

DUTY

Practical Legal Education

PART ONE

Rights - Obligations - Duties

Lesson One

LIST OF MATERIALS

The First Duty of a Citizen. The first duty of the citizen is to know the law. In this course, the student will learn that there must, in fact, be two sets of laws one for government and another for the People. There can be no freedom if government can make legislation that creates new duties for the People.

The United States Congress subverts the Doctrine of Separation-of-powers by creating legislative/territorial non-judicial district courts. In America, government has been permanently severed into three distinct parts and the powers of each branch have been described and contained by a constitution. The United States Congress has managed to create a new all powerful federal government by making federal territorial law appear to apply outside federal territory. Article IV, Section 3, Clause 2 of the Constitution grants power to Congress to “make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” Congress has used this power to create the United States district courts that operate outside of federal territory in every state of the Union. Every citizen must know that Congress has done this and what must be done to correct what Congress has done to the laws and federal judicial system.

Attorneys and Counselors at Law act to impose government law on the People. Although the English common law is the subject of the first year of law school instruction, the modern attorney and counselor at law is a total failure at representing the interests of the citizen. Lawyers, who are members of, or who are admitted to a state bar are obligated to follow rules promulgated by that State Bar Association. The state bar associations of every state require that members recognize the federal courts as Article III judicial courts despite proof that these courts are non-judicial territorial courts. State and federal governments claim the power to legislate and judicially impose new duties on the People. Members of the bar of attorneys in any state who do not obey government law in opposition to the rights of the People are subjected to discipline and disbarment. This course is the only means by which the citizen can learn and understand that separate laws for government and the People are necessary for the enjoyment of freedom.

All Constitution Law is Law for Government. All law that can be traced back to the federal or a state constitution is law for government. In all the states, except Louisiana, the law for the People is the English common law. Practical application of the law is now

only possible by the Citizen. Only the citizen is qualified and capable of knowing and understanding the English common law and law for government. Federal trial courts as presently constituted are incapable of applying the common law to any case or controversy. United States District Courts have been created under Article IV of the Constitution and are, therefore, without the necessary judicial power to entertain any genuine case or controversy under the United States Constitution. All federal law is created by Congress pursuant to Article IV of the Constitution.

The Doctrine of the Separation-of-powers and requirement of a case or controversy prevents anyone in government from expressing an official opinion on the law. Separation-of-powers limits judicial opinions to the courts and the requirement of a case or controversy limits judicial opinions to specific entities and fact situations. Knowing the law and the recognition of the obligation to question the authority of the branches of government is the most important duty that each citizen must exercise with respect to government. It is so important that only citizens can exercise that right. In a system of government that operates primarily by scrupulously separating the powers of government, the individual citizen is the first line of defense against governmental usurpation of power. As strange as it might seem, the separation of American government into three branches makes it impossible for the three branches of government to do more than what is permitted by the Constitution. The integrity of government cannot be protected without the help of citizens of the states and other concerned persons.

Learning government law is simplified. The present federal government that seems so powerful to us is, in reality, limited to federal territory. Since the beginning of the operation of the federal government, the Congress immediately realized that the Constitution really limited government power. Congress has, therefore, operated the federal government as if federal territory extended beyond areas not owned by the United States or the United States of America. Very early in the history of the Constitution members of Congress realized that they would be limited strictly to the provisions found in the Constitution unless they immediately and resolutely acted as if Congress had created federal trial courts under Article III of the Constitution. The illusion of judicial Article III federal courts in the state of the Union provides the missing “third branch” of the federal government. By nurturing this fraud on the public unqualified state citizens serve as rubber stamp federal jurors to convict those charged with but innocent of federal crime.

Learning the Constitution of the United States is easy. The three branches of the federal government are created by the first, second and third articles of the United States Constitution. Learning American government is as easy as one, two, three. The three parts of government must forever remain separate if the People are to be secure in their freedom. It may be unusual to think this way, but government is really defenseless. Aside from the inherent power each branch possesses to maintain its integrity, a branch of government can do little alone. The individual members of society have the duty of protecting government by always questioning the authority of persons claiming to act on its behalf. For example, the W-4 agreement is not made with any branch of the federal government. The W-4 is an agreement between the employee

wage earner and the employer for the purpose of paying a federal internal revenue obligation the employee believes is owed.

The power of the federal government can be traced to the Fourth Article of the Constitution. The 4th Article of the United States Constitution at Section 3 Clause 2 grants to Congress power to make rules and regulations respecting federal territory and other property belonging to the United States. The United States District Courts are created under this authority and the nature of all federal laws can be explained by recognizing that the laws created for these courts must be limited to federal territory and other property belonging to the United States.

The Constitution is not and cannot be a contract with the People. According to the Declaration of Independence, government is an instrument of the People. The great document celebrated on the Fourth of July declares that it is the right and duty of the People to alter or abolish government when it ceases to serve. Government can be changed to suit the People so the Constitution that creates the government creates no rights in government. The Constitution must be viewed as supplying the operating instructions for government and not as an agreement between contracting parties. It is unique in that Congress is granted power to make more instructions for government, but there is no power in government to create any new duties for the People.

It follows that there are no government contracts. The different parts of the three branches of government may make contracts with other entities but no contract can be made with the government.

Because government at the state and federal level is divided into three parts, government can only be unified in the mind of the citizen. It is, therefore, the primary obligation of a citizen to question the authority of that three-part government. The derisive statement, "I'm from the government and I'm here to help you," is a warning that no one person can represent the government not even if the person is the President of the United States of America. The first three articles of the United States Constitution creates a government ineffective without the consent of the People. The doctrine of the separation-of-powers makes it impossible for government to be responsible for the harm caused by any one person claiming to represent the government. Any inquiry will establish contact by only one or more employees of one branch of government. If citizens do not check the authority of government, one of the branches may intrude on the power of another branch and any branch may attempt an intrusion on any person's freedom and privacy.

Present federal law is limited to federal territory and the three branches of government. When government is properly operating, persons, officers and employees of one of the three branches are prohibited from performing the duties of the other two branches.

Government employees cannot carry out government laws. An employee never has any authority to act for an employer. Employees of government are like all other employees they may only perform otherwise lawful acts on behalf of the employer. Government employees have no power over citizens. It always falls to the citizen to challenge all claims made by or on behalf of government. The members of the three branches of government cannot question the authority or integrity of another branch.

Only the citizen can be the guardian of freedom. The doctrine of the separation-of-powers prohibits a government person, officer or employee from acting outside the legislative, executive or judicial branch, but it takes the constant vigilance of citizens to make certain that persons, officers and employees of branches do not exercise the power of another branch. The second duty of the citizen is to question all authority. Government employees cannot question lawful orders, but a citizen has a duty to question everything that is suspect. The citizen may even search out errors, if none are apparent.

The most important principle applicable to all three branches is the lack of power to create new legal duties for citizens. Congress can enact legislation but only in those subjects enumerated in the Constitution. The President is the Chief Magistrate and Commander in Chief of the United States Armed Forces but he can only give lawful orders to those in the military and others in the executive department of the federal government.

Part One will show why the three branches of government are governed by a Constitution and why that Constitution can only authorize the legislative branch to create more laws for government.

DVD & VHS Tapes. These disks and tapes explain how the federal government operates lawfully within the limited territorial jurisdiction of the United States district courts and outside that authority by a careful but willful and direct disobedience of the laws establishing the territorial composition of the districts and divisions of the federal trial courts. DVD versions of these tapes are available now and other lessons will be available soon.

Transcript of VHS Tapes. A student transcribed the 4 ½ hours of VHS tapes for his own use and provided me with this transcript. His transcription will assist your understanding of the material covered.

Constitution of the United States and Declaration of Independence with comments by Dr. Eduardo M. Rivera. The Constitution is the supreme law of the land for all governments. It is, however, not law that applies to the People in the states of the Union.

The English common law is the law of the People in 49 states. This course teaches that the events that caused the separation of the People of the United States from the monarchy of England shaped the common law of America.

The Constitution is the basis of all future law for the federal government. Laws that are not in conformity with the Constitution of the United States are not lawful, but those that are only apply to government. It follows that all laws are laws for government and can have no direct application to the people of the states. As Congress is limited to making law for government, the Congress cannot impose or create any new legal duties for the people by any legislation.

In England, the Lord Chancellor of England, who was an officer of the English monarch, administered equity. In an America without a king there is no place for equity alongside the English common law.

The grand and petit jurors determine the facts and the law in all serious civil and criminal cases. The Declaration of Independence begins the elimination of the English monarchy in the thirteen states of the new Union that is to be the United States of America under the Articles of Confederation and it was the obligation of Congress and the state legislatures to complete it. Instead, these legislatures created another government called a “democracy” as a substitute.

Judiciary Act of 1789 This act of Congress established the first thirteen districts for the United States district courts at a time when only eleven states had ratified the Constitution. That document is famous for the first three articles that create the three branches of government. The fourth article provides the government for a substantial amount of territory that has not been incorporated into the original thirteen states. It is this territory and the federal territory within the states of the Union that is the U.S. or United States. The district judges, according to the Act, are required to reside within the district. There is no provision in the Act for a lifetime appointment during good behavior. Provision is not made for continuation in office during good behavior until the Judiciary Act of 1948.

Revenue Act of 1894 (Wilson- Gorman Act) The Federal Income Tax law was declared unconstitutional by the Income Tax Cases: *Pollock v. Farmer's Loan & Trust*, 157 U.S. 429 (1895) and *Pollock v. Farmer's Loan & Trust*, 158 U.S. 601 (1895). The entire Act can be found in the first footnote to *Pollock v. Farmer's Loan & Trust*, 157 U.S. 429 (1895). The Supreme Court held the entire act to be unconstitutional, but I have identified Section 29 as the legislation that caused the creation of an unconstitutional direct tax on the property of the People of the States by the imposition of a duty to make a return. Even after the 16th Amendment, language similar to that found in Section 29 will never be found in any future federal internal revenue act.

Revenue Act of 1913 This act imposes a net income tax upon those citizens of the United States over which Congress has legislative power. The three branches of government are named as individuals who are to pay the tax, although only the inferior federal judges not of the Article III judiciary are actually liable. Section G. (page 172) imposes the individual income tax on corporations. Section S. (page 201) of Section III repeals the Corporation Excise Tax of 1909. This then, is the scenario: the federal income tax as a direct tax is declared unconstitutional in 1895; President William Howard Taft, a legal genius, resolves the issue by proposing an amendment affirming the power of Congress to tax itself and the non-Article III judges; the 1913 federal income tax is a tax on the citizens of the United States (members of Congress) and residents (district court judges); the domestic Corporation Tax is repealed and the tax on the national government is imposed on corporations.

Written Address to Congress by President William Howard Taft, June 16, 1909 Congressional Record—Senate This is the first public statement that the federal income tax will be a tax on the national government when the federal income tax amendment is ratified. The national government is meant to be the Congress, the President and judges of the United States District Courts.

The Constitution is the supreme law of the land for government, so the Sixteenth Amendment is just more law for government. The amendment reads as follows:

The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

The speck the grammarians call a comma plays an extremely important role in the federal income tax. The comma is used in English to separate words that should not touch. Section 61 of the Internal Revenue Code defines gross income to be “all income from whatever source derived...” The laws of Congress can only apply to those subjects over which Congress has legislative power. The individuals subject to the Individual Federal income tax are the United States District Court judges in all the federal districts in all the states. They are the only individuals subject to federal legislative power.

The comma that appears between the main clause of the sentence: “The Congress shall have power to lay and collect taxes on income” and prepositional phrase: “from whatever source derived,” served the purpose of having the prepositional phrase modify the “power to lay and collect taxes on income.” There are two sources of taxation the power of the people to tax themselves and their property by direct taxation and the power of government to tax by legislation. Because the Constitution does not confer the power to make laws applicable to the people of the states, Congress very quickly had to manipulate the power in Article IV of the Constitution to dispose of all federal territory and other property belonging to the United States to one that would be confused with a general governmental power over all people claiming to be citizens of the United States.

The Sixteenth Amendment is a reaffirmation of the power of Congress to legislate exclusively over federal territory and other property belonging to the United States. Internal revenue legislation will, of course, be made for the territory over which the United States Congress has exclusive legislative power.

In all societies where the People rule themselves, taxes are direct when the People obligate themselves to pay taxes and indirect when the legislature makes a law that imposes a tax. Because the government of the United States is the government of a confederation, Congress was granted power to impose direct taxes on the states as governments. Notice that Congress was granted no power to tax the People directly.

The U.S. individuals who are residents of the United States and subject to its laws are the United States District Court judges. Cases like O'Malley v. Woodrough, 307 U.S. 277 (1939) only apply to the inferior federal judges who are Article III judges. Those cases are the only ones that hold a specific occupation liable for the federal income tax.

The only correct way to read any part of the United States Code is to understand that it is all law for the federal territory and other property belonging to the United States.

Balzac v. People of Porto Rico, 258 U.S. 298 (1922) This Supreme Court opinion by Chief Justice William Howard Taft identifies United States district courts as territorial courts. Any federal court calling itself a “United States District Court” will be a court that is limited to federal territory and federal property. This conclusion is so well supported in law that no U.S. Supreme Court case can be found in opposition. Why, then, is it impossible for United States district court judges of these courts to accept the status of their own courts? This is a ploy to overcome the obvious absence of jurisdiction in these courts.

Article IV of the Constitution specifically provides Congress with the power to dispose of the territory not part of the original states and any other property belonging to the United States. This is Article IV, Section 3, Clause 2:

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

The United States District Court is not a true United States court established under article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court.

Mookini v. United States, 303 U.S. 201 (1938) This Supreme Court opinion by Chief Justice Charles Evans Hughes states that a District Court of the United States is a constitutional court and that vesting a United States district court with jurisdiction similar to that vested in the District Courts of the United States does not make it a “District Court of the United States.”

The term “District Courts of the United States,” as used in the rules, without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under article 3 of the Constitution. Courts of the Territories are legislative courts, properly speaking, and are not District Courts of the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the District Courts of the United States does not make it a “District Court of the United States.”

Examining Board of Engineers v. Flores de Otero, 426 U.S. 572 (1976) This case tries to cover-up the fact that the United States District Court in Puerto Rico is not an Article III district court. Anyone reading the case will quickly note the long used device of establishing a falsehood and then claiming that something new is just like the old falsehood. United States District Court jurisdiction is just another example of U.S. government bait and switch.

Ex Parte Kentucky v. Dennison, 65 U.S.66 (1861) This case involves the refusal of the Governor of Ohio to return a person who had helped a runaway slave escape. Chief Justice Roger Taney explains why the Governor of Ohio has a duty to return the fugitive to Kentucky but that the Supreme Court has no power to make him. The Constitution provides Congress the authority to impose a duty on a governor but no power to force the governor to do his duty. The Constitution provides no power to impose new duties on the People, so there is no power to make them obey duties imposed on other government officers.

Puerto Rico v. Branstad, 483 U.S. 219 (1987) This case supposedly overturned Kentucky v. Dennison. Observe that the federal case was brought in the federal court in Iowa, which we know to be a non-judicial territorial court. Puerto Rico is, of course, not a

state of the Union. How much federal territory is there in Iowa and does that amount give Puerto Rico equal status with Iowa? How can a court with mere territorial jurisdiction order the governor of one of the States of the Union? Neither the United States, the State of Iowa, Puerto Rico nor the United States District Court for Iowa has power to impose a duty on a citizen of one of the states not a Governor of the State of Iowa or a United States District Court judge.

O'Malley v. Woodrough, 307 U.S. 277 (1939) This case, when read in its entirety practically explains all modern federal income tax issues and the lack of judicial power in the United States district court judges and court of appeals judges.

All the law discussed in this case arises from acts of Congress and all those acts can be traced directly to a legislative power in the Constitution. The Constitution is the supreme law of the land for government. Where in the Constitution is it written that Congress has power to make laws for the People in the states? That's true it is nowhere there. All the laws Congress makes must be constitutional and therefore must only apply to the federal government, State governments and the territory and other property of the United States.

Article III of the Constitution has no application in O'Malley v. Woodrough, 307 U.S. 277 (1939). Judge Joseph W. Woodrough had never been an Article III judicial officer.

The reader should also note carefully that Judge Woodrough became a tax protester when he objected to the Collector of Internal Revenue's notice and demand that an income tax was due. All collectors and deputy collectors were abolished in the IRS Reorganization of 1952. After that date all federal internal revenue was collected without notice and demand. From then till now all federal taxes must be voluntarily paid because no constitutional officer has the duty to give a notice and make a demand for payment.

Go East, Young Man The Early Years, The Autobiography of William O. Douglas, pages 465-467. Beginning at the last paragraph on page 465 Douglas explains the influence the case, O'Malley v. Woodrough, 307 U.S. 277 (1939), had on his life. Douglas assumed, as Felix Frankfurter wanted, that Judge Woodrough was an Article III judge. It never occurred to Douglas to question Frankfurter's honesty or legal ability. He should have, of course.

Cheek v. United States 498 U.S. 192 (1991)

The U.S. Supreme Court as the name indicates is highest court of all the territorial courts. The Supreme Court of the United States is the Article III created by the Constitution. Cheek was tried by a jury in a territorial federal trial court and was found guilty. Find in the Head Note the sentence: Statutory willfulness, which protects the average citizen from prosecution for innocent mistakes made due to the complexity of the tax laws, *United States v. Murdock*, 290 U.S. 389 , is the voluntary, intentional violation of a known legal duty. *United States v. Pomponio*, 429 U.S. 10, and highlight it.

The legal duty for a citizen of any state to make a return and pay a tax cannot be found in Title 26 U.S.C. because Congress is without authority to create legal duties for the people of the states. There is simply no place in the Constitution where Congress is given the power to create new legal duties for citizens. Congress has authority to create

requirements which are administrative obligations but the neglect or refusal to perform those requirements will not result in any prison time.

The decision in *Cheek* is an attempt to cover-up the complete absence of a legal duty to make a federal income tax return or to pay the federal income tax. Justice Blackmun's dissent speaks volumes on the judiciary's general incompetence in tax matters.

Both Justice Thurgood Marshall and Justice Harry Blackmun show in their dissent to *Cheek* show their belief that the United States Constitution and the laws enacted pursuant to it can somehow reach down to the workingman and woman in the states.

Cheek should have learned why the federal income tax is a constitutional, lawful and an appropriate tax on the individuals over whom Congress has legislative power.

The best defense to any criminal federal indictment is the motion to inspect the grand jury list. If inspection does not establish that each grand juror is a resident of federal territory within one of the counties that comprise the district or division where the indictment was brought, a motion to dismiss the indictment should be immediately brought.

Justice Frankfurter very carefully presented the issue before the Court as follows:

“Is the provision of Section 22 of the Revenue Act of 1932, 47 Stat. 169, 178, reenacted by Section 22(a) of the Revenue Act of 1936, 49 Stat. 1648, 1657, 26 U.S.C.A. 22(a), constitutional insofar as it included in the “gross income”, on the basis of which taxes were to be paid, the compensation of “judges of courts of the United States taking office after June 6, 1932”.

Frankfurter knew that the federal income tax applied only to Article IV federal judges, because the duty to make a return in Section of the 1894 federal income tax law had not been placed in the 1913 federal income tax law and subsequent federal income tax laws. Non-Article III federal district judges could be obligated by Article VI of the Constitution to make returns:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

United States district court judges are and have always been territorial judges. Judges of the circuit courts of appeals are not Article III judges, because they haven't been appointed to Article III courts. The circuit courts have never been established as Article III courts, because the judges of those courts were the Justices of the U.S. Supreme Court who are not, technically, Article III judges.

As in the past, a Supreme Court justice is assigned to each circuit to make it appear genuine. The tax on federal judge's salaries was constitutional because those judges were not Article III judges. Anyone even a Supreme Court justice can volunteer to subject his or her compensation for services to federal income taxation.

Despite his varied life experience and class standing in Columbia Law School, Douglas never learned the truth about the federal trial courts. He went to his grave in 1975 with no more knowledge about the federal judicial system than what he had when O'Malley was decided. I wonder what the world would be like today if Supreme Court Justices like Douglas had not believed so many lies about the government.

We know that Joseph W. Woodrough had never been an Article III judge. A judge like any other officer of the United States fills an office and is never the recipient of anything like a title of nobility. All the legislative evidence proves that the first Article III district in any of the States of the Union is not created until 1959, when Congress faked the creation of an Article III court in the district of Hawaii.

William O. Douglas's life would have been very different if he had known and applied the citizen's second duty: "Question all authority."

U.S. Government Manual 2004-05 Pages 67 to 83—Lower Courts catch the federal government in a lie. The claim that the United States district court for Puerto Rico is established under Article III of the Constitution of the United States is a shameful lie. The United States district courts found in Sections 81-131 of Chapter 5 of Title 28 U.S.C., according to *Balzac* and *Mookini* must be Article IV legislative/territorial courts, so the U.S. Government must publish a lie and claim that the United States district court in Puerto Rico is an Article III court.

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Ed Note: October 2007; We don't know where this lesson came from, who wrote it or how to get the remaining lessons. If this information is known or available please contact:

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