

CHAPTER 16 - COURT RULES OF COMMON LAW

FEDERAL RULES OF CIVIL PROCEDURE An Act of Treason

The Rules Enabling Act of 1934 passed by Congress in 1934 gave the Supreme Court the power to make rules of procedure and evidence for federal courts as long as they did not "abridge, enlarge, or modify any substantive right." According to the Federal Judicial Center,¹⁰²² a government agency, on September 16, 1938, pursuant to its fictional authority under the repugnant Rules Enabling Act of 1934, *"the Supreme Court enacted uniform rules of procedure for the federal courts. Under the new rules, suits in equity and suits at common law were grouped together under the term "civil action, "claiming that "rigid application of common-law rules brought about injustice."* This was an Act of Treason whereas the Supreme Court and Congress under the teachings and guidance of the treacherous subversive American Bar Association, in an Act of Treason, a silent coup, claiming the abrogation of Common Law, a/k/a "Natural Law," with its unalienable rights that were endowed by our Creator covertly substituted them with civil rights legislated by lawless men. Thereafter all fifty states, their counties, cities, towns, and villages having incorporated thereby becoming municipalities which wrote "municipal law" a/k/a "civil law."

"Civil Law,"¹⁰²³ "Roman Law," and "Roman Civil Law" are exchangeable phrases more properly called "*municipal law*" to distinguish it from the "*law of nature*." Because the People have been kept ignorant of the law and are not taught civics or constitutional studies in school, they have no idea what their heritage, "*being Liberty under Common Law*," is. Nor do they know what "*civil law*" is which is used to control the behavior of the masses and fleece them of their property. Neither Congress nor the Judiciary had the authority to abrogate "*Common Law*" and it's "*Common Law Rules*." That was an act of treason. Only We the People can overturn the treasonous act via "education" and "nullification" and it starts right here with a fully informed jury.

RULES OF COMMON LAW

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."¹⁰²⁴ The Rules Enabling Act of 1934 passed by Congress in 1934 gave the Supreme Court the power to make rules of procedure and evidence for federal courts "in

¹⁰²² **The Federal Judicial Center** is the research and education agency of the judicial branch of the United States Government. The Center supports the efficient, effective administration of justice and judicial independence. Its status as a separate agency within the judicial branch, its specific missions, and its specialized expertise enable it to pursue and encourage critical and careful examination of ways to improve judicial administration. The Center has no policy-making or enforcement authority; its role is to provide accurate, objective information and education and to encourage thorough and candid analysis of policies, practices, and procedures.

<https://www.fjc.gov/history/timeline/federal-rules-civil-procedure-merge-equity-and-common-law>

¹⁰²³ **CIVIL LAW:** "Civil Law," "Roman Law" and "Roman Civil Law" are convertible phrases, meaning the same system of jurisprudence. That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself; more properly called "municipal" Law, to distinguish it from the "law of nature," and from international law. See Bowyer, Mod. Civil Law, 19; Sevier v. Riley, 189. Cal. 170, 244 P. 323, 325.

¹⁰²⁴ Miranda v. Arizona, 384 U.S. 436, 491.

...equity" as long as they did not "*abridge, enlarge, or modify any substantive right.*" The Supreme Court needs to be reminded that rules are not law. They are just rules with no authority to group together suits in equity and suits at common law under the term civil law, a/k/a Babylonian law. Congress doesn't even possess such authority. We the People via the Constitution ordained only law and equity under Article III Section 2.

*"The Judicial Power of the United States, shall be vested in one Supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior," ... "The judicial power **SHALL EXTEND** to all cases, in **LAW AND EQUITY**, arising under this Constitution, the laws of*

the United States, and treaties made, or which shall be made, under their authority; ..."

We did not give Congress or the Judiciary power to legislate or enforce civil and criminal statutes which are disguised as law and written by tyrants to conceal the Common Law and oppress the people. They have been deluded into believing we are their subjects. All judges are bound by their oath to the Supreme Law of the Land, a/k/a the US Constitution, under Article VI Clause 2.

"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, anything in the Constitution or laws of any State to the contrary notwithstanding." "Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason." - Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)

Rules are an established standard, guide, or regulation; a principle or regulation set up by authority, prescribing or directing action or restraint. If you are in an equity court, then the Federal Rules of Civil Procedure apply to that jurisdiction. If you are in a court of Law, then the Rules of Common Law applied.

Common law as distinguished from equity law, it is a body of rules and principles, written or unwritten which are of fixed and immutable authority, and which must be applied to controversies rigorously and in their entirety, and cannot be modified to suit the particularities of a specific case, or colored by any judicial discretion, and which rest and festively upon custom or statute, as distinguished from any claim to ethical superiority." Black's Law; Klever v. Sewall, C.C.A. Ohio, 65 F. 395, 12 C.C.A. 661.

"Common Law" eludes definition because it is NOT a list of laws; it is NOT built upon precedents or a collection of equity court rulings. Common Law is written into our hearts and minds being naturally common onto all men.¹⁰²⁵ For even the godless having not the law, do by nature the things contained in the law, showing the work of the law written in their hearts, their conscience also bearing witness.¹⁰²⁶

Common Law is the Laws of Nature and of Nature's God that proceed upon two self-evident truths, called maxims: (1) for every injury there must be a remedy and in order (2) for there to be a crime there must be an injured party, without which no court may proceed. Maxims are brief statements of self-evident truth that control our Common Law courts. They provided discernment in the writing of our founding documents. It is an adviser to our legislatures, and every consideration of mankind that seeks what's fair and best for all.

¹⁰²⁵ **Heb 10:16** This is the covenant that I will make with them after those days, saith the Lord, I will put my laws into their hearts, and in their minds will I write them.

¹⁰²⁶ **Rom 2:14-15** For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which show the work of the law written in their hearts, their conscience also bearing witness and their thoughts the mean while accusing or else excusing one another.

ABATEMENT OF NUISANCES BY SUMMARY PROCEEDINGS

"As to the construction, with reference to Common Law, an important canon of construction is that constitutions must be construed to reference to the Common Law... The Common Law so permitted destruction of the abatement of nuisances by summary proceedings; and, [it] was never supposed that a constitutional provision was intended to interfere with this established principle [even] though there is no common law of the United States in a sense of a national customary law as distinguished from the common law of England adopted in the several states. In interpreting the Federal Constitution, recourse may still be had to the aid of the Common Law of England. It has

been said that without reference to the common law, the language of the Federal Constitution could not be understood... The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land; and, any statute to be valid must be In Agreement [with the Constitution]. It is impossible for both the Constitution and a law violating it [the Constitution] to be valid; one must prevail. This is succinctly stated as follows: The General rule is that an unconstitutional statute, though having the form and name of law, is in reality no law; but, is wholly void and ineffective for any purpose since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. Since an unconstitutional law is void, the general principles follow that it imposes no duties; confers no rights; creates no office; bestows no power or authority on anyone; affords no protection; and, justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law of the land, it is law; and, no courts are bound to enforce it." 16 American Jurisprudence 2nd, Sec. 114.

MAXIMS

Courts that do not honor or consider these maxims are not "just

Indeed, whether and to what extent these common law maxims are honored by public leaders is how we test the way they administer the law to govern. Our courts were established to enforce these principles of common law, the word Justice is synonymous with virtue, and virtue is a biblical principle that emanates from Jesus Christ alone.¹⁰²⁷ Maxims are the laws that never change. These statements set essential limits on truth and are essential to the fair and efficient administration of justice

according to the common law of mankind. No right-thinking person can disagree with a maxim. Every court is bound by the common law rules of equity established by the never-changing maxims. Maxims test those who judge and put an absolute limit on those who rule.

Maxims¹⁰²⁸ and precepts are the rules of common law. Maxims are self-evident truths used to adjudicate common law cases, axiom (sayings) in logic are self-evident indisputable truths the result of human reason and experience. Maxims are our common law heritage and bind us together as a people. If everyone knew the maxims of common law, our world would be a far better place. The following is a short list of Maxims, a/k/a self-evident truths:

MAXIMS ON PRINCIPLES OF COMMON LAW

- All men are created equal.
- Men are endowed by their Creator with certain unalienable Rights.
- Liberty to all but preference to none.

¹⁰²⁷ **Luke 6:17-19** And he came down with them, and stood in the plain, and the company of his disciples, and a great multitude of people out of all Judaea and Jerusalem, and from the sea coast of Tyre and Sidon, which came to hear him, and to be healed of their diseases; And they that were vexed with unclean spirits: and they were healed. And the whole multitude sought to touch him: for there went virtue out of him, and healed them all.

¹⁰²⁸ Maxims are but attempted general statements of rules of law and are law only to extent of application in adjudicated cases.

Swetland v. Curtiss Airports Corporation, D.C. Ohio, 41 F. 2d 929, 936; Coke defies a maxim to be "conclusion of reason," Co.Litt. 11a. He says in another place: "A maxim is a proposition to be of all men confessed and granted without proof, argument, or discourse." Id. 67a.

The safety of the people is the supreme law.

- The safety of the people cannot be judged but by the safety of every individual.
- To lie is to go against the mind.

COURTS ARE FOR THE PEOPLE TO COMMAND THE POWER OF THE STATE

- The only one who has any capacity or right or responsibility or knowledge to rebut your Affidavit of Truth is the one who is adversely affected by it. It's his job, his right, his responsibility to speak for himself.
- No one else can know what your truth is or has the free-will responsibility to state it. This is YOUR job.
- Each of us is entitled to equal treatment under law.
- Workman is worthy of his hire.
- Nothing ventured, nothing gained.
- Liberty is a great privilege (from God), so the obligations and responsibilities that go with liberty are also great.
- The safety of society cannot be judged but by the safety of every individual. If anyone, however insignificant he or she may seem is being unfairly wounded by our laws, then those laws are wrong and should be repealed at once.

MAXIMS ON THE LEGITIMACY OF GOVERNMENT

- Just Governments derive their just powers from the consent of the governed.
- Unjust is State power where the law is either uncertain or unknown.
- The State should be subject to the law, for the law creates the State.
- The judge who decides a case without hearing both parties, though his decision be just, is himself unjust.
- Courts of justice are for the common people to command the power of the State.

MAXIMS ON TESTIMONY AND EVIDENCE

- Words should be considered only as commonly understood and not with a meaning others construe to their own purpose.
- No one should be believed in court except upon his oath.
- Courts should not believe water runs upward of its own accord nor that impossibilities exist.
- The certainty of a thing in court arises only from making the thing certain in court.

MAXIMS ON CIVIC DUTY OF CITIZENS

- Whenever any Form of Government becomes destructive, it is the Right of the People to alter or to abolish it, and to institute a new Government.
- Each should use his own powers and property so as NOT to unjustly injure others.

MAXIMS ON PRIVATE PROPERTY

- There is nothing more sacred, more inviolate, than the house of every citizen.
- Every home is a castle; though the winds of heaven blow through it, officers of the State cannot enter.
- Title is the right to enjoy possession of that which is our own.

MAXIMS ON UNALIENABLE RIGHTS

- The Bill of Rights is a list of self-evident truths.
- None has a greater claim to live free himself
- The right of the People to keep and bear arms is necessary for the security of a free state.
- Everyone should be presumed innocent until his guilt is established beyond a reasonable doubt.
- None is entitled to any privilege denied to others... absolutely none!
- It is against justness for freemen not to have the free disposal of their own property.
- No king, no priest, no celebrity, no judge, not any person has any greater right to walk free than any lowly carpenter, plumber, or law-abiding street minstrel.
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MAXIMS ON CRIME AND PUNISHMENT

- He who acts in pure defense of his own life or limb is justified.
- Crimes are more effectually prevented by the certainty than by the severity of punishment.
- Perjured witnesses should be punished for perjury and for the crimes they falsely accuse against others.

MAXIMS ON JUDICIAL REASONING

- The burden of proof lies on him who asserts the fact, not on him who denies it, because from the very nature of things a negative cannot be proof.
- No one should be twice harassed for the same offense.
- We are all equals in the sight of our law.
- Maxims test those who judge.
- Maxims put an absolute limit on those who rule.
- He who slices the pie should be last to take a piece.
- Servant judges cannot judge sovereigns.
- A thing similar is not exactly the same thing.
- Innocent until proven guilty.
- No one is above the law.
- Words should be considered only as commonly understood and not with a meaning others construe to their own purpose.
- All are equal under the law.
- Truth is expressed in the form of an affidavit.
- An un rebutted affidavit stands as truth.
- He who leaves the battlefield first loses by default.
- Sacrifice is the measure of credibility.
- A lien or claim can be satisfied only through rebuttable by affidavit point by point, resolution by jury, or payment.
- He who bears the burden ought also to derive the benefit.
- If the plaintiff does not prove his case, the defendant is absolved.
- No court and no judge can overturn or disregard or abrogate somebody's Affidavit of Truth.
- Words should be interpreted most strongly against him who uses them.

In conclusion, there are 1,000's of Maxims and many yet to be discovered. They are simply pure logic and justness clearly seen by any reasonable person.

MAXIMS ARE ONLY DENIED BY THE LAWLESS AND TYRANTS!

Source: from the book COURT ACCESS AND COMMON LAW by: John Darash