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Meeting the Information Needs of Constitutionalist Patrons: A Guide for Reference Librarians

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Meeting the Information Needs of Constitutionalists Patrons: A Guide for Reference Librarians

I. Introduction

It is strange how we sometimes become interested in a topic without realizing it. As a young man I was quite an avid hunter and although I have made a conscious decision not to hunt anymore, I still enjoy some aspects of hunting. I still like to walk in the woods and scout locations where to find game. I like to read and decipher the signs that an animal leaves behind as it moves through its environment. And, I still like to track game, although now I do all my shooting with a camera. But, what does that have to do with the topic of this paper?

I first became aware of the existence of Constitutionalist patrons when I was working in the Circulation Department at the Gallagher Law Library**.** Part of my duties involved going through the stacks, carrels, and study areas and removing the books patrons left behind after finishing their projects. To keep my mind occupied and involved in what I was doing, I began to read and decipher the signs left in these piles of materials. Some were fairly easy; a pile of study aids and hornbooks for Contracts and Civil Procedure could only be the work of a 1L preparing for the major classes. Following the same logic, Tax Code materials, volumes of the BNA Federal Tax Coordinator and BNA tax management portfolios could be attributed to LLM students preparing a project. In some cases, I could even identify individual patrons: the wall of RCWA volumes and Pacific Reporters built around a corner of a reference area study table was the hallmark of the perpetual *pro se* patron who had asked me for legal advice on my first day on the job; or the stack of the Black Relations Law Reporter at one of the

standup desks used by a patron not for their research value, but to prop herself up as she read. However, there was a recurring pile of materials in a corner carrel that defied all my attempts to decipher the *modus operandi* of the person who used them.

This recurring pile of books always contained some of the most divergent and unrelated materials I had ever seen: old English case law, Internal Revenue Service (I.R.S.) decisions, admiralty law materials, volumes on the Tax Code, U.S. Constitutional materials, and writings on the Uniform Commercial Law (U.C.C.). These materials created a pattern that I could not break until a change conversation one day with our Head of Reference Services about working with Tax Protesters and *Posse Comitatus* members and the unusual materials they requested. Specifically, she recounted how she had become aware of this type of patron when she had a request for *Bouvier's Law Dictionary* as a preferred tool of Constitutionalists for legal research and interpretation.[1] This conversation solved the enigma of the corner carrel and led me to speak to other members of the reference staff as well as members of my student cohort who had similar encounters with patrons working from the Constitutionalist perspective. I realized then that the information requests generated by this type of patron would be based on their eclectic and divergent interpretation of the law. Serving the research needs of Constitutionalist patrons would require a different angle of approach by the reference librarian. I never determined who the user of the corner carrel was, but during my year at the Gallagher reference desk I got the opportunity to become acquainted with the group of Constitutionalist patrons that regularly frequented the law library.

II. Defining the Constitutionalist Patron

There are several loosely related groups that fit into the Constitutionalist patron category. Most of these groups share common ideas on how to interpret mainstream law but they do not necessarily self-identify as, or factually form, a cohesive group. However, for the purposes of this study, I have chosen the term "Constitutionalist patron" to identify the patron who falls into the category of far-right or libertarian groups that share an ideology that both challenges the existing legal framework and proposes the existence of another framework based on a divergent interpretation of the law and recognized legal materials.

The Constitutionalist patron of this study self-identifies with groups such as the *Posse Comitatus*; Constitutionalist, including the "Common Law Court Movement;" Patriot Movement, including "Christian Identity;" Militiamen, and other white supremacist groups; and, tax protestors. These groups often share ideological themes historically associated with white supremacy and anti-Semitism. Multiple themes merge in the ideology of the Constitutionalist patron: government abuse of power; fears about globalism and sovereignty; economic distress; apocalyptic fears of conspiracy and tyranny from above; male identity crisis, and a backlash against the social liberation movements of the 1960s and 1970s.[2] To better understand the legal view of the Constitutionalist patron, we need to examine the legal view of the four main categories.[3]

This guide uses the term Constitutionalist patron as blanket term for several distinct groups that share a basic divergent idea of the law. Throughout this paper, the Constitutionalist patron will be referred to using male pronouns because the typical Constitutionalist patrons I became acquainted with during my stay at the Gallagher Law Library reference desk was a WASP male, "somewhere on the border between middle

and old age."[4] My experiences at the Gallagher Law Library with Constitutionalist patrons also showed that the majority tended to be self-educated, self-taught in the law, and working *pro se*. As a result of their focus on legal self reliance, the Constitutionalist patron is a phenomenon more often encountered in public access libraries. Institutions that restrict access to students or members are less likely to be used by these patrons since they avoid membership in the mainstream legal world.

The Constitutionalist philosophy is centered on populist ideas based on religious fundamentalism, ethno-phobia, racism, anti-feminism, and strong anti-establishment feelings. The interaction between a Constitutionalist and a typical reference librarian represents the meeting of two almost diametrically opposed points of views and philosophical cultures. Ideally, the reference librarian comes to this meeting with an open mind**,** a desire to help and a commitment to make the law accessible to all.[5] Often the Constitutionalist patron views the librarian, at best, as uninformed as to the "real" meaning and structure of the law; or, at worse, as complicit in the broader conspiracy of the profession to keep the "real" law from the people. The reference librarian dealing with the Constitutionalist patron can make the basic assumption that the patron does not see the librarian as someone who is committed to help him find answers but rather as someone who might hinder his search for useful materials either through ignorance or an intentional attempt to obscure the "truth."[6] In other words, the intent of this guide is not to rehash what has been said about the Constitutionalist movement in the mainstream legal literature or criticize their beliefs, but rather to extract from Constitutionalist sources the ideas and philosophies that shape the information request and better serve them.

A second assumption of this paper is that the interaction between the reference librarian and the Constitutionalist patron is very similar to the information needs of a *pro se* litigant. Because the Constitutionalist's philosophical view of the law places little or no value on the mainstream idea of a legal education, he will generally be acting without legal representation. Even if the patron is conducting research for purposes of general information or self-education, the librarian should assume that some form of *pro se* litigation may be the ultimate outcome of the Constitutionalist's use of library resources.

A. The *Posse Comitatus*

The *Posse Comitatus* Movement, which had its beginnings in Oregon and California around 1970,[7] grew from the common law concept of *posse comitatus*.[8] The *Posse Comitatus* Movement is a group based primarily in the American Midwest; its members claimed the right to defend the U.S. Constitution by forming their own courts and arresting public officials who were acting unconstitutionally, according to the *Posse*'s definition of the Constitution.[9] Members of this group reject all authority higher than the county sheriff, accept only the first twelve Amendments of the Constitution as legally binding; and share a belief that "an international Zionist conspiracy controls the U.S. government,"[10] making any transaction with that government an implicit act of participation in an international conspiracy. Many members of the *Posse Comitatus* also share membership in Christian Identity, a radical Christian sect that preaches white supremacy, racial separation, and anti-Semitism.[11] Members of this group believe that the true government is an expansion of the Christian church, the Constitution's source is the Bible, and God is the establisher of the law.[12]

Posse Comitatus members have used the mainstream legal system to file common law liens and *pro se* lawsuits against public officials. They have also organized "citizens' grand juries" to correct what they believe to be harassment of citizens by government officials.[13] These tactics are also used by other groups within the Constitutionalist patron category. In the early 1980's a Wisconsin *Posse Comitatus* group established its own township, created courts and administrative systems, and issued liquor licenses.[14] Although the *Posse Comitatus* is not as active as it was during the last two decades, individual members still continue their "legal' actions against government interference.

B. Tax Protestors

The tax protestor movement is unstructured and has no common theological, philosophical, or racial beliefs that lend it cohesion. The cohesive factor of this group is their legal theory, which centers on the idea of the unconstitutionality of the income tax system and the perceived illegality of the I.R.S. The tax protestors are relevant to this study because Constitutionalist patrons tend to litigate using tax protestor legal theories. The consistent theme of the tax protestor framework includes challenges to the ratification and constitutionality of the Sixteenth Amendment, Fifth Amendment challenges under the takings and self-incrimination clauses, and challenges to the constitutionality of the tax laws.[15] Most tax protestors appear *pro se* and are, therefore, frequent patrons of the public law library. This group primarily seeks divergent interpretations of the Tax Code and I.R.S. documents. In addition, members of this group are interested in finding materials to prove that the I.R.S. is either an unconstitutional creation or an arm of an international banking conspiracy.

C. Patriot Movement/Militias/Christian Patriots

Many Constitutionalist patrons identify themselves with the "Patriot Movement," a loosely organized group whose members believe that the federal government has become tyrannical in its attempts to control citizens' lives in areas such as taxation, environmental regulation, gun ownership, and constitutional liberties.[16] "Patriot Movement" or "Christian Patriots" are terms of self-reference for the largest segments of the white supremacist movement.[17] However, there is no central Patriot Movement representative body, and there are no statements of belief that are accepted by all facets of this group as being representative of their core beliefs. This group represents the wider spectrum of the extreme right, from the extremely militant to the almost mainstream.

D. Constitutionalist/Common-Law Courts

Constitutionalist patrons can also come from members of the Common Law Courts movement. Common Law Courts are courts organized at the local level outside the recognized judicial system that purportedly apply principles of common law to resolve disputes and adjudicate criminal matters. These courts are based on those developed by the *Posse Comitatus* Movement; and like them, they meet in private homes or community places. Some of these courts act as instruments of harassment to public officials and the established legal system; others appear to be sincere attempts to implement the beliefs of their members by freeing themselves from what they perceive as state tyranny and holding public officials accountable.[18] Common Law Courts have been active in their efforts to intimidate public officials and judges by issuing indictments,

subpoenas, and by placing common law liens on the property of those failing to comply with their demands. Adherents of these beliefs propose that the authority of their Common Law Courts is based on the Constitution, as interpreted by them; because they claim to be the highest sovereign power they designate their Common Law Courts as the "One Supreme Court."[19]

Constitutionalist patrons present a special challenge for the reference librarian because those patrons seek to interpret existing law using sources and materials that are not current or up to date. In addition to favoring antiquated materials, these patrons also seek to support their legal arguments through convoluted connections to arcane law or through unrelated materials based on their interpretation of their favored old resources. The reference librarian, trained in the law and generally working with patrons who are either also trained in the law or working to resolve problems using existing law, has to change his or her working paradigm radically to meet the information needs of a Constitutionalist patron effectively.

The purpose of this guide is twofold; first is to give the reference librarian pointers on identifying these types of patrons by their requests for sources and materials; and secondly to give the reference librarian an understanding of the philosophies and legal theories driving the Constitutionalist patron's information needs.

III. Terminology: traditional common law vs. the Constitutionalist view of the common law

A. Traditional interpretation (common law):

Traditionally, the common law is the body of law deriving from law courts as opposed to those sitting in equity.[20] The concept of common law in the mainstream legal world encompasses the body of law derived from judicial decisions and the precedents they set, rather than from statutes or constitutions. In the mainstream system, statutory law can trump the concept of common law because it is possible that it dictates the abandonment of precedence. (I shortened this and cited the Black's definition. V)

B. The Constitutionalist's definition of common law

The common law, as defined by the proto-typical Constitutionalist patron, is the pronouncements of self-styled Sovereign Citizens, and the Common Law Courts. In addition, the Constitutionalist patron sees the common law as deriving from God and instituted by his chosen people with the Sovereign Citizen as the rightful heir to the law. This hierarchical representation can be better understood by looking at an excerpt of a Freemen's manifesto outlining the source of the common law.

"Our" Lawful Chain of Command

1. Almighty God, pursuant to His Holy Scriptures, creator of all good and evil;

2. Adam, i.e., White race of Man/Israel, God's chosen People;

3. We the People (Adam) of the Posterity, obedient to the Laws of Almighty God, a.k.a., our 'Common Law';

4. Constitution(s), 1 States' then, 2 National, with limited powers....

5. which created public offices filled by our 'public officers/officials/agents/ servants…

6. 14th Amendment, creating a 'second class of citizens', and at the bottom of the chain, i.e., corporations, persons, subjects, and citizens of the United States, subject to its jurisdiction, Article 1, Section VIII, clause 17, and via the Fourteenth Amendment.[21]

In addition to illustrating the view that the common law comes from God and is based on the pronouncements of his chosen people, it also illustrates the relative position of materials that are familiar to the mainstream legal professional: constitutions, with State constitutions receiving supremacy over the Federal Constitution; and the creation of a second class of citizen by means of the Fourteenth Amendment. Under this philosophy, the common law precedes and is supreme over statutory law, as it pertains to Sovereign Citizens. Not only does the common law prevail over statutory law, but it is also the only form of law perceived as legitimate to the Sovereign Citizen. Statutory law only applies to those members of the second citizenship created under it and is totally invalid to the Sovereign Citizen. According to this philosophy, the common law, as embodied both in the "Constitution of the Common Law," created for the protection and security of persons and property; and, "Substantive Common Law," which is a right held to exist for its own sake and to constitute part of the normal legal order of society.[22] The intention of the Founding Fathers in creating the common law Constitution was to create the assurance of access to this law by the "common" people.[23]

Constitutionalist patrons spend considerable time studying mainstream materials, sources, and procedures but do not view them through a standard intellectual framework.

As a result, the language of the Constitutionalists' philosophy sounds like the language of the common law but the meanings and basic assumptions are not remotely in tune. The reference librarian must be aware that the Constitutionalist patron may speak the language of the law, but his meaning may be very different. People acquainted with mainstream law practice, such as law librarians and attorneys, are frequently baffled by the Constitutionalist patron's legal practices because their documents and legal theories look and sound very similar to traditional legal documents and theories.

Constitutionalist patrons have a legal philosophy that shares much of the form of mainstream law because many of them spend considerable time studying legal language, theory, and procedure, but this philosophy shares few of the basic assumptions and definitions of the mainstream legal philosophy. (I changed this sentence to see if it made better sense. Please feel free to change it as you see fit. V.)

C. Resources

The Constitutionalist patron focuses his research efforts in a set of specific materials that represent the body of his legal theory. Primary among these materials are old English case law materials, and Blackstone, as the final authority on interpreting the English common law. A significant tool related to these materials are old legal dictionaries, in particular *Bouvier's*, which the Constitutionalist patron uses to define the law in terms more suited to the original sources he seeks to cite. The Constitutionalist patron is also interested in United States Constitutional research, but in this area of law he differs from the mainstream researcher in that he generally does not view any amendment beyond the Bill of Rights as being valid. Consequently, the Constitutionalist patron has

little use for treatises and secondary sources on Constitutional law, since his world view limits the usefulness of materials devoted to the study of anything beyond what he terms the "organic Constitution."[24] Finally, the Constitutionalist patron will also be interested in Uniform Commercial Code (U.C.C.) materials and in materials dealing with the I.R.S..

English case law:

The Constitutionalist patron claims that Magna Charta is the direct ancestor of their common law. They see their version of the common law as the result of the dictates of a community of peers granted sovereignty by God based on their racial purity and secured by their property. They look back to the English feudal system as a vindication of those beliefs. In feudal England, only the Christian, Anglo-Saxon male could be a member of a jury and therefore eligible to create the common law. Consequently, the community of peers that the mainstream validates, a group of people who are representative of the general community in its diversity, is not reflected in the vision of "peer" that the Constitutionalist patron holds.

Just as a mainstream legal practitioner looks for case law that is on all four from an authoritative jurisdiction, the Constitutionalist patron looks for analogies in old English case law because of the perceived value of its authority. The Constitutionalist patron looks for precedents in old English case law because, in his view, that law reflects the original status of the order of things as they ought to be. It has not been infected by the mainstream community of peers because it was outside their reach. Therefore, just as the mainstream values judicial opinions that are timely, because they represent the latest interpretation of the law, the Constitutionalist patron rejects those opinions as a perversion of the "original" law.

For the librarian, this reliance on English case law to solve present legal questions represents a conundrum. Usually, patrons who come to the reference desk in search of case law are looking for materials that are authoritative, on point, and timely. A reference librarian faced with a *pro se* patron looking for case law to help their case will steer that patron to sources that will be valid in a court of law. A librarian receiving request for outdated materials will generally assume that the patron is working on some historical project or simply wishes to see the development of the law. Generally speaking, the Constitutionalist patron's interest in these materials is not academic; their intentions are to use these materials to build their cases and to sustain a legal theory in a court of law.

Blackstone:

To the Constitutionalist patron, *Blackstone's Commentaries* (*Blackstone*) represents the clearest and most complete interpretation of the law. *Blackstone* embodies a form of the natural common law ordained by God.[25] The Constitutionalist patron uses *Blackstone* almost exclusively to interpret the meaning of the law. Based on the advertisements and articles found in several Movement pamphlets, a special premium is placed on reprints of the original edition. When purchasing copies of *Blackstone*, Constitutionalist patrons will pay extra for the benefit of having access to actual facsimiles of the original. In libraries, the Constitutionalist patron will request original editions or facsimiles of those editions. This reliance on the original text, despite archaic grammatical and spelling forms, is centered on the suspicion that anything other than the original text loses the actual insight on the law that Blackstone had. Sometimes this

suspicion goes beyond the loss of the original meaning and begins to center on the idea of a conspiracy by the mainstream legal system to subvert the law.

Legal Dictionaries:

The Constitutionalist patron is a textualist by definition, he seeks to explain or understand the law by a strict definition and construction of its texts. This idea of strict definition and construction does not necessarily mirror the similarly named concepts within the mainstream legal profession. In the Constitutionalist philosophy, the legal dictionary appears to be used as a tool to go beyond finding clear meaning for legal terms. In this legal view, the dictionary is used to support divergent theories by creating a chain of meaning through archaic interpretations or though logically unrelated linking. The Constitutionalist patron exhibits a predilection for older dictionaries partly because the older usage of legal language supports his archaic textual interpretations.

Bouvier's vs. Black's:

Constitutionalist patrons have a documented predilection for the use of *Bouvier's Law Dictionary*, 6th edition, published in 1856, to the exclusion of the more mainstream accepted *Black's Legal Dictionary* or even later editions of *Bouvier's*.[26] *Bouvier's* enjoys a following among the Constitutionalist community through a perceived notion that this source is preferred by Congress and the Supreme Court as the most authoritative tool to use when defining the law.[27] There is also a feeling in the community that mainstream legal training neglects to provide legal practitioners with knowledge of this source, so the Constitutionalist patron feels a sense of empowerment from using a tool that the mainstream practitioner does not have knowledge of and that can provide the Constitutionalist patron with some degree of power over the workings of the system.[28]

Based on the perception that mainstream law can be manipulated by using legal definitions set down in a "secret" or "special" dictionary, the Constitutionalist patron will demand access to this source over the accepted current standard. A recommendation by the reference librarian that *Black's* might be a more suitable tool because it is recognized as the standard resource within the legal profession will likely be taken in one of two ways: either the reference librarian is ignorant as to the "true" value of *Bouvier's* as the preferred tool because of a lack of a "proper" legal education; or, the reference librarian is part of the mainstream conspiracy to hide the really useful resource from the public at large.

Bouvier's seems to have achieved its exalted status among law dictionaries not because of any verifiable predilection by Congress or the Supreme Court, but from more pragmatic reasons. One reason for favoring *Bouvier's* centers on the peculiar constitutional beliefs of these patrons. To the Constitutionalist patron, legal materials that represent legal thinking from the period before the Civil War are more in tune with his perception of the law since those materials reflect the legal theory before it was "damaged" by unconstitutional machinations and international conspiracies. A law dictionary defining terms consistent with present legal theory cannot give an accurate picture of the Constitutionalist perspective.[29] An additional reason for *Bouvier's* position can be found in the Constitutionalist community's active presence in cyberspace. Any Google search on the Internet confirms that the net is full of sites advocating the full spectrum of Constitutionalist philosophy.[30] *Bouvier's* 1856 edition, the most common in cyberspace, is old enough to be in the public domain and has been placed into several of the sites espousing Constitutionalist philosophy by virtue of its availability in full

searchable text and its free access.[31] Finally, John Bouvier's original intent, to create a tool for legal self education, may also resonate with the Constitutionalist patron, because he often lacks a formal legal education and has an innate distrust for that mainstream legal system.[32] The Constitutionalist patron will actively seek out tools that reflect his legal theories, either because of personal philosophy or because of their historical important, and he will eschew what the reference librarian would consider to be a more useful and appropriate tool. The reference librarian needs to be aware of that any attempt to dissuade the patron from he or she might consider antiquated or out of date materials might be viewed with suspicion or an attempt to hide what the patron considers to be invaluable materials.

US Constitution:

Some Constitutionalist patrons believe that America is the New Jerusalem and that God gave the U.S. Constitution to their ancestors, the white Christian Founding Fathers. They believe the authentic Constitution consists only of the Bill of Rights and the Articles of Confederation. The Constitutionalist patron recognizes the Bill of Rights as part of his common law but qualifies the other sixteen amendments as equity law.[33] The amendments outside of the Bill of Rights are seen as having taken effect but not having the force or legality of the Bill of Rights. To the Constitutionalist patron, the Constitution is a divinely inspired "organic Constitution" in which human agency is secondary to the will of God. Only those portions of the Constitution which were signed by the original Founding Fathers are valid because they were the recipients of divine revelation of the Supreme Law. Any later amendment, rule, or regulation is "unconstitutional" because they do not share in the original divine source.[34] The

Constitution, as viewed by the Constitutionalist patron, legitimizes their perspective of the common law and raises it to the level of the only valid law in the land. However, when dealing with the mainstream legal system, Constitutionalist patrons will not appeal to the Constitution's pre-eminence because in doing so, they would have to acknowledge that the mainstream system understands its meaning. To Constitutionalist patrons, the mainstream legal system vision of the Constitution and constitutional law are flawed and misguided.

The Constitutionalist patron bases his ideology on a notion that there exists a higher law which makes his rejection of the state legitimate. The concept of the state is categorically rejected while the idea of the rule of law is fervently embraced. The Constitution, as viewed by the Constitutionalist patron, represents the embodiment of the rule of "organic" or divinely inspired law that validates their rejection of the state concept of the rule of law and makes suspect the institutions and individuals involved in what they term state created law. To the Constitutionalist patron, constitutional interpretation can only be valid when it is based on the actual text recognized as the Organic Constitution. Furthermore, authoritative interpretation of constitutional materials is only of any use when based on individual or nonhierarchical sources. The Constitutionalist patron seeking constitutional materials is not interested in treatises or discussions by authors whom they believe have been co-opted by the state system.

The natural reaction of the reference librarian when confronted with a patron looking for materials interpreting the Constitution is to lead that patron to secondary materials by recognized experts in the field who analyze the Supreme Court's interpretation of the pertinent constitutional law. These sources are not only useless to

the Constitutionalist patron but they are viewed as highly suspect since they do not share in the mainstream concept that the Supreme Court is the ultimate arbiter in Constitutional interpretation. In addition, their belief system makes it impossible to acknowledge that someone in the mainstream legal system could recognize the "original, organic Constitution" because legal practitioners in the mainstream have been blinded by a distorted version of that Constitution.

13th Amendment – The Law that Almost Was:

A recurrent topic in Constitutionalist theory is the existence of a "hidden" Thirteenth Amendment because the existence of this material is **central** to the theory of the lawyer based conspiracy to destroy the Constitutionalist's version of the common law. The "missing" 13th Amendment to the Constitution of the United States reads as follows:

> If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honour, or shall without the consent of Congress, accept and retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.[35]

At first reading, the meaning of this 13th Amendment, also called the Title of Nobility Amendment or TONA, seems obscure and unimportant even by Constitutionalist standards. However, the Constitutionalist philosophy attaches importance to this amendment for two reasons.

First, titles of nobility were prohibited in both Article VI of the Articles of Confederation and in Article I, Sections 9 and 10 of the Constitution of the United States. Although already prohibited by the Constitution, additional "title of nobility" amendment were proposed in 1789, again in 1810, and according to Constitutionalist beliefs, finally ratified in 1819.[36] The Constitutionalist patron sees this sequence of events as a clear indication that the founding fathers saw such a serious threat in "titles of nobility" and "honours" that anyone receiving them would forfeit their citizenship. To the Constitutionalist patron, the importance of this amendment centers on the claim that the term, "esquire," is a prohibited "title of nobility" within the scope of this missing Thirteenth Amendment and that the “honours” referred to are offices and judgeships that attorneys hold.[37] The Constitutionalist argument is that attorneys, having "titles of nobility," are thus agents of some monarch, mainly H.M. Elizabeth II, and are therefore in collusion with a foreign power and the international banking cartel to destroy the liberties guaranteed by the common law, as perceived by the Constitutionalist, to the People.

Second, Constitutionalist theory holds that if this missing amendment were to be restored to its rightful position, then the subsequent amendments would be invalid due to their inconsistent numbering schemes.[38] According to this theory, because there is a TONA Thirteenth Amendment that was ratified by Virginia in 1819, all other amendments ratified after that date have been ratified incorrectly since what the mainstream considers to be the Thirteenth Amendment should have been the Fourteenth, and so on. This inconsistency invalidates the ratification of all those amendments, making them unconstitutional.

The Constitutionalist patron will search for evidence of the existence and validity of this Thirteenth Amendment by searching for materials that would prove that Virginia had in fact ratified the amendment in 1819. The Amendment was introduced in 1810 and by 1818 twelve states had ratified it. The number of states required for ratification in 1818 would have been thirteen. The Thirteenth Amendment was published in a book of Virginia State Laws in 1819 as part of the Constitution and it was also included in other federal and state materials after that date. Uncertainty as to the status of this amendment continued for several years. The problems presented by the amendment led to a law, codified as 1 U.S.C. § 106b, specifying a process for ascertaining ratifications. President Monroe, who had been Secretary of State when the amendment was first proposed, tasked his Secretary of State, John Quincy Adams with the project of determining if the amendment had been ratified. John Quincy Adams reported twice in 1819 that not quite enough states had ratified the proposed amendment to accomplish its adoption.[39]

14th Amendment – Two Classes of Citizens:

The Fourteenth Amendment, ratified in 1868, extends citizenship rights to all persons born or naturalized in the United States and guarantees equal protection of laws to all persons. However, under the ideology shared by most Constitutionalist patrons only white Christian men are Sovereign Citizens of the Republic. Other Americans are merely Fourteenth Amendment "United States citizens," the illegal creation of an illegitimate "*de facto*" federal government.

The Constitutionalist patron bases the division of citizenship on the compact theory of the Constitution which was popular in the South before the Civil War. This theory is based on the belief that the federal government was created by a partial and

temporary delegation of state sovereignty.[40] The Constitutionalist patron sees the adoption of the Fourteenth Amendment as the greatest expansion of the federal power at the expense of the states and individuals, and that Sovereign Citizens must reject this expansion of power so as to preserve their constitutional rights.[41] Because the privileges and immunities clause of the Fourteenth Amendment states that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," Constitutionalist patrons see it as a creation of a new form of citizenship. They base this theory on the difference in capitalization between that clause and the class of citizens in Article IV, section 2 of the Constitution referred to as "Citizens of each State."[42]

The Fourteenth Amendment created a new form of citizenship that was radically different from the "Citizens of each State" contained in the Constitution. This new class of citizenship was limited to residents of the District of Columbia and federal territories. However, according to Constitutionalist theory, anyone can voluntarily become a (lower case) "citizen of the United States" by entering into a contract with the federal government.[43] The Constitutionalist premise is that no one would voluntarily submit to the complete authority of the federal government to usurp natural rights as granted in the Constitution, so the federal government had to resort to a conspiracy to entice Sovereign Citizens into contracts signing away those rights. These contracts of adhesion take the form of drivers' licenses, Social Security cards, wedding licenses, car registration, and even the zip code numbering system.[44] Constitutionalist theory holds that a person who is naturally a "Sovereign Citizen" and not a "U.S. or Fourteenth Amendment Citizen" has no obligation to follow federal law unless they have agreed or contracted with the

government to do so.[45] They believe that jurisdiction over “U.S. Citizens” is transferred to the federal government from the state by moving those citizens from the territorial jurisdiction of the states to that of the federal government.[46] Therefore, the creation of the zip code system is nothing more than a conspiracy to increase federal jurisdiction over the geographical territories of the states. By extension, anyone using a zip code has, even if unknowingly, consented to the jurisdiction of the federal government and become a “Fourteenth Amendment” or second class citizen.[47]

The notion that Sovereign Citizens are duped into contracts of adhesion by the federal government leads to the belief that those Sovereign Citizens can free themselves from federal subjugation by choosing to live as Sovereign Citizens rather than as U.S. citizens. Constitutionalist patrons believe that they can obtain "sovereign" status by:

> (1) breaking (i.e., physically destroying) all "contracts" with the government including birth certificates, social security cards, and driver’s licenses; (2) actively renouncing federal (14th Amendment) citizenship; and (3) claiming state citizenship.[48]

To the Constitutionalist patron, a constitutional amendment created with the intention of guaranteeing equal treatment and protection for all has become the basis of a conspiracy to deny the rights of a limited number of “rightful heirs” to the Constitution. Their philosophy does not only view the creation of a second class of citizens but also sees an active maneuver to deprive them of their rights. As a consequence of this view, the Constitutionalist patron will look for ways to support and validate the argument that the amendments to the Constitution beyond the Bill of Rights are null and void or, at the very least, not applicable to a Sovereign Citizen who has refused to contract with the

federal government at the cost of his "natural rights" or who has actively destroy all connections to the federal government. The Fourteenth Amendment citizen, in the Constitutionalist view, is a second class citizen who does not share in the protections guaranteed by the Bill of Rights but suffers from a more limited form of freedom that simply protects from interferences with "due process" and denial of "equal protection of the law" by the federal government.[49]

16th Amendment – The Law that Never Was:

This particular amendment is of intense interest to the tax protester subgroup of the Constitutionalist community, although the community in general shares the belief that this is another example of the ways in which the federal government has manipulated the Constitution to the detriment of the Sovereign Citizen. The authority of the federal government to collect income tax is based on the Sixteenth Amendment to the U.S. Constitution, the federal income tax amendment. According to Constitutionalist philosophy this amendment was not ratified by the required 3/4 of the states, but nevertheless Secretary of State Philander Knox fraudulently announced ratification.[50] Constitutionalist theorists believe that of the 36 states required to ratify the amendment; only 2 completed the process correctly and accurately.[51] The other states that attempted to ratify the amendment failed to do so because of spelling, capitalization, and general clerical errors that made ratification invalid. Constitutionalist patrons researching this issue are generally interested in discovering the legislative history of the amendment as well as following the ratification trail in the states legislatures. In addition, Constitutionalist patrons are keenly aware of the need to find any constitutional provision, statute, or case holding that clerical errors render ratification of an amendment

void to make this theory workable.[52] The Constitutionalist community has located support for this theory in a government publication, dated April 18, 1980, stating that “a joint resolution must be clear and unequivocal.” However, this publication is not primary authority and could not possibly bind proceedings that took place 67 years earlier.[53]

Another theory offered by the Constitutionalist patron as to the inappropriate ratification of the Sixteenth Amendment centers on the belief that Ohio was not legally a state in 1913, when the amendment was ratified; therefore Ohio’s ratification and subsequent inclusion in the number of required states for ratification are null and void.[54] Constitutionalist theorists hold that Ohio was not properly admitted into the Union because of a debate on the actual date of Ohio’s admission in 1803 which was settled by Congressional resolution in 1953.[55] Where this theory has been brought to court as a defense for not paying taxes, the courts have held that Ohio was a state in 1803 and that it ratification of the amendment was valid.[56]

Finally, the Constitutionalist patron will also believe that Secretary Knox’s certification of the Sixteenth Amendment as ratified by the states was a fraudulent act that nullified its validity.[57] The point of this theory is based on the assertion that Secretary Knox was aware of the clerical flaws in ratification by the states but certified the amendment as ratified, thereby granting it the full power of law.

The U.C.C. and Erie Railroad v. Tompkins:

The Constitutionalist patron generally holds the belief that “commercial law" is the foundation for all law to those people outside the pale of the Organic Constitution. Based on this assumption about commercial law, the Constitutionalist philosophy developed the idea that an "affidavit of truth" submitted "in commerce" could create a

lien which simply had to be paid by operation of commercial law. The Constitutionalist patron believes that this idea is well known and recognized within mainstream legal circles and that this lien process has been in general use in commercial law.

The U.C.C./Constitutionalist argument holds that some super secret treaty in the 1930's put the U.S. and other countries around the world in "bankruptcy" with the "international bankers" who became the "creditor/rulers." This proposition is important to the reference librarian because of the impossibility of finding factual documentation for a treaty that is so secret that its name or existence is unverifiable.[58] According to this theory, once the banker/rulers had assumed power, they had to find some way to eliminate the common law and replace it with commercial law as the controlling law. This was accomplished by the decision in *Erie Railroad v. Tompkins*.[59] The Constitutionalist patron believes that *Erie* destroyed the common law, supplanting it with commercial law via the U.C.C. The mainstream legal establishment was, of course, complicit in this destruction of the common law. The Constitutionalist patron will contend that, as proof the supremacy of the U.C.C. over the common law, no court case after 1938 (the year *Erie* was decided) will cite a case prior to that year. In the mainstream legal profession, *Erie* stands for the proposition that federal courts must follow the common law of the state in which an injury occurred. The Constitutionalist assertion that there is no federal general common law for the federal courts to follow is indicative of the destruction of the common law and its replacement by a "uniform law." The Constitutionalist philosophy emphasizes the point that the decision in *Erie* limited the duty of care of the railroad to those with whom it had privity of contract; substituting contract or commercial law for the common law of Constitutionalist theory which would

have imposed a duty of care to all foreseeable others.[60] For the Constitutionalist, *Erie* marks the point in which the mainstream abandons the common law in favor of another system.

Once the mainstream legal system abandoned the common law it had to replace it with another system of law. Since, in the Constitutionalist view, *Erie* embraced contract or commercial law in favor of the common law, the U.C.C. has been given the task of delineating what the mainstream law represents to the Constitutionalist patron. When researching how to interact with mainstream law, the Constitutionalist patron will rely on the U.C.C. as the guideline to the law that the mainstream abides by and understands.[61]

***U.C.C. §1-207*:**

The official comment to section 1-207 states:

> This section provides machinery for the continuation of performance along the lines contemplated by the contract despite a pending dispute, by adopting the mercantile device of going ahead with delivery, acceptance, or payment "without prejudice," "under protest," "under reserve," "with reservation of all our rights," and the like.[62]

The Constitutionalist patron sees this comment as providing an avenue to deal with the illegitimate mainstream system when it attempts to govern or control him as a Sovereign Citizen.[63] When still maintaining those forms of adhesion contracts; e.g. drivers' licenses, marriage certificates, hunting licenses, that the Constitutionalist patron sees as a ploy by the mainstream system to force him into relinquishing his Sovereign Citizenship, the Constitutionalist patron will resort to the phrases indicated in the comment to avoid the implication of complicity in the contract. In other words, the

Constitutionalist patron believes that by adding the phrase "without prejudice, U.C.C. §1-207" to any official document, he has side stepped the loss of his Sovereign Citizenship and any contractual obligation to an illegal government.[64] The belief in this talismanic phrase extends beyond dealing with licenses obtained through the government and can be exhibited in other contexts such as postings of materials on the Internet to indicate some form of Constitutionalist copyright.[65]

§1-103 Supplementary General Principles of Law Applicable:

The Constitutionalist patron will generally believe that the U.C.C. is the supreme law that applies in mainstream courts through the operation of this section. If §1-207 provides a way for the Constitutionalist patron to deal with the requisites of the mainstream legal system and avoid its consequences, in effect beating the mainstream with its own tools, §1-103 provides a way to interject the supremacy of the Constitutionalist's common law over the mainstream's adherence to the U.C.C.. Section 1-103 provides that contracts are subject to the general principles of the common law where it is not specifically displaced by U.C.C. provisions.[66] Therefore, according to Constitutionalist theory, when a Constitutionalist individual is forced to deal with the government, the principles of the Constitutionalist's vision of the common law must be applied by the government, through the operation of §1-103, if that individual has reserved his rights under §1-207.[67]

Liens to quiet title:

The primary tool in the Constitutionalist's commercial law arsenal is the common law lien. Constitutionalist patrons believe that once a lien attaches to someone's property, that person must successfully rebut the commercial affidavit, convene a common law

jury, or pay the lien. The Constitutionalist patron is attracted to commercial liens because liens are "non-judicial" as they require no interaction with the mainstream judicial system. One of the first actions by a Constitutionalist patron when faced with unwanted government interference therefore is often to place a lien upon the property of the offending official.[68] In the mainstream legal world, these liens convey no obligations at all, but those officials on whose property such liens are placed often must go through considerable effort and expense to remove them, even though they are invalid. Common Law Courts issue these liens, which are then recorded with the county recorder of deeds.[69] Constitutionalist patrons will generally come to the law library to find corresponding examples of mainstream liens.

Admiralty Law:

The Constitutionalist patron sees admiralty law as the antithesis of Constitutionalist legal philosophy. In this philosophy there are fundamentally two competing systems of man-made law that are in constant ideological conflict with each other.[70] One is the Common Law and the other is the Civil Law, or Roman Civil Law, which is embodied in their concept of admiralty law. The Constitutionalist patron finds the admiralty jurisdiction of Congress defined in Article I, Section 8 of the Constitution. Similarly, Article III, Section 2 defines the admiralty and maritime jurisdiction of the Supreme Court for the Constitutionalist patron. According to Constitutionalist philosophy, the admiralty and maritime jurisdiction granted to Congress and the Judiciary is very broad and extensive. Therefore, provisions had to be made in the Constitution to prevent the encroachment of this admiralty jurisdiction into “our Domestic law,” *i.e*. the

substantive common law of the Constitutionalist, in Article I, Section 8, and Article I, Section 10, Clause 1.[71]

The Constitutionalist patron makes the connection between Admiralty Law, which encompasses all controversies arising out of acts done upon or relating to the sea, and questions of prize and the Law of War.[72] The Constitutionalist patron understands admiralty law as the command enforcement structure necessary to maintain the good order and discipline on a ship, specifically as a ship was operated by the British Royal Navy in mid eighteenth century. Constitutionalist philosophy also makes a distinction between admiralty law and maritime law, that system of law that particularly relates to commerce and navigation, but it posits that the jurisdiction of an Admiralty Court attaches merely because the subject matter falls within the scope of maritime law.[73] The importance of this matter is based on a central theory of the Constitutionalist philosophy: the Constitutionalist patron sees bills, notes, checks and credit systems as being within the scope of maritime law because this law deals with matters of commerce. In consequence, a person does not have to be on a ship on the high seas to be under Admiralty Jurisdiction. This concept is important to the Constitutionalist patron because it returns the discussion to three topics that are pivotal to his philosophy.

First, because admiralty law deals with commerce and paper instruments it is seen as an important part of the conspiracy to deprive the Sovereign Citizen of his right to the gold standard. By dealing in negotiable instruments and doing away with “real” money, the government has usurped the financial security of the Sovereign Citizen and has used another ploy to obtain that citizen’s complicity in stealing his birthright of citizenship. If the Sovereign Citizen accepts the financial instrument of the government, he

inadvertently enters into a contract that diminishes his citizenship to that of the Fourteenth Amendment second class citizen.

Second, because commerce and negotiable instruments are part of the greater banking system, the Constitutionalist patron sees this imposition of Admiralty Law as another step in the international banking conspiracy to enslave the Sovereign Citizen. The "international banking conspiracy" is the modern euphemism used in this community to express its long held feelings of anti-Semitism. According to the prevailing story within the Constitutionalist community, the international banking conspiracy has schemed to legally enslave and disenfranchise the Sovereign Citizen from the natural rights of which he is the inheritor. This plot has been achieved through the creation of a system that imposes the harsh reality of Admiralty Law on anyone who falls within it.

Finally, because the Constitutionalist patron perceives Admiralty Law as having grown and developed from the harsh realities and expedient measures required to survive at sea, he sees this form of law as being tyrannical and antithetical to his natural common law. Under Admiralty Law there are no natural rights, according to Constitutionalist philosophy, just privileges granted by those running the ship. Therefore, anyone subject to this law lives at the whim of those granting the privileges; which can be taken away without a moment's notice.

The "Flag of War" vs. the "Civil Flag":

The Constitutionalist patron characterizes mainstream law as following his idea of what the precepts of Admiralty Law are: harsh, tyrannical, and based on the exigencies of war. This is the reason why the Constitutionalist philosophy goes to great lengths to make an issue over the "flag of war." Constitutionalist patrons will try to prepare

arguments that a mainstream court has no jurisdiction over him because it sits in admiralty, and he has not submitted to that jurisdiction. To prove that the court has no jurisdiction, the Constitutionalist patron will go to great lengths to find support for the contention that the yellow fringed flag displayed in courtrooms is an indicator of a court of admiralty or war.[74]

The British Accredited Registry (BAR) Conspiracy:

The Constitutionalist patron approaches the mainstream legal system with a great deal of suspicion. The best example of this suspicion is the theory that all mainstream legal practitioners are part of the greater conspiracy to deprive them of their rights. Constitutionalist Internet sources, the place where most of these theories are spread, contain references to bar associations as being organizations designed to keep the Sovereign Citizen from accessing the law.[75]

According to Constitutionalist theories, during the mid-seventeenth century, the Crown of England established a formal registry in London where barristers were ordered by the Crown to be accredited. The establishment of this first International Bar Association allowed barrister-lawyers from all nations to be formally recognized and accredited by the only recognized accreditation society, the British Accredited Registry or BAR. Members of the BAR became a powerful and integral force within the International Bar Association. When the U.S. was still a group of British colonies, the first British Accredited Registry in the colonies was established in Boston during 1761 disallow un-accredited barrister-lawyers access to the British courts of New England. Constitutionalist philosophy holds this as the first attempt to control who could represent defendants in the courts in the American colonies. Today, the U.S. courts allow only their

officer attorneys, those who are members of the bar, to freely enter and practice within the bar, and prohibit those learned of the law outside the mainstream, such as the Constitutionalist patron, to do so. The Constitutionalist patron sees membership in the bar as synonymous with membership in the BAR. When a Sovereign Citizen hires a bar/BAR Attorney to represent him in the mainstream courts, he has hired an officer of that court whose sole purpose and occupation is to transfer the rights of the Sovereign Citizen to the creator and authority of that court. [76] In effect, the members of the BAR are sworn to the destruction of the common law that rules the Sovereign Citizen.

This myth of the BAR creates a barrier of distrust between the Constitutionalist patron and mainstream practitioners. When the Constitutionalist patron approaches the reference librarian, he does so full of mistrust and ready to disbelieve any offer of help. In this way interaction between the reference librarian, who is already suspect as a probable member of a secret organization designed to steal his rights, and the Constitutionalist patron is doomed to failure. In order to avert that failure the reference librarian must be prepared to measure carefully all the possible levels of misunderstanding that the Constitutionalist patron brings with him to the encounter.

IV. Conclusion

The Constitutionalist patron represents a challenge to the mainstream trained law librarian. The assumptions that this patron brings to the table represent a radical departure from the learning and training in which the reference librarian grounds his or her knowledge of the law. Even before the interaction has begun**,** the Constitutionalist patron already harbors a deep-seated mistrust of the law librarian as a representative of the established or mainstream legal community.

Reference librarians working in an environment in which these types of patrons are active should be aware of the basic tenets of the philosophy by which those patrons are driven. This is not to say that librarians must be fully conversant on that philosophy or theory, but they will have greater success if they have an understanding of what theories drive the Constitutionalist patron. At the least, the librarian prepared in this way will be able to understand the patron's line of reasoning and anticipate his challenges to the librarian's competence.

The original premise of this paper was to examine these theories without passing judgment. Reference law librarians, whether dual degreed or not, come to the table with a legally trained mind, either through schooling or extensive experience in the legal field. The reference librarian needs to understand that to our legally trained minds, the legal theories of the Constitutionalist patron are convoluted and arcane in the way that only conspiracy theories can be. These theories revolve around a few repeating issues: the existence of a separate law available only to a select group; the existence of another select group that seeks to keep that separate law hidden and unavailable; and, the interconnectivity of all these themes in a manner that, once the secret formulae are applied, will lead to a universal conspiracy.

Notes

[1] Mary Whisner, *Dictionaries Make Strange Bedfellows*, Language and the Law: Proceedings of a Conference (Marlyn Robinson ed., William S. Hein & Co. 2003)

[2] Chip Berlet and Matthew N. Lyons, *Right-Wing Populism in America: Too Close for Comfort* at http://www.publiceye.org/tooclose/chapter-excerpt.html (Mar. 11 2005). Political Research Associates, the parent organization behind this site, self-describes as the premier national organization studying the full spectrum of the political right with the intent to further the extreme right wing agenda.

[3] *See* Francis X. Sullivan, *"The Usurping Octopus of Jurisdictional Authority": The Legal Theories of the Sovereign Citizen Movement*, 1999 Wis. L. Rev. 785 for a complete discussion of the legal theories of the *Posse Comitatus*, tax protestors, Patriot Movement, and Common Law Courts.
[4] Whisner *Dictionaries* at 93
[5] This is the standard that the reference staff at the Gallagher Law Library lives and operates by. As an intern at Gallagher, one of my first experiences consisted of an intensive seminar on the expected level of professionalism expected at the reference desk which emphasized an "open-minded, non-judgmental approach" to reference services.
[6] In the past, Constitutionalist literature and primary resources would have been found in pamphlets, newssheets, broadside publications, or publications of printed materials in small runs by specialized publisher. Today, all branches of the Constitutionalist movement are heavily active in cyberspace and their ideas, materials, and resources can be found in a myriad of sites dedicated to furthering their aims. Consequently, this guide will rely on those sites as the primary sources of the Constitutionalist philosophy.
[7] Anti-Defamation League, *Sovereign Citizen Movement* at http://www.adl.org/learn/Ext_US/SCM.asp?xpicked=4&item=20 (Mar. 11 2006)
[8] *See* 70 Am. Jur. 2d Sheriffs, Police, and Constables 60 (2005). "The sheriff's authority to command assistance from the immediate able-bodied, sometimes called a *posse comitatus*, or power of the county, was part of his common-law duties, which came along as an ancient function of the office."
[9] Sullivan, 1999 Wis. L. Rev. at 787.
[10] *Id*.
[11] Susan P. Koniak, *When Law Risks Madness*, 8 Cardozo Stud. L. & Literature 65, 68 (Spring /Summer, 1996)
[12] *Id* at 71; Sullivan 1999 Wis. L. Rev. at 787
[13] Devin Burghart & Robert Crawford, *Guns & Gavels: Common Law Courts, Militias & White Supremacy* 3 (Coalition for Human Dignity 1996)
[14] *See State v. Wickstrom*, 118 Wis. 2d 339, 343-44, 348 N.W.2d 183, 186 (Wis. Ct. App. 1984) (affirming Posse member's conviction on counts of violating Wisconsin statutes that forbid impersonating public officials)
[15] Sullivan 1999 Wis. L. Rev. at 790, citing *Miller v. United States*, 868 F.2d 236 (7th Cir. 1989).
[16] *Id.* at 791
[17] Burghart & Crawford, *supra* at 4
[18] *See Id*. at 792-3
[19] Daniel L. Levin, Michael W. Mitchell, *A Law Unto Themselves: The Ideology of the Common Law Court Movement*, 44 S. D. L. Rev. 9, 28 (1999)
[20] *Black's Law Dictionary* 294 (8th ed. 2004)
[21] Paul de Armond, *The Law Applied* at http://www.albionmonitor.com/freemen/ci-view.html (Mar. 11 2006). Albion Monitor is a web-only newspaper published continuously since 1995. Over 10,000 articles can be found in its archives. Topics most often covered include the environment, human rights, politics, and media criticism focusing on "the news you're missing in the American mainstream press."
[22] Eldon Warman, *Building the Case* at http://www.detaxcanada.org/cmlaw2.htm (Mar. 11 2006). DetaxCanada is a Common Law website emphasizing Tax Protester and Constitutionalist issues dealing with the Canadian perspective of the movement. However, this site also presents materials connected to the American point of view of the extreme right wing.
[23] *Id*.
[24] Constitutionalists hold that the organic Constitution is a divinely inspired document in which human agency is secondary to God's will. This organic Constitution is comprised of the Constitution and Bill of Rights as signed by the Founders, some Constitutionalist extent the organic Constitution to include Bill of Rights plus the Eleventh and Twelfth Amendments. All later amendments, laws and regulations are "unconstitutional" in the sense that they "create a federal constitution in opposition to the original." Paul de Armond, *Ancient Conspirarcies* at http://www.albionmonitor.com/freemen/ci-roots.html (Apr. 11 2006).
[25] Susan P. Koniak *The Chosen People in Our Wilderness* 95 Michigan Law Rev. 1761, 1781 (1997)
[26] Whisner *Dictionaries* at 94-96. The 1856 edition was published after Bouvier's death in 1851, but it reflected the use of many of his notes. Francis Rawle edited the dictionary following Bouvier's death and his last edition was the Third Revision in 1914. The Gallagher Law Library catalog has a 1928 and 1934 versions, both edited by William Edward Baldwin.

[27] *Id.* 94-95
[28] *Id*. 95 note 5
[29] *Id.* 103
[30] e.g. *The Jefferson Party Website*, at http://jusbelli.com/, *The Supreme Law Firm*, at http://www.supremelaw.org/, *Stormfront*, at http://www.stormfront.org/, Johnny Liberty, *Become a Sovereign Citizen*, at http://www.rumormillnews.com/cgi-bin/forum.cgi?noframes;read=51711, etc. (Mar. 11 2006). These sites represent the gamut of the extreme right, Contitutionalist philosophy.
[31] Whisner *Dictionaries* at 107
[32] *Id*.
[33] Anon., *Citizens Rule Book: A Palladium of Liberty*, at http://www.geocities.com/Heartland/7006/rulebook.html (Mar. 11 2006). This is the most widespread Constitutionalist Common Law handbook, explaining the philosophy and interpretation behind Common Law legal theory.
[34] *See Id*.
[35] David Dodge, *An Article On The Missing 13th Amendment* at http://sw.jeffotto.com/missing_13th.htm (Mar. 11 2005). This site is the platform used by a Constitutionalist, who also operates from http://www.hiscovenantministries.org/ , to disseminate his views about Constitutionalist philosophy and its relationship with the mainstream legal system.
[36] Dodge, *An Article* at http://sw.jeffotto.com/missing_13th.htm (Mar. 11 2006).
[37] Larry Becraft, *The "Missing 13th Amendment" and "Titles of Nobility"* The Dixieland L. J. at http://home.hiwaay.net/%7Ebecraft/Missing13.htm (Mar. 11 2006). Larry Becraft is an Alabama attorney that publishes the Dixieland Law Journal online and specializes in the cases of tax protesters.
[38] Bill Benson, *The Law that Never Was* at http://www.thelawthatneverwas.com/ (Mar. 11 2006). This site is the result of Bill Benson's investigation into the 16th Amendment's ratification. Mr. Benson concluded that the ratification of the 16th Amendment was a fraud.
[39] Becraft, *The Missing* at http://home.hiwaay.net/%7Ebecraft/Missing13.htm (Mar. 11 2006)
[40] Levin and Mitchell, 44 S. D. L. Rev. 9 at 19
[41] *Id*.
[42] *Id*.
[43] Anti-Defamation League, *Sovereign Citizen* at http://www.adl.org/learn/Ext_US/SCM.asp?xpicked=4&item=20 (Mar. 11 2006)
[44] *Id*.
[45] Levin and Mitchell, 44 S. D. L. Rev. 9 at 23
[46] *Id*.
[47] *Id*.
[48] Richard Abanes, *Infiltrating the Church with a Message of Hate* at http://www.equip.org/free/DP700.htm (Mar. 11 2006). Richard Abanes is a conservative evangelical Christian religion writer specializing on the topics of cults, the Patriot Movement, Militias, and the Christian Identity Movement. This article is hosted by The Christian Research Institute (CRI), an organization designed to provide evangelical Christians with research information on a variety of topics relating to their faith.
[49] Koniak, 8 Cardozo Stud. L. & Literature at 82
[50] Benson, *The Law* at http://www.thelawthatneverwas.com/ (Mar. 11 2006)
[51] *Id*.
[52] Christopher S. Jackson *The Inane Gospel of Tax Protest: Resist Rendering Unto Caesar – Whatever His Demands* 32 Gonz. L. Rev. 291, 302 (1996/97)
[53] Id.
[54] Benson, *The Law* at http://www.thelawthatneverwas.com/ (Mar. 11 2006)
[55] Jackson 32 Gonz. L. Rev. 291 at 305
[56] Id.
[57] Benson, *The Law* at http://www.thelawthatneverwas.com/ (Mar. 11 2006)
[58] I first became aware of this argument as a result of a request for information on this "treaty" by one of our regular Constitutionalist patrons at Gallagher.
[59] *Erie R. Co. v. Tompkins*, 304 U.S. 64 (1938)
[60] Koniak 8 Cardozo Stud. L. & Literature at 85

[61] Koniak 95 Michigan L. Rev. at 1781
[62] U.C.C. §1-207 cmt. (2001)
[63] Koniak 95 Michigan L. Rev. at 1782
[64] *Id*.
[65] *See* http://www.uscivilflags.org/home.html, (Mar. 11 2006), a site dedicated to the premise of the legal difference between the American "war flag" and the "civil flag," which closes its discussion with the Common Law tag line "All Rights Reserved - Without Prejudice U.C.C.1-207." This site endorses the restoration of the Constitutionalist's version of a "Common-Law Government."
[66] U.C.C. §1-103
[67] Koniak 8 Cardozo Stud. L. & Literature at 91
[68] Burghart & Crawford, *supra* at 3
[69] Jeremiah W. Nixon and Edward R. Ardini *Combating Common Law Courts* 13-SPG Crim. Just. 12, 13 (1998)
[70] Eldon Warman, *Building the Case* at http://www.detaxcanada.org/cmlaw2.htm (Mar. 11 2006)
[71] *Id*.
[72] Eldon Warman, *The British Legal System of Mixed Common and Roman Law Has Been Used to Enslave US(A)* at http://www.detaxcanada.org/cmlaw1.htm (Mar. 11 2006)
[73] *Id*.
[74] *See generally* Sadlier v. Payne, 974 F.Supp 1411 (C. D. Utah 1997)
[75] *e.g.* Anon., *Hiding Behind the Bar* at http://usa-the-republic.com/jurisprudentia/hiding%20behind%20the%20bar.html (Mar. 11 2006), Harsah Sankar, *Treasonous BAR (British Accredited Registry) Assoc.!* at http://www.fourwinds10.com/news/05-government/E-new-world-order/2003/05E-06-11-03-treasonous-BAR-assoc.html (Mar. 11 2006), Glen Stoll, *What Is a Lawyer?* at http://www.worldnewsstand.net/1/lawyer.htm (Mar. 11 2006), Joe Blow, *Hiding Behind the Bar; Why Attorneys Are Not Lawyers* at http://www.worldnewsstand.net/law/bar.htm (Mar. 11 2006). This last article is also found at http://usa-the-republic.com/jurisprudentia/hiding%20behind%20the%20bar.html (see footnote 69) under an unknown or anonymous author. However, the author name given in this site is clearly a pseudonym, as is common with many of these types of materials; *e.g*. the article cited in footnote 24 authored by Johnny Liberty. All these articles are hosted by USA-the-Republic and World Newsstand; both sites are collections of Patriot Movement writings focusing on the interpretation of legal issues from the Constitutionalist perspective.
[76] Anon., *Hiding* at http://usa-the-republic.com/jurisprudentia/hiding%20behind%20the%20bar.html (Mar. 11 2006)

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