WHAT THE GOVERNMENT SAYS ABOUT TAXES.

BY A.C. FELLOW

WHAT THE GOVERNMENT SAYS ABOUT TAXES.

BY A.C. FELLOW

Written and published 2022.

A.C. Fellow
www.acfellow.com

DISCLAIMER:

My lawyer tells me I have to say that this book is **NOT** me telling you to not pay your taxes. This book is **NOT** financial advise. This book is **NOT** legal advise. This book **IS** simply me showing you what the government and subsequently, the supreme court, says about taxes, for ***educational*** purposes only. I am **NOT** liable for what you do with this information after reading this book.

PROLOGUE

Scam: (*noun*) An illegal plan for making money, especially one that involves tricking people.

Theft: (*noun*) The generic term for all crimes in which a person intentionally and fraudulently takes personal property of another without permission or consent and with the intent to convert it to the takers use.

Being born, brought up in, and taught in the system of state is an unfortunate reality that every individual must partake in. Throughout the formative years, it is instilled into you to obey, be productive, and pay your taxes. We have funny little sayings like: “nothing is certain, but death and taxes.” We have designated boogeyman such as Uncle Sam and the tax man, that loom over you insidiously waiting to get their cut of your hard earned personal property pie for arguably doing nothing besides facilitating your oppression, and the oppression of other people around the world in the sacred name of democracy and western ideals.

There is an inherent cultural element that taxation is just a part of life, as natural as the sunset, the birds chirping, or the grass growing. Is such a barbaric tactic really this natural? Or are we just inculcated with the idea that it is in order to reinforce subservience and provide the emperor with is his clothes? What has the emperor actually said about these taxes when push comes to shove and individuals refuse to be taken advantage of and stolen from? That answer, when lifting up the covers and peeking under the dirty veil, may surprise you.

I would like to note here that this book will not address or touch upon any sovereign citizen arguments or try to prove how the income tax is illegal or unconstitutional. The

arguments laid out in this book are made upon the belief and understanding that income tax is legal, however we will draw attention to who is legally liable to pay for these income taxes and will rely solely on established case law and the laws them selves. The reason being is that many tax protesters seem to fall into this Sovereign citizen argument or legality and constitutionality trap, and while it may sound nice and right, those arguments aren't based in the framework of the law that currently presides over us as citizens. It simply does not work in the courts, or in reality, as time after time these arguments are not only shot down, but turned against the individual making them to seem like a lunatic or extremist, as its easier to write them off as frivolous. I would like to highlight an approach that is based within the framework of the state itself, using their own words, laws, and opinions.

1.
THE MAN FROM TENNESSEE

This book hinges around one Tennessee court case from 1994. Lloyd R. Long v. United States. Within this case, a plethora of different supreme court cases, and tax laws were referenced ultimately giving Mr. Long and the American citizens a win against the IRS and the United States government.

I will further expand upon these cases later in the book and Mr. Long's case as well. It was and is a monumental case that provides precedent for not being liable to pay taxes as an individual. Yet, how many people have ever heard of this case? Where are the news clips? Where are the documentaries? I had to dig deep into finding this case using internet archives, trudging through the remains of old geocities websites, and bringing back dead web pages to get the court transcripts. It's been all but effectively buried in time, but I knew I had to bring it to light once more and shine that light on the truth.

When I first heard and read about this case, I knew I had to tell everyone that I knew. I had to shout it from the rooftops. I had to make it public knowledge. It had to be known that you can fight and you can win. It was more than just legal precedent, it was hope. Hope that you can stand up to your

government and say “No more.” To the yearly theft and slavery subjugation that we call taxation.[1]

You see, Lloyd wasn’t a deep pocketed business man caught evading taxes through offshore shell companies or anything of the sort. He didn’t have the money for crème de la crème lawyers. In fact, he was just an average guy. He had taught shop at the local high school and car manufacturing plant. He was an open and shut case for the IRS. Someone too poor to properly defend themselves in court against the agency,[2] and an easy score on the balance sheet, or so they thought.

It turns out that, Lloyd had actually done a little bit of research and due diligence. He attended some local seminars on liberty and your rights in America throughout the 1980’s. This is how he came upon the court cases that he relied upon in his trial. In a time before the internet, information was harder to come by and he had even gone so far as to drive three hours to the nearest university, the Vanderbilt law library, and lookup each of the court cases and their opinions to double check what he had been told was true. As it turns out, it was, all of it. So when the time came for him to get up on the stand and be subjected to the cross examination by the state, he told them exactly what he had found and why he stopped filing returns and paying his taxes. It was his faithful belief, his interpretation of the law that ultimately made his case.

---

[1] York, E. (2019, March 7). *How long Americans as a whole have to work in order to pay the nation’s tax burden.* Tax Foundation. Retrieved June 25, 2022, from https://taxfoundation.org/tax-freedom-day-2018/

[2] *IRS Audits Poorest Families at Five Times the Rate for Everyone Else*. (2022, March 8). TRAC IRS. Retrieved June 25, 2022, from https://trac.syr.edu/tracirs/latest/679/

Try as they may, the government relentlessly grilled Lloyd on his ways of thinking throughout the cross examination. They tried to discredit his opinions because he had attended seminars or read books that were hosted or written by individuals who would be later convicted for tax crimes. They tried to make Lloyd look like a bad person for wanting to to keep his hard earned money and property. They referenced the same law time and time again: tax code 6012, they tried to make the state look like the arbiter of justice and righteousness in stealing hard earned money from the citizens. Yet, time after time, Lloyd stuck with his defense and interpretation of the law, repeatedly and honestly asking the state to show him in the tax code where an individual is considered liable for the income tax. Ultimately, with the help of his attorney, Larry Becraft, Mr. Long was found not guilty by his peers in the jury that day. He had proved beyond a reasonable doubt that he had not acted willfully with a criminal intent in not filling or paying his taxes.

I believe this to be the saving grace argument in fighting against the state sanctioned theft called taxation. Tax protesters have been around since the dawn of taxation, and rightfully so. In America they've been brought forth and tried many times, and many times they lose. The government deems their arguments tiresome and frivolous and thus they stand on no merit. Most of the time these arguments stem from a sovereign citizen approach, revisionist history theories, fraudulently filing returns, or lying and trying to obfuscate total income made.[3] Such as the case with Irwin Schiff, who intentionally and willfully lied on government forms, which in the long run of his series of court trials and appeals, got him convicted.

---

[3] *Schiff v. Commissioner*, 47 T.C.M. (CCH) 1706, T.C. Memo 1984-223, CCH Dec. 41,174(M) (1984), *aff'd per curiam*, 751 F. 2d 116, 85-1 U.S. Tax Cas. (CCH) ¶ 9108 (2d Cir. 1984)

Ultimately, it is these pitfalls that trip the defendants up which renders them guilty. Not because they were unlawful in not paying taxes, but because they were dishonest and fraudulent in dealing with the government.

In Lloyds case, he was honest and straight from the get go. He made no objections or arguments if he had or had not filed or payed. He stated clearly on the stand for the whole court to hear that he didn't pay or file returns. He did not try to hide how much money he had made to diminish his tax liability, he clearly stated how much he had made, and didn't object or argue about it. He was solid in his conviction and interpretation of the law. It was his good faith belief that the particular law holding an individual or entity liable for taxes was not applicable to his financial situation, and he had court cases to back up his opinion, not frivolous or tired technicality arguments of sovereignty or jurisdiction or "gotchas."

Far too many citizens haven't take the time to concern themselves or educate themselves on the laws that hang over them, I myself was guilty of this for sure. I had never heard of many of the cases I address in this book until I sat down and took the time to actually look into the history of the income tax and all the cases that were made because of it. I hope that this book can act as a fast track in educating others and give them a sense of power and hope if they should ever find themselves going against Goliath the government. I have compiled a laundry list of cases, that if for whatever reason you don't believe me in what I say, you can go and read for yourself just as I did to find the truth.

Now, let us get into the nitty gritty, the meat and potatoes some would say. The individual cases and what the courts and the government says them selves about exactly what the income tax is and who exactly it pertains to.

2.

COPPAGE V. KANSAS EVERY MAN HAS A RIGHT TO HIS LABOR.

This case comes from the Kansas supreme court, dated 1914. This case provides the essential foundation to expand our argument upon. For what is a man, but his labor? I find Adam Smith puts it succinctly “The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.”[4]

Thomas B. Coppage was the general superintendent of the San Francisco railway lines in the early 1900’s. He had come under scrutiny for implementing employment contracts that forbade employees from joining a union while employed under the him and the railway. This case was eventually kicked up to the Kansas supreme court where it was ultimately decided that he had no right to diminish another man’s labor; and therefore rights, through contract. Of course, this was a big win for the labor movement, but it is also a

---

[4] The Works of Adam Smith, LL.D. and F.R.S. of London and Edinburgh: The nature and causes of the wealth of nations (ed. 1812)

pivotal ruling from the government themselves. They are stating that our labor and our rights to that labor can not be violated.

"THE RIGHT OF A PERSON TO SELL HIS LABOR UPON SUCH TERMS AS HE DEEM PROPER IS, IN ITS ESSENCE , THE SAME AS THE RIGHT OF THE PURCHASER OF LABOR TO PRESCRIBE THE CONDITIONS UPON WHICH HE WILL ACCEPT SUCH LABOR FROM THE PERSON OFFERING TO SELL IT. SO THE RIGHT OF THE EMPLOYEE TO QUIT THE SERVICE OF THE EMPLOYER, FOR WHATEVER REASON IS THE AS THE RIGHT OF THE EMPLOYER, FOR WHATEVER REASON, TO DISPENSE WITH THE SERVICES OF SUCH EMPLOYEE."[5]

This majority opinion has reinforced the fact that a man's labor is his private property and he has the right to sell it, trade it, or give it away as he see fit. Just as it's the employers right to buy, trade, and contract that labor in a mutual agreement.

---

[5] Coppage v. Kansas, pg. 236 U.S. 11 1915

"INCLUDED IN THE RIGHT OF PERSON LIBERTY AND THE RIGHT OF PRIVATE PROPERTY PARTAKING OF THE NATURE OF EACH IS THE RIGHT TO MAKE CONTRACTS FOR THE ACQUISITION OF PROPERTY. CHIEF AMONG SUCH CONTRACTS IS THAT OF PERSONAL EMPLOYMENT, BY WHICH LABOR AND OTHER SERVICES ARE EXCHANGED FOR MONEY OR OTHER FORMS OF PROPERTY. IF THIS RIGHT BE STRUCK DOWN OR ARBITRARILY INTERFERED WITH, THERE IS SUBSTANTIAL IMPAIRMENT OF LIBERTY IN THE LONG ESTABLISHED CONSTITUTIONAL SENSE. THE RIGHT IS AS ESSENTIAL TO THE LABORER AS THE CAPITALIST, TO THE POOR AS THE RICH: FOR THE VAST MAJORITY OF PERSONS HAVE NO OTHER HONEST WAY TO BEGIN TO ACQUIRE PROPERTY, SAVE BY WORKING FOR MONEY, AN INTERFERENCE WITH THIS LIBERTY SO SERIOUS AS THAT NOW UNDER CONSIDERATION, AND SO DISTURBING OF EQUALITY OF RIGHT, MUST BE DEEMED TO BE ARBITRARY, UNLESS IT BE SUPPORTABLE AS A REASONABLE EXERCISE OF THE POLICE POWER OF THE STATE."[6]

Furthermore, it also says that the right to ones labor is imperative to the pursuit of liberty in this country. Encompassing all men from the rich to the poor, with no arbitrary discrimination or interference. This part is particularly important to making our case here. For what is a tax upon a man's living other than an interference and impairment on his liberty and livelihood? It is theft and a malicious action taken against him that can and does stop him from acquiring property for himself.

Of course this opinion is rooted in contingency with the 14th amendment, that debars the state from aggressing against life, liberty, and property without due process of law. So it is not just the opinion of a court, but the opinion of the

---

[6] Coppage v. Kansas, pg. 236 U.S. 2 1915

spirit of which the country was founded upon. I'd argue that if the founding fathers were not innately serious about the freedom of all men when they wrote the bill of rights, they surely would've added an addendum to tax its citizens and forcefully take their property, but this was not done, at least for another 130 something odd years, by men who had no connection to the founders or held their initial spirit and thoughts in regard when making their decision to take more power for themselves and expand the state.

3.

SIMS V. AHRENS
INCOME OR EXCISE?

Demarcation between what type of tax is being laid upon you is important to bear in mind. There are a couple different taxes that evoke themselves both directly or indirectly. Liability for these taxes is also an important factor to consider. If I don't make alcohol or cigarettes, why should I pay the tax levied against those commodities? If I'm not working in a privileged occupation, why should I pay the fees to work in that capacity?

In 1925, the Arkansas supreme court ruled in Sims v. Ahrens that gross income taxes were in fact excise taxes, and the state had no authority to tax common right occupations, as it was deemed to violate the inherent rights protected by the constitution, while also not being a uniform tax, and having no basis to be considered a rightful property tax.

So what is a common right occupation? Well, just about every occupation that does not require a license or regulatory agency oversight to pursue.

"A LICENSE IMPLYING A PRIVILEGE CANNOT POSSIBLY EXIST WITH REFERENCE TO SOMETHING WHICH IS RIGHT, FREE AND OPEN TO ALL. THE RIGHT TO FOLLOW ANY OF THE COMMON OCCUPATIONS OF LIFE OR TO EARN ONE'S LIVING IN ANY INNOCENT VOCATION WITHOUT LET OR HINDRANCE IS AN INALIENABLE RIGHT, SECURED TO ALL THOSE LIVING UNDER OUR FORM OF GOVERNMENT BY THE LIBERTY, PROPERTY AND HAPPINESS CLAUSES OF OUR NATIONAL AND STATE CONSTITUTIONS"[7]

By requiring a license to perform a job or start a business the state is essentially granting you a *privilege* to perform those duties. We won't get into the ethics of a state or government authority telling you what you can or can't do here, because that is not what this book is about. However, if you're paying for that privilege to operate in a certain capacity this also makes you liable for the taxes that would be laid upon those actions and the goods produced from said actions. This is what an excise tax is.

Common right occupations however do not partake in these privileges as it would be antithetical to this nation being free nation if everyone had to pay money in order to work or make a living for themselves and this case has reiterated as much:

---

[7] *Sims v. Ahrens*, 167 Ark. 557, 559-60 (Ark. 1925)

"SINCE, ALSO, ALL OCCUPATIONS ARE HERE SOUGHT TO BE TAXED BY THE STATE, AND THE TAX ON ALL SUCH OCCUPATIONS AS ARE NOT PRIVILEGES IS VOID, THE ENTIRE ACT IS VOID, BECAUSE THE VOID AND THE VALID PARTS CANNOT BE SEPARATED. THE WORD "PRIVILEGE," AS APPLIED TO OCCUPATIONS, IS LIMITED TO THOSE WHICH ARE SUBJECT TO POLICE REGULATION."[8]

Sims v. Ahrens was also not the only case to espouse such opinions either, as cited within its opinions, it also relied on another case from the supreme court of Mississippi, Hattiesberg Grocery Co. v. Robertson.

"THE SUPREME COURT OF MISSISSIPPI HAD THE QUESTION FOR CONSIDERATION IN HATTIESBURG GROCERY CO. V. ROBERTSON, 126 MISS. 34, 88 SO. 4, 25 A.L.R. 748, AND HELD THAT AN INCOME TAX IS AN EXCISE TAX, AND NOT A TAX ON PROPERTY WITHIN THE MEANING OF THE REQUIREMENT OF THE PROVISION OF THE STATE CONSTITUTION THAT PROPERTY SHALL BE TAXED IN PROPORTION TO ITS VALUE, AND SHALL BE ASSESSED FOR TAXES UNDER GENERAL LAWS AND BY UNIFORM RULES ACCORDING TO ITS TRUE VALUE."[9]

So we have multiple state supreme courts coming to same conclusion that taxing incomes can not be considered property tax levied on income and that it must be considered an excise upon the privileges granted by the state for certain occupations and licensees.

As we established in the last chapter, every man has a right to his labor and his labor is his property to do with as he

---

[8] *Sims v. Ahrens*, 167 Ark. 557, 559 (Ark. 1925)

[9] *Sims v. Ahrens*, 167 Ark. 557, 578 (Ark. 1925)

pleases. So to further drive the point I'll include this wonderful analogy presented by the court in Sims v Ahrens:

"THE FACT IS, PROPERTY IS A TREE; INCOME IS THE FRUIT; LABOR IS A TREE; INCOME, THE FRUIT; CAPITAL, THE TREE, INCOME, THE FRUIT. THE FRUIT, IF NOT CONSUMED AS FAST AS IT RIPENS, WILL GERMINATE FROM THE SEED WHICH IT INCLOSES AND WILL PRODUCE OTHER TREES, AND GROW INTO MORE PROPERTY; BUT, SO LONG AS IT IS FRUIT MERELY, AND PLUCKED TO EAT, IT IS NO TREE, AND WILL PRODUCE ITSELF NO FRUIT."[10]

---

[10] *Sims v. Ahrens*, 167 Ark. 557, 576 (Ark. 1925)

4.

FLINT V. STONE TRACEY CO. WHO IS LIABLE FOR EXCISE TAXES?

We've found that the courts consider income taxes an excise tax and the main argument in Lloyds case was determining who was liable in paying excise taxes under the tax code. So what do the courts say about who is liable for excise taxes? Let us take a look at the case of Flint v. Stone Tracey Co.

Flint v. Stone Tracey Co. addressed the constitutionality of laying a federal income tax upon corporations and those doing business as a corporation, as the argument for the case said it should be done by the states who are giving out the privilege of corporation titles to the businesses. It concluded with the courts saying that the federal government did in fact have the power to implement a corporate federal income tax, because it is the federal government who allows for the special privileges of legality and liability afforded to the corporations to be upheld.

While this may seem meaningless to our arguments, the ultimate opinion of the case its self is not what we're after. It is the details and definitions provided by the court on the

subject of excise taxes, liability, and privilege in that manner. These definitions go hand in hand with what we just learned in the previous chapter with Sims v. Ahrens and these two cases reinforce each other equally. While the case is explicitly about corporate taxes, we must remember that the tax at question is and was a *federal income tax* and because of that nomenclature we can infer the same opinions to be upheld on the personal and individual level as well when we are talking about **our** *federal income taxes*. This inference is also backed by another court case:

"INCOME" HAS BEEN TAKEN TO MEAN THE SAME THING AS USED IN THE CORPORATION EXCISE TAX ACT OF 1909, IN THE SIXTEENTH AMENDMENT, AND IN THE VARIOUS REVENUE ACTS SUBSEQUENTLY PASSED."[11]

The case opinion starts off right out of the gate explaining that the tax is not direct and in fact an excise:

"THE CORPORATION TAX, AS IMPOSED BY CONGRESS IN THE TARIFF ACT OF 1909, IS NOT A DIRECT TAX, BUT AN EXCISE; IT DOES NOT FALL WITHIN THE APPORTIONMENT CLAUSE OF THE CONSTITUTION, BUT IS WITHIN, AND COMPLIES WITH, THE PROVISION FOR UNIFORMITY THROUGHOUT THE UNITED STATES; IT IS AN EXCISE ON THE PRIVILEGE OF DOING BUSINESS IN A CORPORATE CAPACITY"[12]

And because it is classified as an excise, it lends to be believed that there is an inherent privilege being afforded to the corporations. That privilege(s) are protections afforded to them by being organized in a corporate manner.

---

[11] *Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170, 174 (1926)

[12] Flint v. Stone Tracey Co., pg. 220 U.S. 109

"A TAX, SUCH AS THE CORPORATION TAX IMPOSED BY THE TARIFF ACT OF 1909, ON CORPORATIONS, JOINT STOCK COMPANIES, ASSOCIATIONS ORGANIZED FOR PROFIT AND HAVING A CAPITAL STOCK REPRESENTED BY SHARES, AND INSURANCE COMPANIES, AND MEASURED BY THE INCOME THEREOF, IS NOT A TAX ON FRANCHISES OF THOSE PAYING IT, BUT A TAX UPON THE DOING OF BUSINESS WITH THE ADVANTAGES WHICH INHERE IN THE PECULIARITIES OF CORPORATE OR JOINT STOCK ORGANIZATION OF THE CHARACTER DESCRIBED IN THE ACT.
JOINT STOCK COMPANIES AND ASSOCIATIONS SHARE MANY BENEFITS OF CORPORATE ORGANIZATION, AND ARE PROPERLY CLASSIFIED WITH CORPORATIONS IN A TAX MEASURE SUCH AS THE CORPORATION TAX."[13]

So we have clearly defined from this case and the former case in the last chapter what an excise tax is. It is solely a tax laid upon an individual or entity for the privilege of producing a commodity service or good which is policed and enforced by the state with licensure. We have also established the common right occupations, or essentially any occupation that does not require a license to do business in any capacity are not afforded these privileges and therefore do not exercise them or have a need to which is also backed up here:

"EXCISES ARE TAXES LAID UPON THE MANUFACTURE, SALE, OR CONSUMPTION OF COMMODITIES WITHIN THE COUNTRY, UPON LICENSES TO PURSUE CERTAIN OCCUPATIONS AND UPON CORPORATE PRIVILEGES; THE REQUIREMENT TO PAY SUCH TAXES INVOLVES THE EXERCISE OF THE PRIVILEGE, AND IF BUSINESS IS NOT DONE IN THE MANNER DESCRIBED, NO TAX IS PAYABLE."[14]

So, if you're operating as an individual or partnership in business and not incorporated in any manner with the state or government, your actions, profits, and income are not

---

[13] Flint v. Stone Tracey Co., pg. 220 U.S. 110

[14] Flint v. Stone Tracey Co., pg. 220 U.S. 111

liable or subject to being taxed as an excise, and you are not liable to pay these excise taxes.

"THERE ARE DISTINCT ADVANTAGES IN CARRYING ON BUSINESS IN THE MANNER SPECIFIED IN THE CORPORATION TAX LAW OVER CARRYING IT ON BY PARTNERSHIPS OR INDIVIDUALS, AND IT IS THIS PRIVILEGE WHICH IS THE SUBJECT OF THE TAX, AND NOT THE MERE BUYING, SELLING OR HANDLING OF GOODS."[15]

Working within the framework of our legal system and using the opinions of the government its self we've began to unwind the convoluted entanglement of the tax system. we've established definitions, liabilities, and privileges. This will be the foundational ground work of our argument in this book and it will follow and reverberate throughout the rest of the cases and pages from here on out. We must remember: income tax is an excise tax; unless we are afforded or exercising corporate privileges or privileges granted trough licensure we are not liable to pay excise taxes; these are statements made by the government its self.

---

[15] Flint v. Stone Tracey Co., pg. 220 U.S. 112

5.

REDFIELD V. FISCHER
AN INDIVIDUAL CAN NOT BE TAXED FOR EXCISE ON HIS LABOR

This will be short glimpse of a chapter. I really only found it suitable to be its own chapter because of the prevailing opinion on individuals versus corporations and the fact that was an essential case relied upon by Mr. Long in his defense.

Redfield v. Fischer was an Oregon supreme court case from 1930. Within its opinions it cites a plethora of other court cases in determining whether an income tax is a tax on the property its self that derived that income, such as stocks and bonds. It was found that the tax was in fact a tax on the properties themselves and references the property tree analogy we covered a little while back. However the key takeaway from this case is that as an individual it is not only unconstitutional, but against the spirit of this nation to uphold an excise on an individuals labor.

As we have already covered, every man has a right to his labor, because his labor is his ticket to acquire and possess property, and each and every on of us posses the right to pursue life, liberty, and property which has been defined in the constitution and bill of rights.

"THE INDIVIDUAL, UNLIKE THE CORPORATION, CANNOT BE TAXED FOR THE MERE PRIVILEGE OF EXISTING. THE CORPORATION IS AN ARTIFICIAL ENTITY WHICH OWES ITS EXISTENCE AND CHARTER POWERS TO THE STATE; BUT THE INDIVIDUAL'S RIGHT TO LIVE AND OWN PROPERTY ARE NATURAL RIGHTS FOR THE ENJOYMENT OF WHICH AN EXCISE CANNOT HE IMPOSED"[16]

This is also echoed in the Tennessee supreme court case of Jack Cole v. Macfarland, which Mr. Long also relied upon in his testimony.

"REALIZING AND RECEIVING INCOME OR EARNINGS IS NOT A PRIVILEGE THAT CAN BE TAXED."

"A PRIVILEGE IS WHATEVER BUSINESS, PURSUIT, OCCUPATION, OR VOCATION, AFFECTING THE PUBLIC, THE LEGISLATURE CHOOSES TO DECLARE AND TAX AS SUCH."

"PRIVILEGES ARE SPECIAL RIGHTS, BELONGING TO THE INDIVIDUAL OR CLASS, AND NOT TO THE MASS; PROPERLY, AN EXEMPTION FROM SOME GENERAL BURDEN, OBLIGATION OR DUTY; A RIGHT PECULIAR TO SOME INDIVIDUAL OR BODY." *LONAS V. STATE*, 50 TENN. 287, 307.
SINCE THE RIGHT TO RECEIVE INCOME OR EARNINGS IS A RIGHT BELONGING TO EVERY PERSON, THIS RIGHT CANNOT BE TAXED AS PRIVILEGE."[17]

---

[16] Redfield v. Fischer pg. 198 1930

[17] *Jack Cole Co. v. MacFarland*, 206 Tenn. 694, 698-99 (Tenn. 1960)

Clear as day, the courts shoots down the notion that an income tax is fairly laid upon an individual. Echoing the common right occupation rulings from earlier, it is even more evident that every individual has the right to exist, work, and live with out having to be forced to pay for the privilege of doing so, simply because it is not a privilege, it is a god given right which can not be violated or infringed upon by a government or state body.

6.

BRUSHABER V. UNION PACIFIC NO NEW POWERS

This case was by all definitions a landmark case regarding the income tax and sixteenth amendment. It was decided in 1916, some three years after the ratification of the sixteenth amendment and the 1913 income tax law. It is quite ironic because the IRS themselves cite this case as the determining factor granting them the power to take your money, labor, and property.

However, when we really look at the case and its opinions and what they truly convey, we start to get a different picture. The IRS maintains that Brushaber v. Union Pacific upheld the constitutionality of the sixteenth amendment which grants congress the power to levy taxes. This is a fair assessment. Brushaber does uphold the constitutionality, but it also states that the sixteenth amendment did not grant any new powers to congress to which it didn't already have.

"THE SIXTEENTH AMENDMENT DOES NOT PURPORT TO CONFER POWER TO LEVY INCOME TAXES IN A GENERIC SENSE, AS THAT AUTHORITY WAS ALREADY POSSESSED"[18]

---

[18] *Brushaber v. Union Pac. R.R*, 240 U.S. 1, (1916)

So, if they already had the power to levy taxes, what was the problem? The problem was that twenty one years earlier in the Pollock v. Farmers' Loan Trust Co case the tax income law was deemed unconstitutional because it was considered a non-apportioned direct tax which was explicitly prohibited under the constitution. They had to find a new way to make the tax constitutional which is what the sixteenth amendment was created for.

"THE EFFECT OF THE SIXTEENTH AMENDMENT WAS MERELY TO WAIVE THE REQUIREMENT OF APPORTIONMENT AMONG THE STATES"[19]

That's right, all they did was waive the necessity to apportion the tax and considered it uniform already. That was The only thing that had changed with the sixteenth amendment. It didn't reclassify the income tax either, and it still was and is considered an excise as stated from the earlier cases we looked at.

"THE SIXTEENTH AMENDMENT WAS OBVIOUSLY INTENDED TO SIMPLIFY THE SITUATION AND MAKE CLEAR THE LIMITATIONS ON THE TAXING POWER OF CONGRESS AND NOT TO CREATE RADICAL AND DESTRUCTIVE CHANGES IN OUR CONSTITUTIONAL SYSTEM. "[20]

That last part, the part that is underlined for emphasis, is an important distinction to make. If the sixteenth amendment had given congress new powers to levy a new type of tax it would've been in direct conflict with the original constitution in article one, section eight, clause one. The courts knew this as well.

---

[19] Brushaber v. Union Pac. R.R**, 240 U.S. 1, 2-3 (1916)**

[20] *Brushaber v. Union Pac. R.R*, 240 U.S. 1, (1916)

“BUT IT CLEARLY RESULTS THAT THE PROPOSITION AND THE CONTENTIONS UNDER IT, IF ACCEDED TO, WOULD CAUSE ONE PROVISION OF THE CONSTITUTION TO DESTROY ANOTHER; THAT IS, THEY WOULD RESULT IN BRINGING THE PROVISIONS OF THE AMENDMENT EXEMPTING A DIRECT TAX FROM APPORTIONMENT INTO IRRECONCILABLE CONFLICT WITH THE GENERAL REQUIREMENT THAT ALL DIRECT TAXES BE APPORTIONED.”[21]

Thus there was only one logical conclusion to come to on what exactly the sixteenth amendment meant and what it was created for, which as we’ve come to know, is to simplify the laws regarding taxation, and deter future confusion within the statutes and keep the newer amendment from conflicting with the original designation of power.

---

[21] Brushaber v. Union Pac. R.R**, 240 U.S. 1, 11-12 (1916)**

To follow that up, I've included a statement from a congressional report dated March 27th, 1943 by F. Morse Hubbard, a legislative draftsmen for the treasury department at the time. The statement includes his words on Brushaber and the classification of excise taxes in relations to the income tax.

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 78th CONGRESS
FIRST SESSION

VOLUME 89— PART 2

MARCH 2, 1943, TO APRIL 5, 1943
(PAGES 1459 TO 2940)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1943

Cover page of the congressional record 1943

January 1 of one year and the date when his return was due in the following year the income for such period was not subject to tax, even though he may have made a return of income before his death in advance of the due date (T. D. June 9, 1865, 2 Internal Revenue Record 64). This rule was not changed until 1867, when it was held that such income was subject to the tax and should be returned by the executor or administrator (T. D. Apr. 6, 1867, 5 Internal Revenue Record 109; T. D. Jan. 1, 1869, 7 Internal Revenue Record 59). See also *Mandell* v. *Pierce* (C. C. D. Mass. 1868, 16 Fed. Cas. 576). The change was doubtless prompted by two important considerations; first, the taxes expired by definite limitation within a very few years; and, second, persons whose tax had been withheld at the source would already have paid their tax up to the date of death. At any rate, the change did not involve any modification in the concept of the income tax as an excise tax based on income.

After a lapse of about a quarter of a century Congress again passed an income-tax law. The act of 1894 (28 Stat. 509, 553; Aug. 27, 1894) provided for a tax to be levied, collected, and paid "from and after" January 1, 1895, "and until the 1st day of January 1900" (sec. 27). Like the Civil War acts it provided that the tax should be based on the "income received in the preceding calendar year." Although the Supreme Court held this portion of the act to be unconstitutional, it still recognized that the income tax was in essence an excise tax. The Court said that a tax on income from business, privileges, or employments, standing by itself, would be valid as an excise tax; but the tax on investment income was held to be invalid because the Court regarded a tax based on income from property as a tax on the property itself and therefore a direct tax which must be apportioned among the States (*Pollock* v. *Farmers' Loan and Trust Co.* (1895), 157 U. S. 429; 158 U. S. 601). The Court said that to sustain a portion of the tax while declaring the rest invalid, "would leave the burden of the tax to be borne by professions, trades, employments, or vocations; and in that way what was intended as a tax on capital would remain, in substance, a tax on occupations and labor. We cannot believe that such was the intention of Congress" (158 U. S. 601, 637). So the entire portion of the act relating to income tax was declared invalid.[1]

There are still those who think that in this case the Court went further than necessary in treating a tax based on income from property as a tax on property itself, and that in any event the excise-tax principle should have been applied to rents and other investment income, as was done under the Civil War acts. In other words, the making and holding of investments, while perhaps not technically a business, is, at least, a kind of activity or privilege which can properly be subjected to an excise tax measured by reference to the income derived therefrom.

That investment income may be included as a part of the basis for measuring an excise tax was recognized by Congress in the act of August 5, 1909 (36 Stat. 11, 112). This act provided "That every corporation * * * shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, * * * equivalent to 1 percent upon the entire net income over and above $5,000 received by it from all sources during such year, exclusive of amounts received by it as dividends upon stock of other corporations * * * subject to the tax hereby imposed; * * *." Certain corporations, such as religious, charitable, and educational organizations, etc., were specifically exempted from the tax.

The tax imposed by this act was really an income tax in that it was based on net income, but was given the correct designation of "excise tax." It was imposed with respect to carrying on or doing business; and it should be noted that the basis was net income from all sources, except dividends, from other corporations subject to the tax. Such dividends were excepted not because they constituted investment income but because they represented income which had already been taxed. The sole test of taxability under this act was whether a corporation was engaged in business. If it was so engaged, then all the income (except dividends), including investment income as well as strictly business income, was used in measuring the tax. The Supreme Court held that the fact that the tax was measured by net income, and that income from nontaxable property or property not used in business was included in computing net income, did not prevent the tax from being construed as an excise tax which did not require apportionment. *Flint* v. *Stone Tracy Co. et al.* ((1911) 220 U. S. 107).

So far as the objections raised in the Pollock case are concerned, the principle applied to corporations under the act of 1909 with the approval of the Supreme Court might have been extended to individuals engaged in business. In that way investment income of most individuals as well as of corporations could doubtless have been brought under the terms of the act. And the field of income could have been completely covered by applying the principle that the ownership and management of investment property is an activity or privilege with respect to which Congress may impose an excise.[2]

However that may be, Congress chose to remove all doubt by an amendment to the Constitution. The resolution embodying the proposed amendment (S. J. Res. 40, 36 Stat. 184; 61st Cong., 1st sess.) was deposited in the Department of State on July 31, 1909, a few days before the act of 1909 was approved by the President. The amendment was duly ratified and became effective as the sixteenth amendment on February 25, 1913. (Secretary of State's Certificate of Adoption, 37 Stat. 1785).

The sixteenth amendment authorizes the taxation of income "from whatever source derived"—thus taking in investment income—"without apportionment among the several States." The Supreme Court has held that the sixteenth amendment did not extend the taxing power of the United States to new or excepted subjects but merely removed the necessity which might otherwise exist for an apportionment among the States of taxes laid on income whether it be derived from one source or another.[3] So the amendment made it possible to bring investment income within the scope of a general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or duty with respect to the privilege of carrying on any activity or owning any property which produces income.

The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax.[4]

The purpose of the income tax is to raise revenue in the year of its levy. It is a method by which some of us make annual payments on account of the governmental expenses and the public debt of all of us—contributions to a common fund to preserve the blessings of liberty. The great French political philosopher and jurist, Montesquieu, stated the fundamental principles of taxation as follows:

"The revenues of the State are a portion that each subject gives of his property in order to secure, or to have the agreeable enjoyment of, the remainder." (Spirit of Laws, book XIII, chap. 1.)

The income tax is now a permanent part of our tax structure, and is designed to provide for such contributions, or payments, year after year, indefinitely. The tax "for" any given year is the tax which is to provide revenue for that year. Strictly speaking, then, the "1942 income tax" was the tax payable in 1942; and the "1943 income tax" is the tax payable in 1943.

The amount of the payments for any year is determined by applying certain rates to a specified basis. Both of these factors are matters of legislative policy. Congress may fix any rates which are not confiscatory and may adopt any basis which is reasonable. Hitherto the previous year's income has been used as the basis. But the basis, as well as the rates, may be changed at any time. In these matters of policy, the Constitution, both before and since the Sixteenth Amendment, has left to Congress practically unrestricted freedom of choice.[5]

Under our existing Federal income-tax law which has been operating for many years, the amount of income tax payable in any year by an individual taxpayer is based, not upon the income of the tax-paying year, but upon the income of the preceding year. This method whereby

---

[1] It must be remembered that the Court was not appraising economic theories, but was construing provisions of the Constitution. The first related to the power of Congress:

"To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States" (art. I, sec. 8, subdiv. 1).

The second was the provision that:

"No capitation, or other direct, tax shall be laid, unless in proportion to the census of enumeration herein before directed to be taken" (art. I, sec. 9, subdiv. 4).

Thus the Constitution made a distinction between "taxes" on the one hand, and "duties, imposts, and excises" on the other. Uniformity was required in the case of the latter, whereas apportionment according to population was required only in the case of "taxes." The only taxes generally regarded as "direct" were poll taxes and taxes on property. The only direct taxes which had been imposed by Congress prior to 1894 were taxes on lands, houses, and slaves. See Foster and Abbott, A Treatise on the Federal Income Tax under the act of 1894, pp. 27 ff. The Court had no difficulty in classifying a tax on income as an excise tax. Its objection to the act of 1894 was doubtless based on the theory that a tax on rents was not in reality an income tax but was a direct tax on lands and buildings. (See Foster and Abbott, op. cit., pp. 117–118.)

[2] That such is the case is clearly indicated by the recent provision in the Revenue Act of 1942 which allows deductions for expenses incurred in the management of investments (sec. 121). The retroactivity of this provision suggests not merely the declaration of a new policy but the recognition of a fundamental principle.

[3] *Brushaber* v. *Union Pacific Railroad Co.* ((1916) 240 U. S. 1); *William E. Peck and Co.* v. *Lowe* ((1918 247 U. S. 165); *Eisner* v. *Macomber* ((1920) and 252 U. S. 189).

[4] If the tax should be construed as a tax on income as a specific fund the disappearance of the fund before the date of assessment would prevent the collection of the tax. (See Foster and Abbott, op. cit., p. 85.)

[5] "If the income is merely the measure of the tax, it is clearly quite immaterial whether the income that is adopted as a measure is that of the past, or of the present, or of the future, provided only it is practically ascertainable." (Foster and Abbott, op. cit., p. 87.)

Excerpt from congressional record debates 1943

The highlighted passage reads:

"the sixteenth amendment authorizes the taxation of income "from whatever source derived" — thus taking in investment income — "without apportionment among the several states." The Supreme Court has held that the sixteenth amendment did not extend the taxing power of the inited states to new or excepted subjects but merely removed the necessity which might otherwise exist for an apportionment among the states of taxes laid on income whither it be derived from one source or another. So the amendment made it possible to bring investment income within the scope of a general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or duty with respect to the privilege of carrying on any activity or owning any property which produces income. The income tax is, therefore, nit a tax on income as such. It is is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of the tax."

So, nothing has changed from the opinions we have read about from the earlier cases. The income tax is an excise, no man can be taxed on labor, every man has the right to work and contract freely, and excise taxes constitute a privilege that makes one liable for paying the income tax, and despite the sixteenth amendment, none of that has changed or become obsolete.

7.
COURT EVIDENCE EXHIBITS

I figured adding in the court exhibits in which Mr. long presented and relied upon in his case would be helpful and necessary to include in this book. I had to do some thorough digging across the internet and archived government documents in order to find them and for awhile, I believed them to be lost to time or just simply not on the internet, but I did eventually find them and they are presented in their entirety here.

The first of these exhibits is an annual congressional research report from 1979. It is an official government document and publication which hasn't been doctored in any way and appears how it would have on the exhibit bench in court that day.

Report No. 80-19 A 723/275

SOME CONSTITUTIONAL QUESTIONS REGARDING THE FEDERAL INCOME TAX LAWS

by

Howard M. Zaritsky
Legislative Attorney
American Law Division

CRS

CONGRESSIONAL RESEARCH SERVICE
THE LIBRARY OF CONGRESS

May 25, 1979

Updated January 17, 1980

Front page of 1979 CSR annual report

Pacific Railroad Company sought to enjoin the corporation from paying the recently-imposed income tax on the grounds that the tax was unconstitutional. The Supreme Court, in a decision written by Chief Justice White, first noted that the Sixteenth Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the Constitution, quoted above. Direct taxes were, notwithstanding the advent of the Sixteenth Amendment, still subject to the rule of apportionment and indirect taxes were still subject to the rule of uniformity. Rather, the Court found that the Sixteenth Amendment sought to restrain the Court from viewing an income tax as a direct tax because of its close affect on the underlying property.

The Court noted that the inherent character of an income tax was that of an indirect tax, stating:

> Moreover in addition the conclusion reached in the Pollock Case did not in any degree involve the holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in the nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxes was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it.
>
> 240 U.S. at 16-17.

The language of the Sixteenth Amendment, the Court found in Brushaber, was solely intended to eliminate:

> the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly

Excerpt from 1979 CSR report that was admitted into evidence in U.S. v. Long

Mr. Long used this report excerpt to say that the government themselves have relied upon brushaber to recognize that the sixteenth hadn't granted congress any new powers and that they themselves have classified the income tax as an excise tax.

Internal revenue investigations subcommittee house hearing, February, 1953

There was another other exhibit Mr. Long relied upon. It is a transcript of the subcommittee hearings regarding the IRS director of the alcohol and tobacco division, Dwight Avis.

In the second paragraph you can see that the director is commenting on the difference between taxes. He says that the income tax is voluntary as opposed to the alcohol tax which is 100% enforced. Mr. Long used this document to appeal to authority that even one of the directors of the IRS has admitted the income tax is 100% voluntary and that his good faith belief that if it were to be mandatory, it would be. That the government has no problem distinguishing or enforcing the difference between the types of taxes.

One of my assistants refers to policy and personnel, and of course, under this new structure, we are concerned here in Washington, as I pointed out, largely with policy and in administering the industry, rather than directing the personnel. That is left primarily to the district commissioners or, rather, the assistant district commissioners.

Mr. CURTIS. An alcohol tax matter that would go to the Appeals Section——

Mr. AVIS. There is just no such thing. That is where this structure differs.

Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as day and night. Consequently, your same rules just will not apply, and therefore the alcohol and tobacco tax has been handled here in this reorganization a little differently, because of the very nature of it, than the rest of the over-all tax problem.

Mr. CURTIS. In other words, the alcohol and tobacco tax setup, while it is a part of the Bureau generally, has more or less an autonomy of its own, with the power and authority vested in it; is that right?

Mr. AVIS. I think that is a fair statement; yes, sir, Mr. Curtis.

Chairman KEAN. How about legal matters; does the counsel of the Bureau advise with you?

Mr. AVIS. Well, we have an Alcohol and Tobacco Tax Division counsel, and he reports to the Chief Counsel of the Bureau, and he is part of the general counsel's setup in the Treasury. But for convenience, so that when I get a problem, for example, over the telephone and it is a question of whether a big factory or a plant's operations are to be set up, I can grab my lawyer across the hall and find out what the law is, don't you see; and he, for convenience, is located right in the adjoining suite to me here in Washington. And the same thing applies in the field. In other words, it is a specialized field, and the lawyers that service alcohol tax are generally attached to the assistant district commissioner's office, as far as space is concerned. They still report to their boss, who is the divisional counsel.

Chairman KEAN. There is a lawyer in every one of the 17 areas?

Mr. AVIS. Yes.

Chairman KEAN. He is under the lawyer who deals with you, who is under the man in Mr. Davis' office at the moment, who is under the man in the Treasury Department?

Mr. AVIS. That is Mr. Tuttle; I think he is the new man.

Mr. CURTIS. But your lawyers are confined to problems relating to alcohol tax and tobacco tax?

Mr. AVIS. Yes; because it is so highly specialized, sir.

Mr. Chairman, I think we have covered the rest of my statement, but I will read it.

The reorganization plan abolished the district supervisors and established in their place 17 assistant district commissioners, Alcohol and Tobacco Tax Division, who, subject to the general supervision of the district commissioners, have substantially the same functions, powers, and duties that the former district supervisors had. All tax and regulatory field functions, including the servicing of the industries,

8.

WHAT DOES THE GOVERNMENT SAY ABOUT INCOME?

Determining what the government says and considers to be income is a key part in our argument. The fact is the government says a lot about income, and a lot of times it can be contradictory and confusing. The term is left intentionally vague, for the only reason I can assume is to broaden the scope and reach of its interpretation. Like a shoe that can conform to any size foot its applied to, the government utilizes its different interpretations as it sees fit, to accomplish its goals at the time that it deems necessary, its quite the useful little parlor trick, and comes off with the same arbitrary authority you would see in a mother telling her child not to do something annoying because “she said so.”

The first case here will be Conner v. United States.

"NO ATTEMPT HAS EVER BEEN MADE BY CONGRESS TO DEFINE WITH SPECIFICITY THE TERM "INCOME" AS IT IS USED IN THE SIXTEENTH AMENDMENT. IN EARLIER TAXING ACTS, IT INSTEAD PROVIDED THAT "GROSS INCOME" *INCLUDES* "GAINS, PROFITS, AND INCOME" FROM VARIOUS DESIGNATED SOURCES "OR FROM ANY SOURCE WHATSOEVER," LEAVING TO ADMINISTRATIVE AND JUDICIAL DETERMINATION THE INCLUSION OR EXCLUSION OF CERTAIN ITEMS. SEE RAPP, *SUPRA*."[22]

I'm sure you thought I was being perhaps a bit dubious when I said the government leaves the interpretation vague to use as they see fit, but I wasn't. As you can see the term "income" really hasn't ever been properly defined by congress, and for just the reason I stated, so they can determine on a whim what they want it to mean when it can benefit them. We can also look at United States v. Ballard has to say:

"THE GENERAL TERM "INCOME" IS NOT DEFINED IN THE INTERNAL REVENUE CODE. SECTION 61 " [23]

So Neither congress nor the IRS has defined the term "income" now I'm not sure about you, but that raises some red flags in my head. How exactly do you plan to tax somebody on their income without properly or concisely defining what that income is or what the term means? The courts have battled over a proper definition themselves and even that is still not inherently concrete. In some cases they rely on the definition given in the Eisner v. Macomber case:

---

[22] *Conner v. United States*, 303 F. Supp. 1187, 1189 (S.D. Tex. 1969

[23]*United States v. Ballard*, 535 F.2d 400, 404 (8th Cir. 1976)

"AND THE DEFINITION OF "INCOME" APPROVED BY THIS COURT IS: ""THE *GAIN* DERIVED FROM CAPITAL, FROM LABOR, OR FROM BOTH COMBINED,' PROVIDED IT BE UNDERSTOOD TO INCLUDE PROFITS GAINED THROUGH SALE OR CONVERSION OF CAPITAL ASSETS."[24]

And within that definition it is important to note the emphasis on the term *gain.* However, turning back to Conner v. United States we find that this definition is not intended to be the end all be all definition.

"THE COURT SAID THAT THE *EISNER* DEFINITION OF "INCOME" WAS USEFUL IN THE CONTEXT OF THE DECISION THERE, I.E., DISTINGUISHING GAIN FROM CAPITAL, BUT THAT: "* * * IT WAS NOT MEANT TO PROVIDE A TOUCHSTONE TO ALL FUTURE GROSS INCOME QUESTIONS * * *"[25]

None the less, the emphasis of gain seems to be a pivotal requirement in determining whether something can be considered income.

"WHATEVER MAY CONSTITUTE INCOME, THEREFORE, MUST HAVE THE ESSENTIAL FEATURE OF GAIN TO THE RECIPIENT. THIS WAS TRUE WHEN THE SIXTEENTH AMENDMENT BECAME EFFECTIVE, IT WAS TRUE AT THE TIME OF THE DECISION IN EISNER V. MCCOMBER, *SUPRA,* IT WAS TRUE UNDER SECTION 22(A) OF THE INTERNAL REVENUE CODE OF 1939, AND IT IS LIKEWISE TRUE UNDER SECTION 61(A) OF THE INTERNAL REVENUE CODE OF 1954. IF THERE IS NO GAIN, THERE IS NO INCOME."[26]

---

[24] Goodrich v. Edwards, [1921] 255 U.S. 527

[25] *Conner v. United States*, 303 F. Supp. 1187, 1189-90 (S.D. Tex. 1969)

[26] *Conner v. United States*, 303 F. Supp. 1187, 1191 (S.D. Tex. 1969)

That last part has a nice ring to it, doesn't it?

The IRS will assuredly try and convince you that wages and compensation fall under income, but do they? I'm sure you're thinking, "doesn't that fly in the face of what we learned about a man having a right to his labor and having the right to common work?" Well it most certainly does, so what do the courts have to say about it?

"THERE IS A CLEAR DISTINCTION BETWEEN "PROFIT" AND "WAGES" OR COMPENSATION FOR LABOR. "COMPENSATION FOR LABOR CAN NOT BE REGARDED AS PROFIT WITHIN THE MEANING OF THE LAW. THE WORD 'PROFIT', AS ORDINARILY USED, MEANS THE GAIN MADE UPON ANY BUSINESS OR INVESTMENT -- A DIFFERENT THING ALTOGETHER FROM MERE COMPENSATION FOR LABOR."[27]

So we have a basis for a clear distinction between wages, compensation, and profit within the meaning of the law and espoused by the courts and this opinion has been upheld in other cases as well.

"...BUT IT MATTERS LITTLE WHAT IT DOES MEAN; THE STATUTE AND THE STATUTE ALONE DETERMINES WHAT IS INCOME TO BE TAXED. IT TAXES ONLY INCOME 'DERIVED' FROM MANY DIFFERENT SPECIFIED SOURCES; ONE DOES NOT 'DERIVE INCOME' BY RENDERING SERVICES AND CHARGING FOR THEM."[28]

---

[27] Oliver v. Halstead, [1955] 196 Va. 992, 86 S.E.2d 85

[28] Edwards v. Keith, [1916] 231 F. 111

And again here:

"REASONABLE COMPENSATION FOR LABOR OR SERVICES RENDERED IS NOT PROFIT."[29]

We can also look to Lucas v. Earl for more clarification:

"THE CLAIM THAT SALARIES, WAGES AND COMPENSATION FOR PERSONAL SERVICES ARE TO BE TAXED AS AN ENTIRETY AND THEREFORE MUST BE RETURNED BY THE INDIVIDUAL WHO HAS PERFORMED THE SERVICES WHICH PRODUCED THE GAIN, IS WITHOUT SUPPORT EITHER IN THE LANGUAGE OF THE ACT OR IN THE DECISIONS OF THE COURTS CONSTRUING IT. NOT ONLY THIS, BUT IT IS DIRECTLY OPPOSED TO PROVISIONS OF THE ACT AND TO REGULATIONS OF THE TREASURY DEPARTMENT WHICH EITHER PRESCRIBE OR PERMIT THAT COMPENSATION FOR PERSONAL SERVICES BE NOT TAXED AS AN ENTIRETY AND BE NOT RETURNED BY THE INDIVIDUAL PERFORMING THE SERVICES."[30]

That seems pretty clear that salaries, wages, and compensation are not considered income and are not to be taxed. Unless, there is an explicit gain *derived* from those salaries, wages, and compensation that has been separated by the initial capitol as was said in Sims v. Ahrens with the tree and fruit analogy. It is also brought up in this case here about the distinction of gains per se in relation to the initial salaries, wages, and compensation.

---

[29] *Laureldale Assn. v. Matthews*, 354 Pa. 239, 244 (Pa. 1946)

[30] *Lucas v. Earl*, 281 U.S. 111, 112-13 (1930)

"IT IS TO BE NOTED THAT BY THE LANGUAGE OF THE ACT IT IS NOT "SALARIES, WAGES OR COMPENSATION FOR PERSONAL SERVICE" THAT ARE TO BE INCLUDED IN GROSS INCOME. THAT WHICH IS TO BE INCLUDED IS "GAINS, PROFITS AND INCOME DERIVED" FROM SALARIES, WAGES OR COMPENSATION FOR PERSONAL SERVICE. SALARIES, WAGES OR COMPENSATION FOR PERSONAL SERVICE ARE NOT TO BE TAXED AS AN ENTIRETY UNLESS IN THEIR ENTIRETY THEY ARE GAINS, PROFITS AND INCOME. SINCE, ALSO, IT IS THE GAIN, PROFIT OR INCOME TO THE INDIVIDUAL THAT IS TO BE TAXED, IT WOULD SEEM PLAIN THAT IT IS ONLY THE AMOUNT OF SUCH SALARIES, WAGES OR COMPENSATION AS IS GAIN, PROFIT OR INCOME TO THE INDIVIDUAL, THAT IS, SUCH AMOUNT AS THE INDIVIDUAL BENEFICIALLY RECEIVES, FOR WHICH HE IS TO BE TAXED."[31]

To conclude and further clarify the matter of compensation versus profit we will once again turn back to Conner v. United States.

"IF PLAINTIFFS HAD BEEN COMPENSATED FOR PERSONAL INJURY NOT COVERED BY INSURANCE. WHILE IT IS RECOGNIZED THAT THESE STATUTORY EXCLUSIONS APPLY ONLY TO PERSONAL INJURIES, THE SAME LOGIC ON WHICH THEY ARE BASED WOULD CONTROL THE ISSUE OF THE JUDICIAL EXCLUSION FROM GROSS INCOME OF THE PAYMENTS MADE TO THE PLAINTIFFS HERE. CONGRESS HAS TAXED INCOME, NOT COMPENSATION."[32]
(emphasis added)

It seems to be a bit peculiar that the IRS has taken a stance that your wages and compensation for your labor can be considered income that they can tax when the courts have said on many different counts, the exact opposite. It's also peculiar that they maintain they have this authority afforded to them by the sixteenth amendment as upheld by Brushaber

---

[31] *Lucas v. Earl*, 281 U.S. 111, (1930)

[32] *Conner v. United States*, 303 F. Supp. 1187, 1191 (S.D. Tex. 1969)

v. Union Pacific, but in that same case as we have seen, the sixteenth amendment didn't grant congress any new taxing authority or scope of subjects, but simply clarified the law and removed the need for apportionment. All of which has been repeated throughout a plethora of other cases as well.

One might even draw a conclusion that they have been mislead or even outright lied to and tricked by an official government agency into *voluntarily* handing over their property under the implied threat of force and violence.

9.
MORE IMPORTANT CASES

I'd like to include a couple more court cases that weren't brought up in Mr. longs trial that I've stumbled across while conducting my research reading the different case laws. I think they hold opinions that are just as important to furthering our argument and some of them are included because they further reinforce the cases I've presented already. Instead of giving each of them a chapter i'll include them all in this chapter as a "further reading" note.

PECK V. LOWE

"The Sixteenth Amendment does not extend the power of taxation to new or excepted subjects, but merely removes occasion for apportioning taxes on income among the States." [33]

Once again, in this case the court further clarifies and upholds the opinions we found in Brushaber. Congress was never granted new powers and the scope of their reach was not broadened to new subjects or individuals.

---

[33] Peck Co. v. Lowe, 247 U.S. 165, (1918)

"In the same opinion the court held that an annual tax upon the income from real estate is the same in substance as an annual tax on the real estate; also that a tax on income from personal property is a tax on that property. 158 U.S. 618." [34]

As we can clearly see, the act of taxing income derived from personal property is to be considered a direct tax upon that property, which the income tax has been deemed in multiple instances not to be. We must also remember what we learned in Coppage v. Kansas that every man has a right to his labor and his labor is considered to be his property to which he can do with what he pleases.

LONG V. RASMUSSEN

"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws."[35] [sic]

Reinforcing who is liable for taxes from what we read in Flint Stone v. Tracey, this case here distinctly tells us that assessment and collection *only* applies to taxpayers, that being understood to be individuals who are liable for said taxes, and *not* non-taxpayers, or those who are not liable. Further strengthening the argument that if an excise denotes an inherent privilege, and no such privilege is being exercised, one is simply not liable to pay said excise taxes.

---

[34] Peck Co. v. Lowe, 247 U.S. 165, 167 (1918)

[35] *Long v. Rasmussen*, 281 F. 236, 238 (D. Mont. 1922)

HALE V. HENKEL

"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights."[36]

This might be one of the single most important opinions of the supreme court I have come across. The case in hand was about corporations having access to the same rights as an individual, in which it was determined that they don't. Under the constitution the individual has immense impunity that we often tend to forget that we have and thus fail to practice within the legal system and the state system. As the opinion states, we owe the government nothing, neither our resources nor our compliance. This is something that must be not only remembered, but taught to our sons and daughters, it must be instilled and inculcated within them. **WE OWE OUR GOVERNMENT NOTHING**. We must not fall for the good citizen trope, as it only opens the door to be trampled upon by tyranny as we all know, "no good deed goes unpunished."

---

[36] *Hale v. Henkel*, 201 U.S. 43, 74 (1906)

10.
GOOD FAITH DEFENSE

Most charges brought against those who don't pay their taxes fall within either *willful failure to file* and *tax evasion*. Most of the time, it will be the failure to file; in the governments view it is an easy charge to bring up and prosecute against. However, as we've seen in the Lloyd Long case there is a defense against these charges that has worked with the jury. That defense is the good faith belief defense. You see, the government has the burden of proof in which they have to prove ***beyond a reasonable doubt*** that you acted willfully in not filing or paying taxes. Willfully here means in a manner of maliciousness or knowing that the act was wrong and doing it anyways. For the hypothetical individual who may or may not be reading this book, all they have to do is create doubt in that they acted willfully. How do they go about that?

Just like in Lloyds case, they must educate themselves, and luckily, if they have made it this far into this book they have done just that. They have become educated to what the government says about taxes, they have studied the opinions of the supreme court, and have relied upon them in forming their beliefs.

This defense, luckily enough for us, is ruled and protected by the courts as well as we can see in a couple different cases.

UNITED STATES V. BISHOP

“The requirement of an offense committed "willfully" is not met, therefore, if a taxpayer has relied in good faith on a prior decision of this Court. The Court's consistent interpretation of the word "willfully" to require an element of mens rea implements the pervasive intent of Congress to construct penalties that separate the purposeful tax violator from the well-meaning, but easily confused, mass of taxpayers.”[37]

The charge of willfulness has to constitute an act done in the spirit of evil, maliciousness, or bad faith. You have to know that what you have done is wrong and persist and commit to doing it anyways. However, if an air of good faith is had, meaning that you have done your due diligence and put forth an effort in trying to learn and educate yourself in the law and what it says you have not acted in willfulness as the courts have ruled here in United States v. Bishop.

CHEEK V. UNITED STATES

“If the defendant had a subjective good faith belief, no matter how unreasonable, that he was not required to file a tax return, the government cannot establish that the defendant acted willfully.”[38]

---

[37] *United States v. Bishop*, 412 U.S. 346, 361 (1973)

[38] Cheek v. U.S., 111 S.C. 604 (1991)

Again, the same opinion is being upheld in the more recent (1991) Cheek case. One of the main arguments was that the tax law was complex and confusing thus the average citizen could not reasonably discern wether the tax laws applied to him or not. This leads us into a couple other cases.

MILLER V. GEARING

“We do not consider the question here involved a doubtful one; but, if there is doubt, it should be resolved in favor of the taxpayer. In Gould v. Gould, it was said:
'In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen.’[39]

So essentially if there is doubt, whether be from overly complex statues, or conflicting and contradictory words regarding the law, the outcome must be ruled in favor of the citizen rather than the government. As it should be, the government has the burden of making their rules concise and clear and it their duty over the citizens, so if they have failed to do so, their incomplete and vague decrees must be ruled null and void.

SPRECKELS SUGAR REFINERY V. MCCLAIN

"Keeping in mind the well settled rule, that the citizen is exempt from taxation, unless the same is imposed by clear and unequivocal language, and that where the construction of a tax is doubtful, the doubt is to be resolved in favor of

---

[39] *Miller v. Gearing*, 258 F. 225, 225 (9th Cir. 1919)

those upon whom the tax is sought to be laid."[40] [emphasis added]

Maintaining a good faith education of the court opinions in conjunction with the complex tax laws and the contradictory rulings of the supreme, if ever tried in court, the court would have no other option but to rule in our favor our their own words and rulings, as they've said it themselves quite clearly. Knowledge is power, and I firmly believe that. Before writing this book, and I'm positive, before reading this book, you and I had no idea that the courts maintained these positions. Like you, I figured the tax protestor view was a fools game, and that every possible argument had been exhausted and every avenue closed. I thought the IRS to be infallible in their conquest to relieve us of our possessions. We can see that's simply not the case, and there is hope, there is a way.

---

[40] Spreckles Sugar Refining Co. vs. McLain: 192 US 397.

11.
A NEW LOOK ON LIFE

The argument has been made, its breadth wide and its points built with redundancy. It is not a crack pot theory or frivolous argument made without merit. We have sourced and cited words from the supreme court them selves. We have formed a foundation, and built upon that foundation into a full fledged defense for the case against the individual being liable for income taxation.

What have we learned? Starting from the bottom. We are all entitled to our personal property, and the pursuit to attain personal property. The essence of personal property forms from our own labor, which we have full rights over and can do what we please with. We have the right to exercise our labor and use it to form and build our lives through work and a career. It is a common right that can not be violated less, the essence of what this country was founded upon be thrown out and spat on.

We have learned what an excise tax is and how it differs from a property tax. We have learned that an excise tax denotes a privilege afforded to us by the government to operate in a certain capacity. Without that privilege we are not liable for the excise tax.

We have learned what the government truly says about income. Time and time again, the inclusion of a distinct gain is

brought up. We have also learned that the government can't really decide or define what income is or should be.

We learned that the only thing that changed under the ratification of the sixteenth amendment was the need to apportion taxes, no new powers were granted and no new subjects were made liable for taxes.

We have learned that good faith belief is an essential mechanism to utilize when combatting the charge of willfulness. It is imperative that we educate ourselves to the best of our abilities when facing our oppressive government.

Most importantly, we have learned that this is all possible and can be done. Thanks to Lloyd long and Larry Becraft, we have real life evidence and precedent of this argument being successful in the court of law and amongst a jury.

We've certainly learned a lot of valuable information on this short journey. I can only hope that it invigorates you the same as it has me. We must be vigilant in reading the fine print and doing our due diligence instead of succumbing to naivety, complacency, or laziness that has consumed the majority over the past hundred or so years. That is precisely how we have found ourselves in this situation. It is why our government can wage wars on an astronomical scale across the globe. It is why the average American barely scrapes by, while the political class schmoozes it up over champagne brunches and lives more than comfortably in gated communities separated from real life and the struggles that we, who actually live in it, face. It is why with every election cycle we lose more and more of our essence of being free men in the land of opportunity and prosperity, we become more subjugated and controlled from an over bloated disgusting and malicious government. The hardest pill to swallow is that we subsidized the evil and slavery. We fund our own oppression because we were deceived into doing so. It is time to stand up and say no. It is time to use their own

words and laws against them. It is time to break free from the cycle of the machine that uses us as nothing more than tax slaves to fund their wars, and line their pockets with back door deals, nepotistic favors, and incestuous fascistic corporate favoritism.

The “system” works because we are compliant with it. They need voluntary compliance because without it, they could never expect to raise the man power or funding needed to accomplish the elaborate scheme of taxation across the entire country and its 330 million plus inhabitants. The more people that stand up and simply say “NO.” The less control and power they will will have.

Taxation upon subjects who are not liable for them is theft. Theft perpetuated by our own self proclaimed “righteous” government to steal our time, labor, and property to then stuff their own coffers while turning around and gas lighting us into believing its for the betterment of society and ourselves. They’ve twisted their own laws and deceived us into broadening their scope of power to give themselves more power over us, but this power is a facade, continued by our own naivety and gullibility in believing that our voluntary compliance is essential to living a free life. Do we feel bad for the man who has been taken advantage of by the conman with slick words, and disingenuous perceived appearance of authority? Do we feel bad for ourselves for being misled for so long? Who have we to blame? The conman or ourselves?

These our things we must ponder upon, but more importantly we must begin to take action for what is right and seek justice. Simply because these decrees are handed out under the name of “justice”, does not make them justified. We must reach deep down within ourselves to bring about change to instill a revolution among the common wealth. A revolution for actual justice for actual freedom and for actual liberty. As it stands now, we have allowed them to take our

American dream and turn it into an American nightmare. Will we wake up? Will we stand up for ourselves and what's right?