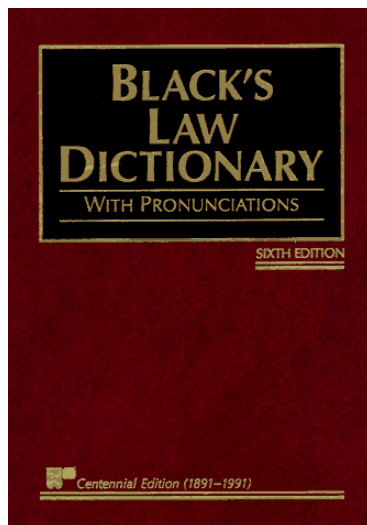


EXAMPLES OF CASE LAW

A "Trust" is defined by Black's Law Dictionary "as right of property, real or personal, held by one party for the benefit of another." The trustee(s) holds the legal and equitable title to the property for the benefit of the beneficiaries.



The "right to contract" is guaranteed under the United States Constitution Article §10. Courts can determine the enforceability of

contracts, generally on public policy grounds

Contract clause of the Constitution

- Article 1 Section 10 Clause 1 of the US Constitution:
"No State shall ... pass any ... Law impairing the Obligation of Contracts."
- Landmark judgment: *Fletcher v. Peck* (1810) – Supreme Court ruled that contract no matter how obtained cannot be invaded by state legislation.

The Supreme Court case *Eliot v. Freeman* 220 US 178 ruled that a Spendthrift Trust Organization is not subject to legislative control.

Eliot v. Freeman

Nos. 448, 496

Argued January 19, 1911

Decided March 13, 1911 - 220 U.S. 178

*APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF MASSACHUSETTS*

It was the intention of Congress to embrace within the corporation tax provisions of the Tariff Act of August 5, 1909, c. 6, 36 Stat. 11, 112, only such corporations and joint stock associations as are organized under some statute, or derive from that source some quality or benefit not existing at the common law.

A trust formed in a state, where statutory joint stock companies are unknown, for the purpose of purchasing, improving, holding and selling land, and which does not have perpetual succession but ends with lives in being and twenty years thereafter, is not within the provisions of the Corporation Tax Law.

Property held by a properly structured contract in the form of a Spendthrift Trust **CANNOT BE SEIZED**. Further, the trustees and beneficiaries are not liable for the debts of the Trust organization, *Hussey v, Arnold* 182 U.S. 461,21 S,C.

In *Weeks v, Sibley* DC 269, 155, *Edwards v Commissioner*. 41512É!, 532 10th Cir, (1959) and *Philips v. Blanchard* 37 Mass 510, the courts ruled that a Spendthrift Trust Organization is not illegal **EVEN IF FORMED FOR THE EXPRESS PURPOSE OF REDUCING OR DEFERRING TAXES**.

Edison California Stores, Inc, v McColgan, 30 cal 26472.183 P2d 16, ruled that persons may adopt any lawful means for

the lessening of the burden of income taxes.

The Department of the Treasury, IRS Handbook for Special Agents 412, Tax Avoidance Distinguished from Evasion states: "Avoidance of Taxes is NOT a criminal offence."

Pursuant to *Narragansett Mut. F. Ins. Co. v. Burnham*, 51 F.3d 1371, 154a 909, It is NOT AN EVASION of legal responsibility to take what advantage may accrue from the choice of any particular form of organization permitted by law.