

CONSTITUTIONAL LAW 101 – DUE PROCESS

What is “Due Process”?

TO: all County Sheriffs and all U.S. Marshals

FROM: *We the People*

cc: all Federal and State elected and appointed servants

RE: Your Duty to know and enforce the Law

DUE PROCESS: “*No person shall... be deprived of life, liberty, or property without ‘due process of law’; [5th Amendment] a similar provision exists in all the state constitutions; the phrases ‘due course of law’ and the ‘law of the land’ are sometimes used; but, all three of these phrases have the same meaning; and, that applies conformity with the ancient and customary laws of the English people or laws indicated by parliament...*” Davidson v. New Orleans 96 U.S. 97, 24, L Ed 616.

“‘Due course of law’ is a phrase synonymous with ‘due process of law’ or ‘law of the land’ and means law in its regular course of administration through courts of justice.” Kansas Pac. Ry. Co. v. Dunmeyer 19 KAN 542.

JUSTICE: “In the most extensive sense of the word, it differs little from virtue for it includes within itself the whole circle of virtues; justice, being in itself a part of virtue, is confined to things simply good or evil.” Bouvier's.

AT LAW: “This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity [under statutes].” Blacks 4th.

COURT OF LAW: “...a court proceeding according to the course of the common law and governed by its rules and principles as contrasted with a ‘court of equity’ [statutory court].” Blacks 4th.

“Law in its regular course of administration through courts of justice is due process.” Leeper v. Texas, 139, U.S. 462, II SUP CT. 577, 35 L ED 225.

“It is not a little remarkable that... this provision [due process] has been in the Constitution for the United States’ 5th Amendment as a restraint upon authority.” Lent v. Tillson 140, U.S. 316, 10 SUP. Ct. 324, 33 L. ED 722.

“Due process of law and the equal protection of the laws are secured if the laws operate on all alike and do not subject the individual to an arbitrary exercise of the powers of government.” Duncan v. Missouri, 152, U.S. 382, 14 SUP. CT. 570, 38 L. ED. 485.

“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 its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, 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 law. Indeed insofar as a statute runs counter to the fundamental law of the land, the Constitution, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it.” Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); Norton v. Shelby County, 118 U.S. 425 (1886).

CONCLUSION: All rights are protected by due process which is the restraint upon government. It is the duty of the Sheriff & U.S. Marshal to make sure due process is met before incarceration; and, to recognize when it is not. All village, town and city courts which proceed according to statutes are not common law Constitutional courts. Any State or Federal Court proceeding upon statutes instead of Law are acting under the color of law; and, all officers in such courts are acting in concert and are guilty of felony conspiracy. It is the duty of the Constitutional Law Enforcement Officer, a/k/a Sheriff or U.S. Marshal, to arrest the officers acting under color of law; and, to seek an indictment. Failure to do so is felony rescue.