 2018c:III(A)).

In fact, these two propositions were never really in dispute. The pseudolaw used in Canada carried obvious telltale indications that these ideas were imported from the US (Netolitzky 2016a:613, 616-618, 632-635; Kent 2015:2-8; Perry et al 2017:13-15).

For one, some Canadian pseudolaw litigants simply cited US authorities, such as cases, legislation, the US Constitution, and other resources such as the *Uniform Commercial Code*, as though these were somehow relevant or binding in Canada (*Meads v Meads* 2012:paras. 141-143, 149-162, 228). *Meads* also directly concluded that OPCA ideas were US in origin, and pointed to academic publications and case law in that jurisdiction as evidence (*Meads v Meads* 2012:paras. 68-69, 141-143, 149-152, 193, 314, 531-532).

Courts in other Commonwealth countries also reported having encountered pseudolaw concepts like those documented in *Meads*. As previously indicated, *Meads* was often then referenced for why pseudolaw is wrong (Netolitzky 2018c:III(A)). This fact is nothing extraordinary - Commonwealth courts often rely on each other's case law when responding to novel issues and topics.

However, in 2017, *Meads* was cited by the Austrian Federal Court, which concluded that *Meads* was "instructive" for the general characteristics of pseudolaw arguments and movements (*G314.2151325.1.00* 2017).

This development was unexpected. European legal thought can be loosely divided into two broad traditions: Common Law and Civil Law.<sup>3</sup> Courts in the UK, the Commonwealth, many former British colonies, and the United States are Common Law courts. Most other European countries and their former possessions are Civil Law jurisdictions.

Common Law grew from the English legal tradition where law is 'judge-made', in the sense that the rules which make up law are inherited from previous court judgments. The result, Common Law, is the accumulation of centuries of judicial rulings and the consensus by judges of what those rules should be. In contrast, Civil Law jurisdictions have a government-created written code of law. The function of a judge is then to interpret and apply these pre-existing rules, rather than develop and make new legal principles.

These two legal traditions are not 'watertight compartments', and share certain concepts and rules, due to common historical sources such as Roman Law, and borrowing or receipt, for example when medieval *Lex Mercatoria* (Law Merchant) was incorporated into English Common Law (Baker 1979).

Nevertheless, Common Law and Civil Law traditions are very different, and therefore it is surprising that *Meads* crossed the Common Law vs Civil Law divide, and not in a jurisdiction (like Canada) where there is a dual legal tradition. The theories and conduct of law in these two great legal schools are not really

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<sup>3</sup> The University of Ottawa "JuriGlobe" is a useful simple reference tool for legal systems worldwide and their origins (JuriGlobe).

compatible in most ways, so why was a Common Law tradition court decision recommended as a resource by an in many ways alien institution?

The explanation is simple, but counterintuitive. *Meads* had not just described a collection of non-Canadian, or non-Commonwealth, or non-US not-law principles. *Meads* had described a hitherto largely undocumented *legal system*, which is foreign to and incompatible with the 'local' law in both Common Law and Civil Law jurisdictions.

The proposition that US pseudolaw is more than a collection of rules, but instead an integrated and separate legal apparatus, is not new. US legal scholar Susan Koniak (1996:87-89, 106; 1997:1792-1798) came to that very conclusion, and suggested legal scholars should investigate pseudolaw texts, and witness:

... some law on the ground ... and contemplate the many ways in which law distorts, destroys, and regenerates itself. ... Law is growing out there.

Koniak wrote prior to a critical development, circa 1999-2000, when a US Sovereign Citizen, Roger Elvick, invented a new pseudolegal concept, the "Strawman", which I conclude bound together US pseudolaw as its own unique schema of law: the Sovereign Citizen Pseudolaw Memplex [Pseudolaw Memplex]. This new system of law is '*foreign*' to all other legal systems on the planet. The "Strawman" and its narrative tied together earlier US pseudolaw thought (Netolitzky 2018b:III(C)(2)). The resulting conceptual matrix has 'crystallized' and spread, nation to nation, community to community, a kind of disease of ideas or the imagination.

This paper and its companion (Netolitzky 2018d) have two strategic objectives. The first is to generally examine and describe the Sovereign Citizen Pseudolaw Memplex, and illustrate how its components interact and provide a different and unique legal framework that appeals to antigovernment and dissident communities.

The second strategic objective is to observe and investigate how the Pseudolaw Memplex has spread both internationally and within countries into new but culturally distinct populations. Some pseudolaw infections appear to be marginal, even stillborn, and at least one Pseudolaw Memplex community, in Norway, has gone extinct (Netolitzky 2018c:II(B)). However, in other places pseudolaw has thrived.

While the Pseudolaw Memplex has stayed surprisingly consistent (Netolitzky 2018c; Slater 2016:14-15), a certain degree of infection-facilitating evolution has occurred, and that may then predispose a new strain of the Pseudolaw Memplex for rapid and effective dissemination into new jurisdictions and/or communities. One such pre-adaptation event occurred immediately after the Pseudolaw Memplex entered into Canada, when one man, Eldon Warman, reframed foreign US concepts into a form that 'works' (somewhat) in a Commonwealth context (Netolitzky 2018d:III(B)(2)).

Though the Pseudolaw Memeplex is now international and ‘foreign’ to any ‘local’ legal apparatus, this paper will principally rely on Canadian resources. There are a number of reasons for that.

First, the author is Canadian and knows his ‘local infection and disease strain’ better than the equivalents in different countries and communities. For the US this paper mainly relies on secondary sources, rather than the very extensive volume of case law in that jurisdiction. At present, there are no good general reviews for pseudolaw, its history, and associated host populations in that jurisdiction.

Second, the resources available that document pseudolaw, its theories, applications, and history, vary considerably, country-to-country. In some Commonwealth jurisdictions, such as Ireland, local investigators have prepared helpful reviews of what has transpired. In Australia and New Zealand, local case law provides a rich resource to evaluate ‘dissident’ law and the manifestations of the Pseudolaw Memeplex in those locations. The UK provides a particular challenge, with very little documentation on the subject outside of a few specialized Internet websites, and particularly the Quatloos forum (Quatloos), that comment on and track pseudolaw, pseudolaw-related litigation, and pseudolaw personalities.

## **II. The Sovereign Citizen Pseudolaw Memeplex**

Pseudolaw has existed in the US since at least the 1950s, and plausibly much earlier than that (Berger 2016:7-13). The Pseudolaw Memeplex matured around 2000, and at that point was hosted by the Sovereign Citizen movement.

The modern Pseudolaw Memeplex has six primary elements:

1. everything is a contract,
2. silence means acceptance or agreement,
3. the law may only act where there is an injured party,
4. state authority is defective or limited,
5. the “Strawman” duality, and,
6. financial and monetary theory ‘money for nothing’ schemes.

The key elements which make up the modern Pseudolaw Memeplex are the central objective of this review, however, prior to examining these pseudolaw elements individually, a review of certain traits of the Pseudolaw Memeplex is helpful to better appreciate the Pseudolaw Memeplex’s social function.

### **A. The Character and Legal Function of the Pseudolaw Memeplex**

The Pseudolaw Memeplex has a number of underlying and unifying characteristics. The Pseudolaw Memeplex:

1. has a specific function,

2. is derived from and built off a specific source, and
3. is embedded in a conspiratorial anti-authority narrative.

## 1. The Specific Functions and Objectives of the Pseudolaw Memplex

Review of how pseudolaw is employed in actual litigation reveals this alternative system of law has a restricted and specific set of targets.

The author has identified over 1000 Canadian reported court and tribunal decisions that relate to the OPCA phenomenon. Figure 1 illustrates the chronological distribution of these decisions.

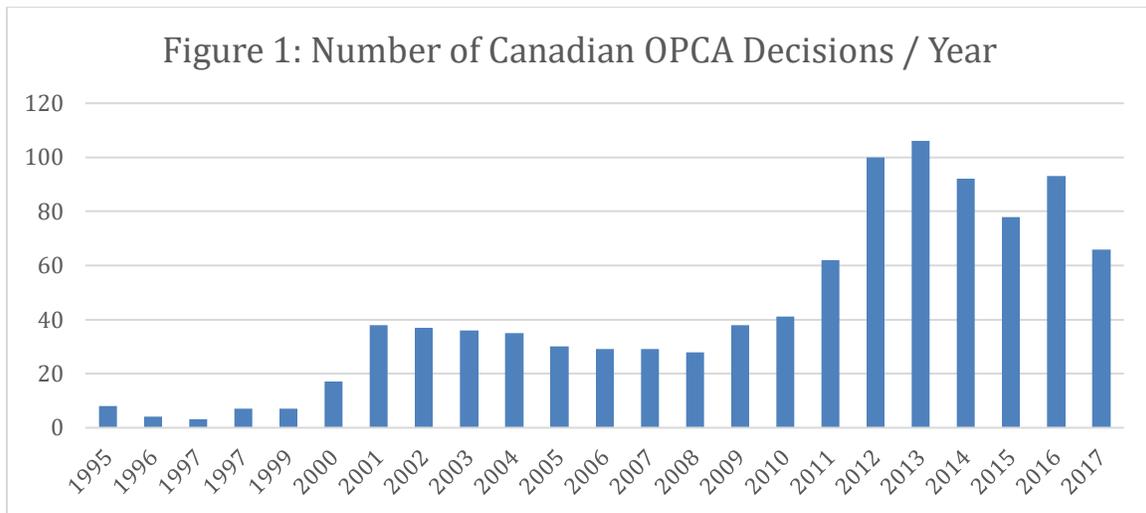


Figure 1: bar graph of the number of identified reported OPCA Canadian court and tribunal decisions from 1995-2017.

The majority of identified reported court and tribunal decisions (96.8%, n=976) were released after the Sovereign Citizen Pseudolaw Memplex was introduced into Canada in 1999-2000. A very large majority of reported OPCA-related court decisions (88.1%, n=885) had one of four litigation objectives:

1. a 'get out of jail free' card for criminal accused, detained and/or incarcerated persons (39.01%, n=378);
2. to eliminate an obligation to pay income tax (19.9%, n=192);
3. as a basis to attack and/or restrain government and institutional actors (13.8%, n=133); and
4. to create 'money for nothing' or otherwise nullify debts (12.5%, n=121).

The only published quantitative evaluation of US pseudolaw litigation is a 2016 thesis by Brian S. Slater, who surveyed 530 court judgments (2008 to April 2016) which used the phrase "Sovereign Citizen" (Slater 2016:5, 23). Slater's study breaks the litigation subject into 31 categories (Slater 2016:44).

Those subject categories do not exactly align with the classes for Canadian reported decisions. Nevertheless, there are obvious broad parallels. Slater's most common category, "Court Challenge" (36.2%, n=192), are instances pseudolaw was employed to allegedly defeat court jurisdiction, and logically captures defences to civil and criminal litigation. The second most common category, "Retaliation" (13.6%, n=72), roughly equates to the Canadian "attack and/or restrain" category. The fourth most common category is income tax litigation (9.8%, n=52). In total 40.2% (n=213) of Slater's sample are cases that involve prosecution of a specific criminal offense. Logically, in those instances, the Sovereign Citizen employed pseudolaw as a 'get out of jail free' defence. Slater concludes 85% of the 2011-2016 Sovereign Citizen lawsuits targeted a government actor (Slater 2016:45-46).

While both the author's and Slater's data cannot be viewed as exhaustive and complete due to the methodologies used to identify pseudolaw litigation, there is no obvious reason to conclude these values are not generally representative of how the Pseudolaw Memplex is employed in the US and Canada.

The Pseudolaw Memplex targets institutions and state organs, and their authority. As will later be detailed, the six Pseudolaw Memplex elements cause a radical re-balancing of individual rights vs state and institutional authority. That result is functionally and logically linked to the way pseudolaw has been used in the identified narrow range of disputes and against a limited set of subject targets.

Whether this functional pattern was designed by pseudolaw gurus, or evolved to meet the requirements of the practitioner population, is an interesting question, but ultimately irrelevant for the purposes of this investigation. What is clear is that the Pseudolaw Memplex is ideal for an anti-state, anti-authoritarian user population. That, naturally, effects where and how these concepts have spread and been employed.

## 2. An Existing Legal Apparatus Provided the Basis for the Pseudolaw Memplex

The Pseudolaw Memplex is a variation on the US and UK Common Law tradition. This is obvious in two ways.

First, Sovereign Citizen materials make extensive use of traditional English law authorities (Vaché and DeForrest 1997:600-607; Black 1998; Koniak 1996:71-77; Koniak 1997:1768-1782; Erickson 1999:9-14, 40-41; Kent and Willey 2013:320-321), such as William Blackstone's *Commentaries on the Laws of England* (1765-1769). The 1215 *Magna Carta* between King John of England and his (somewhat) subordinate barons is stereotypically identified as a critical source for basic rights, despite the fact the *Magna Carta* has very little to do with actual UK or US law (Black 1998:515-516). Certain pithy phrases, "maxims of law", are allegedly absolute legal principles, and are collected for reference purposes (Weisman 1990; Menard 2003; Republic Keepers). Some of these "maxims" are authentic (though potentially obsolete), such as those identified by noted Elizabethan English jurist Sir Edward Coke. Others are fabrications (Netolitzky 2018b:II).

While elements of traditional English law are reflected in the Sovereign Citizen Pseudolaw Memplex, the result is, at best, a distorted image. As Robert C. Black indicates, this adoption of allegedly traditional English law, usually under the misnomer of “Common Law”,<sup>4</sup> is more a romantic fiction than anything else (1998).

A second way the parentage of the Pseudolaw Memplex is obvious is there are elements of ‘conventional’ law inside the Pseudolaw Memplex which remain relatively unchanged.

Inter-spouse and child family dispute litigation is an area where the Pseudolaw Memplex and ‘conventional’ law largely align (Netolitzky 2017:984-992). Pseudolaw emphasizes interpersonal bargains are binding. Pseudolaw practitioners seem generally willing to abide by the terms of their “marriage contract”, in one form or another. Intriguingly, some pseudolaw litigants may engage in bitter pseudolaw disputes with state actors, but are nevertheless entirely willing to submit to court authority when it comes to their family-related affairs (Netolitzky 2017).

That said, sometimes pseudolaw litigants argue that children are their personal property, to do with as they please. This obnoxious concept has recently been popularized by US Sovereign Citizen guru Carl (Karl) Lentz (Netolitzky 2016a:631; *Gauthier v Starr* 2016:para. 34).<sup>5</sup> However, the ‘I own the children’ concept is almost never directed at former partners and spouses, but instead at government actors.<sup>6</sup> This motif still betrays the English Common Law origin of pseudolaw, since English traditional law considered children chattel property (*Pomerleau v Canada (Revenue Agency)* 2017:para. 92).<sup>7</sup>

The use of a (somewhat) common base of legal theory and the limited modification to certain domains of law leads to a substantial overlap of ideas and terminology between ‘conventional’ Common Law law and the Pseudolaw Memplex. However, sometimes words and phrases have radically different meanings. For example, ‘conventional’ law uses the word “joinder” to indicate merger of two or more separate trials or hearings where their issues and subjects overlap. However, pseudolaw litigants use “joinder” to indicate the existence of a contract between two or more parties.

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<sup>4</sup> Throughout this paper Common Law (without quotes) identifies the UK-derived legal tradition, while “Common Law” (in quotes) indicates the mythical pseudolegal natural law based on Christian and/or medieval traditions.

<sup>5</sup> Websites that present Lentz’s material include <https://www.youtube.com/user/CourtofRecord/videos> and <http://www.broadmind.org>.

<sup>6</sup> For example: *New Brunswick (Minister of Social Development) v JA* 2013:para. 13; *SS (Re)* 2016:paras. 51-52, 62; *ANB v Hancock* 2013:paras. 60-64. *Curle v Curle* (2014) is an exception where pseudolaw was employed between parents.

<sup>7</sup> *ANB v Hancock* provides an interesting example where US slave law was purportedly relevant to children (2013:paras. 54-58).

Needless to say, these diverging definitions cause real confusion to those both ‘inside’ and ‘outside’ the world of pseudolaw.

### 3. Conspiratorial Narratives Ground the Pseudolaw Memplex

The Pseudolaw Memplex is embedded in a conspiratorial narrative (Netolitzky 2017:7-9; Netolitzky 2016a:635-636; Netolitzky 2016b:138, 143-145; Perry et al 2017:36-37). While the details of that narrative vary between OPCA communities, certain motifs remain constant:

1. Humans are innately subject to a basic law, usually called “Common Law”.
2. Malevolent actors and government have imposed additional legal rules and limitations on personal freedom beyond those required by the “Common Law”.
3. Those additional rules and limitations are optional, but that fact is concealed from ordinary people.
4. Individuals can revert to only being governed by “Common Law” via the Pseudolaw Memplex.

In short, much of conventional authority is a trick. Peoples’ freedom has been taken away by hidden means.

The Pseudolaw Memplex does not appear to actually create communities, but instead is adopted by pre-existing social groups (Netolitzky 2018b:IV(B)(1); Netolitzky and Rooke 2016:91-95). Unsurprisingly, some of those groups exhibit a broad affinity for conspiratorial thought, particularly of the Improvisational Millenarian variety (Barkun 2013; Netolitzky 2018b:IV(B)(2)). Another feature of pseudolaw groups is that they are “re-enchanted” (Partridge 2005; Netolitzky 2018b:V), and respond to perceived oppressive authority by magical rather than rational means (Black 1998; Netolitzky 2018b; Dew 2015:75; Dew 2016:87-91; Wessinger 2000:160).

This is not to say that everyone who uses pseudolaw subscribes to its conspiratorial and irrational elements. Some users are clearly desperate, or simply motivated by greed (Netolitzky 2018a:IV(A); Netolitzky 2018b:IV(A); Perry et al 2017:38-39).

### **B. Six Core Concepts**

In its simplest sense, a legal system provides rules to structure human interactions. The same is true for “Common Law”, the alleged foundation for pseudolaw. While some commentators call pseudolegal societies anarchic, that is not really accurate. Pseudolaw does provide guidelines. They are just different from those of ‘conventional’ law and authorities.

In certain senses, persons who practice pseudolaw can even be described as having an enhanced focus on the centrality of law in human society. They are a kind of anti-

state rebel, but one who believes revolution can be achieved by superior law, rather than force or democratic choice (Netolitzky 2018a:I; Slatter 2016:64).<sup>8</sup>

The so-called “Common Law” is often described as a variation on the Christian “Golden Rule”: “Do unto others as they would do unto you.” For example, key Detaxer guru Eldon Warman summarizes the “Common Law” as “1. Do not unto others as you would not have them do to you. 2. Do unto others as you would have them do to you.” (Muljiani 2000:53). Note that this formulation has no role for unilateral authority, but instead social rules flow from a natural or God-given order.

Freeman-on-the-Land guru Robert Menard in his first text explained his “Common Law” legal obligations are: “I do not claim the right to harm another human being, damage property, engage in fraud or extortion or break contracts. I will follow the Law.” (Menard n.d.:86; see also Menard 2004:5). Again, there is a (purported) willingness to adhere to some kind of legal structure.

## 1. Everything is a Contract

Contracts have a central role in the Pseudolaw Memplex. In conventional law, a contract is a binding arrangement which results from the mutual agreement of two parties to a reciprocal exchange. A contract is a bargain where two (theoretically) equal actors commit themselves to act in a certain way.

Note how this is distinct from the usual relationship of government to individuals, which is a unilateral exercise of authority. That said, philosophically, government is still authorized by a population’s collective agreement to be subject to government authority via a “social contract” (Gough 1936). Democratic processes are a more direct social delegation of authority.

In *Bursting Bubbles of Government Deception*, Menard (2004:36) contrasts the operation of legislation with his following “Common Law”:

There are only three ways to break the law. These are: harm another, damage property, or use mischief in your contracts. When you break a statute, you are breaking a societal contract and that is why smoking pot is unlawful. The act itself isn’t, but because you have ‘agreed’ not to, you are breaking a contract.

Thus, from Menard’s perspective, government has no special inherent authority via legislation or other means, unless one agrees to be subject to that authority. Individuals and the state are equal parties. The social contract has allegedly become an *individual* rather than collective choice to delegate authority to government.

This is the principle functional objective of the Everything Is A Contract motif - the individual may reject government authority as a contract offer (*Meads v Meads* 2012:paras. 379-383). Laws only work if the individual consents (*Meads v Meads* 2012:paras. 405-406; Menard n.d.:74-86).

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<sup>8</sup> Slater contrasts “pro-constitutional” Sovereign Citizens with Islamic terrorists.

... I also have the right to join or not join societies as I see fit. I cannot be forced to consent. If I refuse to consent, none of the statutes everyone else calls laws will have the force of law with me.

(Menard n.d.:86)

Now pseudolaw theorists encounter a critical question. If all it takes is to say “no”, then why are individuals unable to divest themselves of state authority on demand? The answer was provided in a highly influential US text by George Mercier, *Invisible Contracts* (1986), which postulated that practically any interaction with a state actor is a potential contract (*Meads v Meads* 2012:paras. 410, 414-416). The result is “joinder”, which traps the individual into a contract that results in general government authority.

In this paranoid world almost any apparently innocent step might create a contract. For example, some pseudolaw practitioners refuse to use postal codes. They believe that doing so accepts a government contract offer that then makes the letter sender subject to state authority (Liberty 2004:308-309). Government licences and ID similarly are booby-traps (Netolitzky 2016b:174-175; Perry et al 2017:26-27). One becomes liable to pay income tax by filing a tax form, and thereby accepting an Invisible Contract (Muljiani 2000:47-49).

Even apparently innocent words may hide a contract offer. Freeman sources claim that the question “Do you understand?” secretly means “Do you stand under my authority?” (Menard 2004:45; Tir na Saor n.d.:12).

The overall result is that the perceived role of contracts is greatly expanded in the Pseudolaw Memplex, to the point this concept permeates much of day-to-day life and interactions. Literally, everything is a contract.

## 2. Silence Means Agreement

A second central principle of pseudolaw expands the scope of contractual interaction even further. The Silence Means Agreement rule alters a conventional legal principle that agreement must be communicated (Menard n.d.:35, 52, 74-76). In Common Law tradition jurisdictions, one cannot “foist” a binding obligation on another party (*Meads v Meads* 2012:paras. 447-524). The purported basis for the Silence Means Acceptance rule is an actual US legal maxim, “*Qui non negat fatetur*”, “He who does not deny, admits” (Netolitzky 2018b:II). However, that maxim only correctly applies to a specific class of court documents, filings that initiate a lawsuit or a defence (Netolitzky 2018b:II).<sup>9</sup> Actual law has been erroneously applied too broadly and outside its proper context.

The most common application of the Silence Means Agreement rule is a “foisted unilateral agreement”, a document that says that the recipient must take certain steps within a timeline, or identified consequences automatically follow. Foisted

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<sup>9</sup> Bible verses provide a second alternative purported source for this rule (Netolitzky 2018b:II).

unilateral agreements are typically framed as a contract offer. A common foisted unilateral agreement is the ubiquitous “fee schedule”, a set of fines that pseudolaw practitioners assess against government actors (*Meads v Meads* 2012:paras. 505-523). The effect of a fee schedule is allegedly made global by marking that document with a declaration like “Service to Principal is Service to Agent. Service to Agent is Service to Principal.”<sup>10</sup> That, purportedly, causes the effect of a Fee Schedule to ‘chain’ its way through a government or organization after the document is received by one individual (*Meads v Meads* 2012:para 456).

The Silence Means Agreement rule is also pseudolegally applied to the rules of evidence. Any claim or alleged statement of fact placed in a sworn document is purportedly proven true, unless rebutted. These documents, often called an “Affidavit of Truth”,<sup>11</sup> are therefore considered to have a decisive effect, and thus ‘foist’ on the opposing litigant an obligation to disprove the Affidavit of Truth’s stated facts and conclusions (*Papadopoulos v Borg* 2009:paras. 4-10). That, in effect, much reduces the role of a judge or jury in determining disputed facts.

Another consequence of the Silence Means Agreement rule is less benign for those who accept it. When coupled with the Invisible Contracts concept, pseudolaw practitioners perceive themselves as surrounded by innumerable potential contract offers, any of which may entrap an individual in onerous binding obligations.

The result is a kind of legal nightmare, where one must obsessively seek out and positively reject every contract offer. As Rooke ACJ observes in *Meads*, this situation resembles the possibly mythical method by which civilian sailors were tricked into service in the Royal Navy by concealing the “King’s Shilling” in the bottom of a tankard of beer (2012:paras. 471-472). Accepting the beer, and the money, created a binding contract of service.

Legal declarations that the pseudolaw advocate does not agree in full or in part are a common defence against Silence Means Agreement. Thus, one finds pseudolaw documents are annotated: “without privilege”, “all rights reserved”, “UCC 1-207”, or “UCC 1-308”.<sup>12</sup>

Interestingly, pseudolaw practitioners appear sensitive to the harshness of the Silence Means Agreement rule. According to their own law, even a single failure to catch and respond to an offer or notice creates a binding agreement. Nevertheless, the very common Three/Five Letters mechanism uses *a series* of foisted unilateral

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<sup>10</sup> For example: *Rothweiler v Payette* 2018:para. 8; *Re Gauthier* 2017:Schedule B; *Bank of Montreal v Rogozinsky* 2014:Schedule D; *Royal Bank of Canada v Skrapec* 2011:paras. 33-34.

<sup>11</sup> For example: *Fazakas v Her Majesty the Queen* 2018:para. 2; *R v Duncan* 2013:para. 9; *R v Petrie* 2012; *Royal Bank of Canada v Skrapec* 2011:paras. 33-34.

<sup>12</sup> For example: *Medicard Finance Inc v Szalontai* 2001; *d’Abadie v Her Majesty the Queen* 2018.

agreements to ultimately obtain an (allegedly) final binding result.<sup>13</sup> Several of these documents do nothing but remind and warn that no response has been received, and silence will ultimately bind the target via “tacit procuration” or “tacit consent”.

### 3. No Injured Party

As previously indicated, a key “Common Law” principle is that one should not harm another or their property. Pseudolaw has also made the corollary a rule. A crime has a victim, so if no one was harmed, then no one has a legal right to intrude (Menard n.d.:86, see also Menard 2004:5, 36; Muljiani 2000:32-33, 52-53; Tir na Saor n.d.:4).

The Pseudolaw Memplex therefore incorporates personal injury law, or “tort law”. This element of the UK tradition Common Law addresses injury to persons or property that results from another’s negligence or intentional harmful acts. The classic example is an automobile accident. The driver who is at fault is legally obliged to pay damages to compensate for any injury to the other vehicle and its occupants.

The Pseudolaw Memplex version of tort law is quite similar to ‘conventional’ tort law. Pseudolaw litigants accept that an individual is personally responsible for the harm they cause others (Lindsay 1999; Weisman 2005). One of the few pseudolaw variations on tort law is that in certain circumstances triple damages may be charged,<sup>14</sup> typically where the wrongdoer has not taken an opportunity to settle a claim via contract.

Pseudolaw practitioners use tort law as a shield to challenge the validity of state-mediated legal action, such as criminal prosecution of ‘victimless’ crimes, and regulatory legislation. Pseudolaw practitioners argue that criminal prosecution to enforce prohibitions is invalid because there is “No Injured Party”, for example:

1. motor vehicle offenses (*R v Petrie* 2012:para. 12),
2. professional certification requirements (*College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v Fischer* 2014:paras. 3, 13),
3. prohibition of marijuana production (*R v Abadie* 2016:para. 12; *R v d’Abadie* 2016:paras. 3-4), and
4. the requirement to pay income tax (*R v Desautels* 2012:para. 54).

Thus, the No Injured Party rule means government, or, for that matter, anyone, has no legal right to interfere with another until someone or something has been

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<sup>13</sup> For example: *Bank of Montreal v Rogozinsky* 2014; *Re Boisjoli* 2015; *Rothweiler v Payette* 2018a; *Rothweiler v Payette* 2018b.

<sup>14</sup> For example: *Burse v Canada* 2015:para. 4; *Re Boisjoli* 2015:para. 45; *The Law Society of BC v Dempsey* 2005:para. 13; *Gravlin v Canadian Imperial Bank of Commerce* 2005:para. 8; *R v Fearn* 2014:Appendix A; *Papadopoulos v Borg* 2009:para. 3.

actually harmed. This rule is the (purported) theoretical basis for why one could own dangerous goods such as explosives and narcotics, possess and use firearms, or drive while intoxicated. All these things are legal, until someone is hurt.

#### 4. Defective Or Limited State Authority

The next element of the Pseudolaw Memplex is an explanation for why the legal authority of government is not as expansive or extensive as is conventionally communicated and taught. This element is the one component of the Pseudolaw Memplex which shows marked variation between host communities. That is not a surprise since the details of the Defective Or Limited State Authority explanation usually derive from the history of the local jurisdiction, or the nature of the pseudolaw host group. This is best illustrated by several examples.

US Sovereign Citizens believe that Federal government authority results when persons voluntarily become US citizens, a class of citizenship which is different from state citizenship (Koniak 1996:81-83; Sullivan 1999:797-798; Harris 2004-2005:294-297). The US citizen category is a concealed consequence of the 1868 14th Amendment (Erickson 1999:9-12; Berger 2016:3-4; Sullivan 1999:801-804). US citizenship can be removed, after which a person is only subject to “Common Law” (Erickson 1999:22-25, 34-35; Koniak 1996:68, 93-97; Berger 2016:5-6; Sullivan 1999:792-795, 809-911).

Similarly, Freeman-on-the-Land in the Republic of Ireland claim to be only truly subject to ancient Irish “Brehon Law” (Tir na Soar n.d.:4). Members of the Canadian Church of the Ecumenical Redemption International (*Meads v Meads* 2012:paras. 123-139, 183-188; Netolitzky 2016a:627-628) argue Queen Elizabeth II’s coronation oath to uphold the King James Bible is a contract, and Christian religious rules are therefore superior to conventional government legislation (*Law Society of British Columbia v Crischuk* 2017:paras. 24-28, 30-32; *R v Crischuk* 2007:paras. 8-12).

US Moorish Law communities employ several Defective Or Limited State Authority arguments. Some, like the Washitaw de Dugdahmoundyah Nation, claim to be the original occupiers of the Americas, who descend from ancient African-Americans who travelled from the continent of Muu in the time of Moses. That, allegedly, grants them special status vs government (*Bey v Indiana* 2017:3-4; *Marrakush Society v New Jersey State Police* 2009; Dew 2015).

Others claim immunity to court jurisdiction because of 18th century treaties with the Morocco Barbary pirate states (*Bey v Indiana* 2017:3-4; *Marrakush Society v New Jersey State Police* 2009; *Murakesh Caliphate of Amexem Inc v New Jersey* 2011:249, 260-261, 269-272; Compari 2014), or adapt the Sovereign Citizen 14th Amendment concept for African-American persons (Dew 2016:78-80), despite the Sovereign Citizen belief that persons of that descent can never be true state citizens.

The German Reichsbürger community has a variety of explanations for why the modern Federal Republic of Germany does not exist (Rathje 2014:14-20; Wilking

2015:17-23 102-118, 212-213; *FG Münster No. 14* 2015; Caspar and Neubauer 2012; Schumacher 2016), including:

1. the Federal Republic of Germany was terminated by a failed re-unification with the German Democratic Republic;
2. only the German army surrendered in 1945, but not the Third Reich;
3. a 1973 decision of the Federal Constitutional Court ruled the German Reich still exists; and
4. that Germany currently remains under post-World War II Allied occupation.

These theories allegedly means ‘conventional’ law and authorities are ineffective. Reichsbürgers have adopted the Pseudolaw Memplex to explain how apparent government authority results from Invisible Contracts with a corporation: “Germany GmbH”.

The highly fractionated Reichsbürger population, which dates to the mid-1980s, claims genuine authority devolves to an earlier pre-1945 precursor government, constitution, and law, which governs themselves and the true, but slumbering, German state. Dozens of different alternative candidate “Reichs” range into the 1800s. Other Reichsbürger subgroups point to pre-unification German states like Prussia as the valid government, or have declared themselves as independent and self-administered states and free cities (Wilking 2015:24-36).

The exact details of this particular component of the Pseudolaw Memplex are actually irrelevant. What matters is that there is some identifiable basis why the authority conventionally vested in state actors is purportedly less what is usually thought. It is, however, important that the Defective Or Limited Government Authority motif is conceptually compatible with the local jurisdiction. When the Pseudolaw Memplex is introduced into a new jurisdiction, this element of the Memplex is often replaced or varied. For example, when the original Sovereign Citizen Pseudolaw Memplex was introduced into Canada, Detaxer guru Eldon Warman discarded the 14th Amendment concept, and instead claimed Canada’s government was defective because of alleged flaws and omissions in the independence process and associated legislation (Netolitzky 2018d:II(B)(2)).

## 5. The “Strawman” Duality

The preceding four elements serve as the foundation for the most innovative component of the Pseudolaw Memplex: the “Strawman” duality. The “Strawman” concept is now well documented (Netolitzky 2016a:633-635; Netolitzky 2016b:144-145; Netolitzky 2018b:III(C); Perry et al 2017:25-27), but, in brief, it purports:

1. Physical humans are bound or linked to a non-physical legal person doppelganger: the “Strawman”.
2. Government has inherent authority over the non-corporeal “Strawman” doppelganger, but not a human being. The link between

the physical and legal parts of the duality is a channel for government authority.

3. The government attaches the “Strawman” to the physical human via a concealed contract that involves birth or identification documentation.
4. The “Strawman” is identified by an all upper-case letter name (e.g. JOHN SMITH), and that is why government and legal documentation capitalizes names. Those materials do not actually refer to the associated human being.
5. Government authority can be negated by denying you are the “Strawman”, and/or by breaking the “Strawman” contract.
6. A human is only subject to “Common Law” once the “Strawman” is removed.

The “Strawman” is completely unique to the Pseudolaw Memplex. The closest parallel in ‘conventional’ legal systems is a “corporation”, a legal entity which is operated by, yet distinct and separate from, its owners. While a corporation offers the owner(s) a benefit and protection via its “corporate veil”, the “Strawman” is more of a legal parasite, imposed on individuals to exert external influence and control. In fact, the “Strawman” has strong parallels to demonic possession and exorcism traditions (Netolitzky 2018b:III(C)(4)).

The “Strawman” builds from the other elements of the Pseudolaw Memplex, and therefore is second-order pseudolaw (Netolitzky 2018b:III(C)(4)). The “Strawman” provides the contract which makes an individual subject to state authority via Everything Is A Contract. This is the only way state authorities can enforce legislation given their Defective Or Limited State Authority, and, as a consequence, bypass the Injured Party requirement. The “Strawman” contract is an Invisible Contract, and remains in place as long as one does not reject it due to Silence Means Agreement.

Even when the “Strawman” is removed, individuals must be cautious and watchful, lest they succumb to a new Invisible Contract, experience “joinder”, and are again possessed and subject to government authority.

The “Strawman” organizes the other Pseudolaw Memplex elements into an overarching explanation of how the individual is only subject to “Common Law”, but nevertheless has been tricked by a nefarious actor into concealed subordination to otherwise illegitimate state authority. The title of a UK Freeman documentary, “Strawman - The Nature of the Cage” (Nature of the Cage 2015), evocatively captures how, for those who are hostile to state, police, and court authority, the “Strawman” concept vilifies ‘conventional’ authority, but also promises a means for escape.

## 6. Fiscal Misconceptions

The final component of the Pseudolaw Memplex is a collection of concepts which, allegedly, provide a source of free money, or a mechanism to refuse debt. This paper will only engage in an overview of these concepts.

The oldest Fiscal Misconception derives from fractional reserve banking, an aspect of modern banking practices. In brief, banks lend more money than they actually hold on deposit. This fact has led to a theory that banks “create money from thin air”, and a borrower therefore has no obligation to pay back this imaginary money (Netolitzky 2018c:II(A)(3)). Variations on this theme include that the borrower’s signature creates the money, or real money is backed by gold, unlike worthless “fiat currency” (Netolitzky 2018c:II(A)(3)). This Banks Create Money motif is a basis to refuse to pay debts.

The second Fiscal Misconception misinterprets the legal operation of bills of exchange. This scheme basically claims one can pay for a debt with a promise to pay, which is then satisfied by various elaborate explanations, none of which involve paying actual cash (Netolitzky 2018c:II(A)(3)).

The final Fiscal Misconception, commonly known as “Redemption Theory”, “Accept for Value”, or “A4V”, is linked to the “Strawman” myth (*Meads v Meads* 2012:paras. 531-543). Allegedly, during its creation, the “Strawman” is associated with a secret government-operated bank account that contains large sums. The correct paperwork allows the linked human access to that money.

Needless to say, none of these procedures actually work, however their popularity in pseudolaw communities confirms that the promise of free money has an enduring appeal. That also likely explains why this area of pseudolaw exhibits a certain degree of innovation, though in almost all instances the new schemes are nothing more than a variation on one of these three basic Fiscal Misconceptions (Netolitzky 2018c:II(A)(3)).<sup>15</sup>

## III. Conclusion

The Pseudolaw Memplex is plausible acceptable and attractive to practically any anti-state group given how it purports to create a mechanism to both separate and immunize oneself from state authority (Everything Is A Contract, No Injured Party, the “Strawman”), but also provides a way to strike back against perceived illegitimate state action by fee schedules and other foisted unilateral agreements (Everything Is A Contract, Silence Means Acceptance). Notably, the core Pseudolaw Memplex does not in itself support formation of vigilante police, court, and

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<sup>15</sup> For example, the UK WeReBank for a small fee sold blank bank cheques that allegedly could discharge large debts based on the Banks Create Money and promissory note Fiscal Misconception motifs (*Servus Credit Union Ltd v Parlee* 2015).

pseudogovernment entities, though these are a known response to state authority that is perceived to have ignored the true “Common Law” pseudolaw (Netolitzky 2016b:154-164, 168, 187-190; Erickson 1999:22-25; Koniak 2016:93-97; Sullivan 1999:792-795; Harris 2004-2005:287-292).

Importantly, the Pseudolaw Memeplex is not simply an emotionally neutral ‘toolset’ for anti-authority actors. Both the principles and narrative of the Pseudolaw Memeplex presume that ordinary individuals are trapped and bound inside an illegitimate apparatus administered by clandestine, conspiratorial means. The Pseudolaw Memeplex is not merely a tool of resistance, but is also a reason to hate.

Pseudolaw never works. Then why has the Pseudolaw Memeplex persisted and spread for nearly twenty years?

There is little question that at least some persons who use pseudolaw are ‘true believers’ and engage in lengthy campaigns to achieve and enforce their so-called rights. An important question for social scientists is why that occurs, and usually without either escalation to vigilante counter-authorities or direct violence.

Is this a *simulation* of resistance? If so, it comes at enormous cost to many of its advocates. Is pseudolaw primarily a magical system, where without a logical and systematic foundation pseudolaw’s practitioners are trapped like medieval alchemists, attempting to fine-tune formulae, searching for results that will never be achieved? Or is the belief that ‘law is the trap’ but ‘law is also the way out’ help pull pseudolaw advocates away from physical confrontation and force, and keeps this a (largely) ‘paper war’?

What is clear is that the Pseudolaw Memeplex is now a freestanding conceptual matrix that, with certain adaptation, is compatible with many countercultures and anti-authority groups. The “Strawman” is its keystone, supported by a foundation of modified and variant Common Law concepts and distorted textual references.

A fascinating aspect of the Pseudolaw Memeplex is it has no bible.<sup>16</sup> There is no single text or key resource to which a pseudolaw student may turn to learn about this apparatus and its rules. Instead, pseudolaw is distributed throughout a host of ephemeral but highly complementary resources: websites, isolated documents, short or voluminous (and usually very badly written) texts, and, above all, Youtube videos.

Pseudolaw also has no memory of its history. Its proponents seem to have little knowledge or interest about where the Pseudolaw Memeplex came from, which is in a sense logical, since the “Common Law” is purportedly timeless and universal.

In many ways, pseudolaw is a pure expression of Improviational Millennialist culture (Barken 2013). Its sources are legion, but marginalized. It points to a collection of so-called laws, but from a host of diverse sources. Pseudolaw has no clear

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<sup>16</sup> Except, arguably, *Meads v Meads* (2012).

foundation, but permeates global counterculture - an imaginary law that speaks for those who perceive themselves as persecuted and dispossessed.

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