

- 39 -

Defendant nevertheless insists (Br. 44-46) that his appellate counsel ineffectively failed to argue that the district court abused its discretion in refusing to admit two Supreme Court cases into evidence as exhibits. On the third day of trial, defendant sought to introduce copies of *Pollack v. Farmer's Loan & Trust Co.*, 158 U.S. 601 (1895), and *Merchant's Loan & Trust Co. v. Smietanka*, 255 U.S. 509 (1921). (2EOR 116-17.) The district court properly excluded the cases at the time because Schiff was attempting to offer them based on statements he made while acting in his capacity as his own attorney, and not on the basis of the testimony of any witness. (*Id.*)

Later, during his own testimony, defendant stated that he relied on *Pollack* and *Merchant's Loan* in forming his purported belief that there was no law requiring the payment of individual income tax. (2EOR 86-89, 91.) According to defendant, *Merchant's Loan* stood for the proposition that the term "income" was limited to the definition given it in the Corporate Excise Tax Act of 1909, and that therefore only corporate profits were income. (2EOR 86.) Defendant stated that *Pollack* held that tax on the income from real and personal income was a "tax on the property itself and, therefore, had to be apportioned." (2EOR 88.) Defendant stated that from these two cases, he concluded that only corporate profits are subject to income tax. (*Id.*) He further stated that wages are not subject to income tax because there is no profit from wages, since a worker sells the labor exactly for what it is worth. (*Id.*) The district court permitted defendant to fully testify about the two cases and how what each opinion said had influenced his purported beliefs. The court also allowed Schiff to read a quote from *Merchants' Loan*. (2EOR 86.)

From the Government's Reply Brief.
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4482 David Holland

- 40 -

The court did not restrict defendant's testimony regarding the Supreme Court cases and the government did not attempt to specifically refute his statement regarding his understanding of the meaning of these cases.

Defendant did not seek to introduce copies of the cases into evidence during his testimony. (2EOR 86-89.) Only after the close of all evidence, did defendant again seek to introduce the cases. (2EOR 71-72 (day 19 of trial).) But the district court properly denied defendant's untimely motion. In addition, admitting the cases into evidence was likely to mislead and confuse the jury: copies of the cases were properly excluded for this reason. See *Cooley*, 501 F.2d at 1253-54; *Malquist*, 791 F.2d at 1402; *Bergman*, 813 F.2d at 1029-30. Indeed, the potential for confusion was exacerbated by Schiff's repeated refusals to obey the district court's order to limit his testimony to his beliefs about the law, and not to argue what the law was.²⁷

²⁷ From early in the trial, Schiff repeatedly attempted to argue his views of tax law before the jury while examining witnesses. (See, e.g., 3Tr. 643-44, 717-18; 4Tr. 831, 853; 5Tr. 1078-80, 1111, 1215.) He repeatedly asserted that there was no law requiring the payment of income taxes, claimed that the IRS violated the law, and made other misstatements of law. (See, e.g., 3Tr. 643-44, 717-18; 5Tr. 1109, 1185, 1219; 7Tr. 1706; 8Tr. 2026, 2161, 2172-74, 2180; 18Tr. 4919-20.) For example, while phrasing his statements as questions, Schiff said such things as "none of the sections . . . said anybody's required to file" and "there's no provision in the law that allows the IRS to put on liens." (3Tr. 644, 717.) Defendant also attempted to have witnesses read excerpts from his book setting forth his views of the law. (See, e.g., 2Tr. 436; 5Tr. 1111; 8Tr. 2025, 2161.) For example, Schiff had a witness read a section of Schiff's book that stated, "There is no question that it is all correct. Paying and filing income tax are, by law, voluntary." (5Tr. 1111.) The district court repeatedly cautioned defendant not to testify or misstate the law while examining witnesses. (See, e.g., 4Tr. 831; 5Tr. 1186, 1216, 1218; 7Tr. 1706; 8Tr. 2162, 2172-74, 2176.) But the admonitions did not work, and the district court eventually imposed contempt sanctions against Schiff. (9Tr. 2256-62; 10 Tr. 2620-24; R. 497-512.)