

# The Courts Are Closed

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**MR. SCHULZ:** We expected for the next line and final line of inquiry that MR. Becraft would be here but he needed to leave to take MR. Benson to the airport. Let me just take a moment to -- would the three of you and would -- is MR. Chappell still here? Would the three panelists take a look at the questions and see if you feel comfortable in answering these under oath.

**MR. SCHIFF:** Yeah, I will answer the first one. I went to jail under the section --

**MR. SCHULZ:** Let's begin.

**MR. SCHIFF:** 7203.

**MR. SCHULZ:** All right. I will begin asking the questions, answer them if you feel you can. Remember, you're under oath.

**MR. SCHIFF:** Yes.

**MR. SCHULZ:** Is it true that Section 7203 of the code imposes a penalty for the crime of willful failure to file a tax return?

**MR. SCHIFF:** The answer to that is no, because section 7203 says anybody who is required to file a return, who fails to file. It never tells you who is required to file. Actually it's a nonlaw. It would be comparable to say anybody who is required not to commit murder who commits murder; who is not required to commit murder? It refers you, it only makes it a crime if you're required to file. But it doesn't refer you to a statute requiring you to file. So when I was prosecuted under this statute, incidentally, it's a nullity.

**MR. SCHULZ:** Let me rephrase the question.

**MR. SCHIFF:** People are prosecuted under this statute.

**MR. SCHULZ:** Let me rephrase the question. Is it true that under, that Section 7203 of the

1 code purportedly imposes a penalty for the crime of willful failure to file a tax return?

2 **MR. SCHIFF:** Yes.

3 **MR. SCHULZ:** Thank you. Is it true that Congress enacted 7203 of the code in August of  
4 1954? Do we have Exhibit 150 for question 233, MR. Bodine?

5 **MR. TURNER:** Yes.

6 **MR. SCHULZ:** Question 234. Is it true that the United States Supreme Court in "South  
7 Dakota versus Yankton Sioux Tribe" stated "we assume that Congress is aware of existing law  
8 when it passes legislation"?

9 **MR. BANISTER:** I recognize the quote there. I am not familiar with the case. I can  
10 certainly verify the quote is highlighted on that case.

11 **MR. TURNER:** Yes, and I see that that is the case that we are talking about; that's correct.

12 **MR. SCHULZ:** Is it true that Congress enacted under Title 44 of the code, Section 3512 in  
13 1980; if we can have Exhibit 152, MR. Bodine. Question 235.

14 **MR. SCHULZ:** Drop down to the credits and historical notes.

15 **MR. TURNER:** Right. Right there. 1980 I am looking for, right? There it is. That's correct.

16 **MR. SCHULZ:** Is it true that under Title 44, Section 3512 enacted in 1980, that it states  
17 notwithstanding any other provision of law, no person shall be subject to any penalty for failure to  
18 comply with the collection of information that is subject to this subchapter if the collection of  
19 information does not display a valid control number assigned by the director in accordance with the  
20 subchapter or the agency fails to inform the person who is to respond to the collection of  
21 information that such person is not required to respond to the collection of information unless it  
22 displays a valid control number, and the protection provided by this section, I am reading from  
23 paragraph, Subparagraph B, the protection provided by this section may be raised in the form of a

1 complete defense, bar or otherwise at any time during the agency administrative process or judicial  
2 action applicable thereto. That's Exhibit 152?

3 **MR. TURNER:** Well, MR. Bodine scrolled there pretty fast. I am a speed reader but I'm  
4 not that fast. But yes, I would agree.

5 **MR. SCHULZ:** Is it true that United States Supreme Court Chief Judge Taney in 1863  
6 protested the constitutionality of the income tax as applied to him? That's Exhibit 153.

7 **MR. SCHIFF:** Yes, he did. But you got to understand the reason that he did it.

8 **MR. SCHULZ:** Well, we are getting to that.

9 **MR. SCHIFF:** I'm sorry.

10 **MR. SCHULZ:** Well, go ahead, MR. Schiff.

11 **MR. SCHIFF:** Well, he said that the reason he said that is it would be reducing his salary  
12 while in office and that violated the Constitution. But this is something that is very important for  
13 everybody to understand and for a number of years Supreme Court judges did not pay the tax until,  
14 I forget what was the case when it was reversed. It was Judge Brandise wrote a decision saying  
15 well, no we are subject to the tax too, like everybody else. It's important to understand what this did  
16 to our court system. The Constitution said that Supreme Court -- that judges, federal judges could  
17 not have their salary reduced or be terminated as long as they are on good behavior and this was to  
18 make sure that they couldn't be intimidated. Now, picture a district court judge now subject to an  
19 IRS audit. A little rinky dink IRS agent walks up to a Supreme Court judge and says, "Let me see  
20 your books and records. We want to check your 1040." Well, picture that. The executive now has  
21 the courts by the throat. Now, there was a case which I have; one district court judge wrote in the  
22 case saying that every judge realizes that if he makes a decision unfavorable to the IRS, he risks  
23 being audited. I got the case if you want me to get it. So just think about this for a moment. A lot of

1 these Supreme Court judges are wealthy men; they have married wealthy women; they have all  
2 kinds of income from all kinds of sources. They can have tax shelters. Picture this district court  
3 judge being subject to an audit by an IRS agent who can disallow those deductions. Do we have an  
4 independent federal judiciary?

5 **MR. HANSEN:** The case that you're referring to where it was overturned be "O'Malley  
6 versus Woodrough"?

7 **MR. SCHIFF:** I don't think so. I don't think that was the case.

8 **MR. SCHULZ:** Is it true that the United States District Judge Walter Evans in 1919  
9 protested the constitutionality of the income tax as applied to him? That's Exhibit 153, MR. Bodine.  
10 Question 238. The case, "Evans v. Gore".

11 **MR. SCHIFF:** Evans versus Gore, yes. Yes, but the reason, the interesting thing is they  
12 didn't question its constitutionality on the grounds that they will be compelled to be witnesses  
13 against themselves. They just said it was reducing their salary while in office.

14 **MR. HANSEN:** They also said in that same case, did they not, that it was -- the Sixteenth  
15 Amendment did not authorize that?

16 **MR. SCHIFF:** If they said that, then that would apply to everybody.

17 **MR. SCHULZ:** The question is, did they protest the constitutionality of the income tax,  
18 that's the question?

19 **MR. SCHIFF:** Yes. It was my understanding that they protested it on the grounds that their  
20 salary was being reduced while in office in violation of that constitutional prohibition.

21 **MR. SCHULZ:** Is it true that the United States District Court Judge Joseph Woodrough in  
22 1936 protested the constitutionality of the income tax as applied to him?

23 **MR. TURNER:** I have read it and it would appear to be so.

1           **MR. SCHULZ:** Is it true that the United States District Court Judge Terry Hatter and other  
2 federal court judges in the 1980s protested the constitutionality of taxes as applied to them in the  
3 case, see the case "United States v. Hatter", and that is Exhibit 155, MR. Bodine.

4           **MR. TURNER:** Yes. A number of federal judges appointed before 1983 filed this suit  
5 arguing that the 1983 law violated the compensation clause which guaranteed federal judges a  
6 compensation which shall not be diminished during their continuance in office.

7           **MR. HANSEN:** Did they mention the Sixteenth Amendment in there too?

8           **MR. TURNER:** You have to scroll down and if that's highlighted. I don't know the answer  
9 to that.

10          **MR. SCHULZ:** Is it true that even in criminal cases where lose of freedom can be the  
11 result, American citizens who are not judges are precluded by the federal judiciary and with the  
12 express approval and consent of the Department of Justice and U.S. Attorney from arguing the  
13 constitutionality of the income tax as applied to them?

14          **MR. SCHIFF:** I have heard that this has occurred and when I raised constitutional  
15 arguments, they disregarded it. However, there is another legal argument to disregard. Section 74 --

16          **MR. SCHULZ:** Can we look at the Exhibit 156, the case U.S. --

17          **MR. TURNER:** The exhibit in the case presented says the court instructed that  
18 disagreement with the law is not a defense to prosecution under 26 U.S.C., Section 7203, "United  
19 States versus Pallman 552", and that a good faith belief in the unconstitutionality of the tax laws is  
20 not a defense.

21          **MR. SCHULZ:** And MR. Farber was not a federal judge. Is it true that the executive and  
22 judicial branches of the federal government label Americans who challenge the legality of the  
23 federal income tax as "tax protestors".

1           **MR. BANISTER:** I can speak to that. Certainly during my five and a half years in the  
2 Internal Revenue Service, the term illegal tax protestor was actually used, and just prior to my  
3 departure, the law was, there was actually a law instituted which forbade IRS personnel from using  
4 that term.

5           **MR. HANSEN:** Restructuring and Reform Act, was it not?

6           **MR. BANISTER:** That's correct.

7           **MR. SCHIFF:** I am actually an illegal tax protestor because I protest all illegal taxes.

8           **MR. SCHULZ:** Is it true that United States Supreme Court Judge, Chief Judge Taney  
9 submitted his protest in a letter to the Secretary of the Treasury? Exhibit 153, MR. Bodine.

10          **MR. TURNER:** Yes, this is true.

11          **MR. SCHULZ:** Is it true that letters of protest written to the Secretary of the Treasury by  
12 American citizens are used by the executive branch of government and accepted by the judicial  
13 branch of government as proof of income tax evasion and conspiracy against those who write the  
14 letters? Would this be true in your experience, MR. Schiff?

15          **MR. SCHIFF:** I can't say it's in my experience, no.

16          **MR. BANISTER:** I can actually -- I spoke to an IRS agent and I can't really discuss the  
17 area of the country, but it was a large area; and the agent who still works there told me, said that it  
18 was policy, and by the way, this agent was at one point the illegal tax protestor coordinator for a  
19 large area of the country. And the agent told me that it was standard operating procedure that if  
20 someone wrote a letter questioning some of the issues that we have questioned here, that that  
21 person would be, would go on to the list for collection letters and general harassment. He or she  
22 would be hearing from the IRS.

23          **MR. SCHULZ:** Is it true that if an individual required to make a return under Section

1 6012(a) of the Internal Revenue Code fails to make the required return, the statutory procedure  
2 authorized by Congress for the determination of the amount of tax due is the deficiency procedure  
3 set forth in Subchapter B of Chapter 63 of the Internal Revenue Code commencing at Section  
4 6211?

5 **MR. TURNER:** Yes, and MR. Schiff has already very well presented to us how that works.

6 **MR. SCHULZ:** Thank you panel.

7 **MR. SCHIFF:** Bob, before we close this, I think it's very important for the public to  
8 understand this. Section 7402, this shows you why all criminal prosecutions are illegal. All evasion  
9 prosecutions, all willful failure to file. Section 7402, of the Internal Revenue Service Code under  
10 general jurisdiction and no court can prosecute anybody unless there's a statute giving him  
11 jurisdiction. And here's what it says under Section 7402, "For general jurisdiction of district courts  
12 of the United States in civil actions involving Internal Revenue, see Section 1340 of Title 28 of the  
13 United States Code." If there was criminal jurisdiction, it would say see title so and so of Title 18  
14 which is U.S. Criminal Code. So, the Internal Revenue Code only gives jurisdiction for civil  
15 actions, not criminal. And I pointed this out to Alan Dershowitz when he did the appeal for Leona  
16 Helmsley. I raised this issue and of course they ignored it and I said to Alan Dershowitz in a letter  
17 when he did the appeal for Leona Helmsley that if he raised the issue that there's no -- because you  
18 can raise jurisdiction at any time. I still have the letters that I sent to Alan Dershowitz, incidentally.  
19 But he didn't raise the issue. Why didn't he? Because that would have proved that all criminal trials,  
20 and he's still a lawyer, all criminal trials involving income tax or alleged violations were all  
21 prosecuted illegally and the courts had never had any jurisdiction to conduct those trials.  
22 Incidentally, if it is a crime, if income tax evasion is a crime, it would be mentioned in Title 18,  
23 which is the U.S. Criminal Code. And people are prosecuted for tax crimes like I was, were

1 prosecuted under a civil code, not a criminal code, which shows you the extent of the corruption of  
2 the courts and the legal fraternity.

3 **MR. HANSEN:** Isn't it also true that there are no implementing regulations that give teeth  
4 to 7203 that apply to Subtitle A income taxes, Section 1?

5 **MR. SCHIFF:** Exactly right.

6 **MR. SCHULZ:** Well, I must apologize to the viewers. We did not quite make it through all  
7 of the lines of inquiry. There was, there will be in the record a line of inquiry having to do with  
8 individual master files; more questions on the individual master file, as well as questions on the  
9 Paperwork Reduction Act and the Administrative Procedures Act Regulations. I do want to thank  
10 all of the witnesses that have, at their own time and expense, have come here today and yesterday  
11 and have answered hundreds of questions. We thank you very much for your effort in that regard. I  
12 want to let the viewers know that we received hundreds, hundreds of their comments. This morning  
13 we added to the live web cast a request for feedback. And we received hundreds of requests. Sorry  
14 we could not -- we appreciate those. Sorry we could not get to respond to those and to those  
15 questions.

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18 C E R T I F I C A T I O N I, COLLEEN B. SMITH, a Shorthand Reporter and Notary Public for  
19 the State of New York, do hereby certify that the above and foregoing is a true, correct  
20 transcription from the video tapes of the proceedings as transcribed by me, to the best of my  
21 knowledge and belief.

22 \_\_\_\_\_ COLLEEN B. SMITH

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2 C E R T I F I C A T I O N I, STEPHEN N. FIATO, a Certified Shorthand Reporter and Notary  
3 Public for the State of New York, do hereby certify that the above and foregoing is a true and  
4 correct transcription from the video tapes of the proceedings as mentioned in the heading hereof,  
5 to the best of my knowledge and belief.

6 \_\_\_\_\_STEPHEN N. FIATO, C.S.R.

