

## Everything is a Contract

*"If man were to live in a state of nature, unconnected with other individuals, there would be no occasion for any other laws, than the law of nature, and the law of God. Neither could any other law possibly exist: for a law always supposes some superior who is to make it; and in a state of nature we are all equal, without any other superior but him who is the author of our being. But man was formed for society; and, as is demonstrated by the writers on this subject, is neither capable of living alone, nor indeed has the courage to do it."* - [Sir William Blackstone](#)



The OPCA doctrine sees a charge as contractual or commercial in nature, and therefore treats it as one would any civil matter, despite the fact it is really a criminal matter. They employ a variety of theatrics with police, attempting to change this to a "correct jurisdiction", but it all inevitably fails in the courts. This OPCA behaviour and mindset exemplifies the "Commercial Argument" part of the moniker chosen by Justice Rookes, because the argument really does perceive everything as contractual.

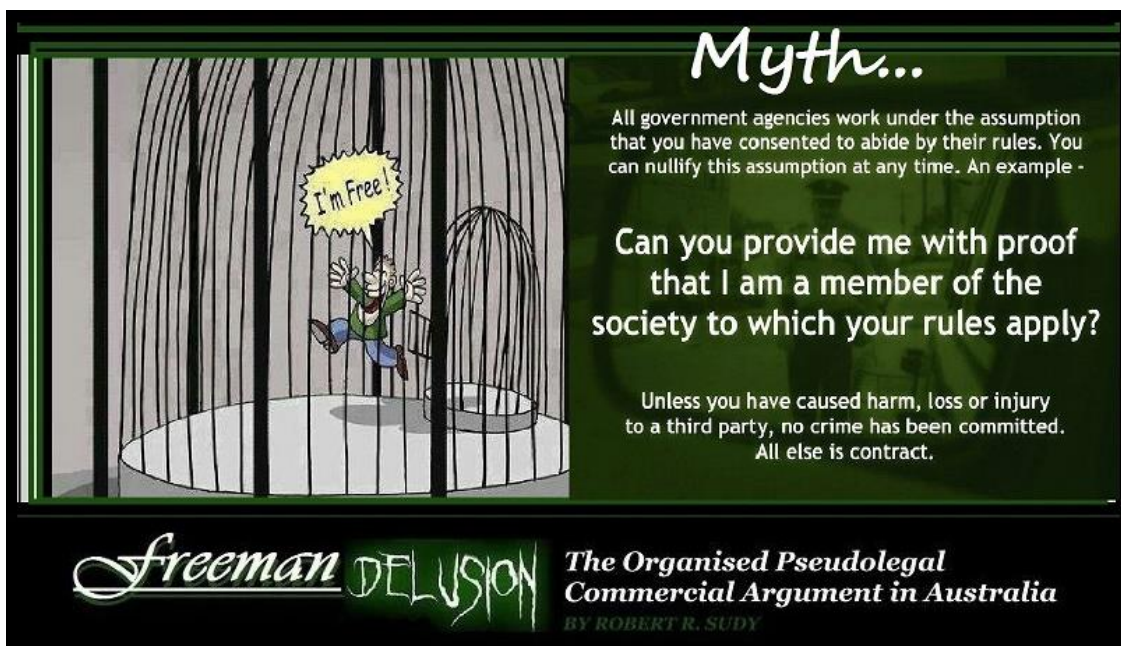
Despite the strength of the theorist's denial, a criminal matter will inevitably be adjudicated in a criminal court, and not a civil court, where matters of contract and commerce are litigated.

In [Kuipers-Lloyd v Police \[2013\] SASC 137](#) the defendant contended that the magistrate erred in failing to recognise the proceeding as a civil proceeding. It was submitted that the elements said to be necessary to constitute a criminal proceeding, including the identification of a relevant *mens rea* and *corpus delicti*, were absent. The court held that this submission was wholly without merit, and that the proceeding was a criminal proceeding and involved the hearing of a charge that the defendant had committed a summary offence against the Road Traffic Act. Similarly in [Bradley v Barber \[2016\] QCA 053](#), the applicant submitted that the matter should be regarded as civil not criminal, and the court ruled there was no substance in this complaint.

It was held in [Woods v Australian Taxation Office & Ors \[2016\] QDC 198](#), that the obligation to obey the laws laid down by parliament is statutory, not contractual. It was noted with concern in [Adelaide City Council v Lapse \[2016\] SASC 66](#) that:

*"A particularly difficult category of OPCA litigant are those who adhere to the OPCA concept that all interactions between the state, courts, and individuals are contracts. As is later explained in greater detail, persons who adopt this concept will interpret almost any invitation by the court or compliance with court procedure as the formation of a contract. For example, members of this Court have observed that litigants who apply the OPCA 'everything is a contract' strategy will refuse simple court directions and processes, such as to pass the bar, sit, stand, or acknowledge their identity."*

The respondent in a civil matter doesn't require bail as a defendant often does, and unlike an applicant in a civil case, the prosecution has a statutory obligation to enforce the laws of parliament. There is no need to reach a contractual agreement seeking resolution of differences, or to compensate an injured or aggrieved party.



The meme above is typical of the confused mindset of OPCA enthusiasts, who have trouble understanding basic concepts like jurisdiction, statutory obligation, and even national sovereignty. An interesting assertion, but not one carried in law. Collective consent is determined at the ballot in every democratic system, individual consent is not a constitutional provision, nor ever has been.

With physical presence within the geographical territory of a sovereign nation, along with the rights it affords, comes an obligation to its constitution and its laws. The constitution lays down the legal structure of a nation, assigns its legislative powers, and parliamentary procedures in enacting its laws. The elected representatives are bound to operate within its provisions, and cannot legislate outside of the respective legislative powers. To change this structure would require a referendum under section 128, carried by a double-majority of the population, not the whims of one individual.

The obligation to obey this body of law is statutory, not contractual. Using an RSL, sports or social club as an example, one can only enter and remain in the club if they are a member, and must abide by the rules of the club while they are inside it. If they are a non-member, they aren't even allowed inside unless they can find a member to vouch for their compliance with the rules, and sign them in. THE RULES apply to everyone within the territory, (or club premises) whether they're a member or not. The obligation to obey this body of law is statutory, not contractual.

OPCA adherents generally believe this supposed "contract" originates in a birth certificate, apparently by ones legal personality. The registration of a birth is not a contract, as covered in a previous article "[Meet your Strawman](#)". From *UK Births Deaths and Marriages*:

*"The registration of a birth does not involve a "contract", and such registration does not "contractually bind the individual to your society". A registration is a simple record that an event has taken place (ie a birth), and as such it is not possible to "de register". As indicated, there is no contract to void or renegotiate."*

The phrase "law of the land" is defined in West's Encyclopedia of American Law (edition 2) as:

*"The designation of general public laws that are equally binding on all members of the community."*

As OPCA adherents believe that it is through this "contract" that authorities have jurisdiction, and they cannot have that jurisdiction without that contract, it follows that the effect of this supposed contract would necessarily mean different criminal sanctions applying to different persons for the same conduct. This is contrary to equality before the law, one of the most fundamental cornerstones of the rule of law. As stated by the High Court in [Walker v New South Wales \[1994\] HCA 64](#) (at 5):

*"The proposition must be rejected. It is a basic principle that all people should stand equal before the law. A construction which results in different criminal sanctions applying to different persons for the same conduct offends that basic principle."*

As also held in *Walker*, jurisdiction comes from being physically present within the geographical territory of a sovereign state, which has plenary power to make laws that apply to every subject matter and person inside their territory. As stated:

*"The rule extends not only to all persons ordinarily resident within the country, but also to foreigners temporarily visiting (Re Sawers; ex parte Blain (1879) 12 Ch D 522 at 526; Gold Star Publications Ltd. v. Director of Public Prosecutions (1981) 1 WLR 732 at 734). And just as all persons in the country enjoy the benefits of domestic laws from which they are not expressly excluded, so also must they accept the burdens those laws impose (Bennion, op. cit. at 260)."*

This has been a principle of law that has existed as far back as 1690, when John Locke wrote "[Two Treatises of Government](#)" which became the basis for the US notion of the consent of the governed. He stated in Chapter VIII; Sections 119 – 120:

*"...that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, cloth thereby give his tacit consent, and is as far forth obliged to obedience to the*

*laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government."*

It was a point recognised in Vattel's "[Law of Nations](#)" in 1760, which became the basis of international law, regarding the sovereignty of a nation state. §1, and in §2 is regarding the authority of the body politic over the members, and that by association each citizen subjects himself to the authority of the entire body, and that the authority of all over each member, therefore, essentially belongs to the body politic, or state.

*§ 1. Of the state, and of sovereignty: A nation or a state is, as has been said at the beginning of this work, a body politic, or a society of men united together for the purpose of promoting their mutual safety and advantage by their combined strength. From the very design that induces a number of men to form a society which has its common interests, and which is to act in concert, it is necessary that there should be established a Public Authority, to order and direct what is to be done by each in relation to the end of the association. This political authority is the Sovereignty; and he or they who are invested with it are the Sovereign.*

*§ 2. Authority of the body politic over the members: It is evident, that, by the very act of the civil or political association, each citizen subjects himself to the authority of the entire body, in every thing that relates to the common welfare. The authority of all over each member, therefore, essentially belongs to the body politic, or state; but the exercise of that authority may be placed in different hands, according as the society may have ordained."*

"[Commentaries on the Law of England](#)" written around the same time by Sir William Blackstone, who considered by many scholars to be the father of the common law, also spoke of the principle of the supremacy of a parliament as the highest law-making body in England: "*The law of the land depends not upon the arbitrary will of any judge; but is permanent, fixed, and unchangeable, unless by authority of parliament.*"

Albert Dicey in his classic work "[An Introduction to the Study of the Law of the Constitution](#)" (1885) wrote of the twin pillars of the British constitution, the principle of Parliamentary sovereignty and the rule of law. The former means that Parliament is the supreme law-making body, and "...no person or body is recognized by the law of England as having a right to override or set aside the legislation of parliament."

The principle of parliamentary supremacy was inherited in Australia as part of the Westminster system, (See [Kable v DPP \(NSW\) \[1996\] HCA 24](#) (Dawson J. at 11-12), as with the principle of Responsible Government, a principle found to be explicit in the Constitution.

OPCA theorists maintain that they can hold a statutory authority liable in a civil case, as a "corporation", for enforcing laws, because it breaches the alleged "contract" they have foisted. They do not comprehend, but refuse to concede to the hard realities of jurisdiction. The obligations are statutory, not contractual.

[Corporations Act 2001 - Section 5E\(1\)](#)

*"The Corporations legislation is not intended to exclude or limit the concurrent operation of any law of a State or Territory."*

**[Corporations Act 2001 - Section 57A\(2\)](#)**

"Neither of the following is a corporation:

- *(a) an exempt public authority;*
- *(b) a corporation sole.*
- *"exempt public authority" means a body corporate that is incorporated within Australia or an external Territory and is: a public authority; or an instrumentality or agency of the Crown in right of the Commonwealth, in right of a State or in right of a Territory."*



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