

revolution—usurpation and tyranny! There is no right to commit tyranny or usurpation, and such acts can be disobeyed or resisted. A maxim of law states:

A judge who exceeds his office or jurisdiction is not to be obeyed.

He who exercises judicial authority beyond his proper limits can not be obeyed with safety or impunity.<sup>35</sup>

A judge cannot claim immunity to acts of usurpation, for the law does not recognize such acts. Thus one cannot be punished for not obeying a judgment rendered by usurpation or want of jurisdiction:

The rule is fundamental that, where the court has no jurisdiction over the subject matter of the action, all proceedings in such action are void. The rule is likewise well settled that refusal to obey a void order or judgment is not contempt.<sup>36</sup>

It should be stated in all fairness that an act cannot really be classified as usurpation unless the problem is revealed and the judge warned of the situation. The American colonists knew that it was proper to first warn King George of his acts of usurpation and tyranny before they could take action against him. Up to now judges have escaped being held accountable for committing usurpation or tyranny for using invalid law against citizens. If this is not pointed out and objected to, it is assumed the accused has acquiesced to the invalidity of the law. There must be notice and warning of the matter.

It is often held that a void judgment, or an act committed without jurisdiction, can be attacked collaterally, which means it can be attacked differently from what the law usually prescribes, as one text writer explains:

There are only two ways to attack a judicial proceeding, direct and collateral. Any proceeding provided by law for the purpose of avoiding or correcting a judgment, is a

direct attack which will be successful upon showing the error; while an attempt to do the same thing in any other proceeding is a collateral attack, which will be successful only upon showing a want of power.<sup>37</sup>

The American colonists at first attacked the usurpation and tyranny of King George directly with petitions and redresses. Later on they attacked it in a collateral sense by force of arms and by proclaiming their independence from that government. However, no act or judgment can be attacked until it is understood how and why it is without power or authority. This material on authority of law can give the people of this land the right to collaterally attack the legal system and government.

If one is asked to plead to the charges, it should be said that you can't plead at this time because you believe that the subject matter for this case is lacking, and you choose first to submit a motion to dismiss on those grounds. The government may try to say that, "the laws in question were lawfully passed by the Legislature pursuant to the Constitution." Technically this can be said since laws like the ones in the Revised Statutes (or U.S. Code) were passed by the Legislature, but this is not the issue. The issue is not whether the laws charged against you or laws like them were passed by the Legislature (or Congress), but rather that they don't exist in their current state as valid laws. That is, they fail to follow the valid form and style of a law due to the manner in which they are published or promulgated. If the court says that the authority for the law is the legislature, the reply should be, where is the legislative enacting authority for the law?

The following is an example of a memorandum and motion to dismiss due to lack of subject matter jurisdiction. With this argument you are not asking for the charges to be dismissed, since legally there are no charges, but rather that the cause of action be dismissed.

35 See, *Maxims of Law*, edited by C. Weisman, 63z, 66m.

36 *Wolski v. Lippincott*, 25 N.W.2d 754, 755 (Neb. 1947).

37 John M. Vanfleet, *The Law of Collateral Attack on Judicial Proceedings*, Callaghan & Co., Chicago, 1892, p. 5.