Liberty Tree

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Identity Prison

PART II

What cannot be done directly at law, cannot be done indirectly.

In the March 2018 *Liberty Tree,* we began a discussion of the totalitarian 2005 REAL ID Act, by which the demonic plan to keep all humans from being able to move, live, buy or sell without a number is being currently advanced in the United States. As pointed out in that first installment, there is just one problem related to this national ID "identity prison"— it cannot be put in place lawfully, *because there is no constitutional authority* to implement it. Because of this, a national ID system is being accomplished through legal deception and misdirection. This misdirection crowns decades of propaganda which convinced most Americans that having a social security number is required by law. Even if the government acknowledges that Americans are not required to obtain social security numbers, the architects of the plan intend that every adult in America be able to travel only if carrying ID tied to their current residence, birth, and parentage.

Make no mistake. This is the communist system. In the USSR all persons had to register with local police authorities, and in the 1970s, everyone over 16 years of age had to hold an internal passport, and if they wanted to study or work outside of the area in which they were registered, had to obtain government permission to do so. Do you see a system like that *now*, in the "land of the free"? Will you resist it?

Last year, REAL ID had been implemented by over half the States. The deadline for full implementation — Phase 4 — is still extended, as 14 States and territories have been granted extensions, the last extension currently expiring on October 10, 2019. As of now, on October 1, 2020, the Department of Homeland Security thugs will not allow anyone to travel on commercial airplanes without a "compliant" ID.

In the last installment, we discussed that the "minimum issuance standards" imposed by Congress for compliant State driver's licenses include obtaining "Proof of the person's social security account number or verification that a person is *not eligible for* a social security account number."[1] And as pointed out previously, the SSA can only determine if a person is eligible for a number if such person *applies* for a number. Despite this, since most State MVAs or DMVs *believe* that Americans must obtain SSNs, they refuse to issue REAL ID-compliant driver's licenses to citizens without SSNs. Instead, State employees pressure their citizens to first get an SSN, and then apply for a driver's license or State identification card.

Many patriots who saw this day coming refused to obtain SSNs for their children, knowing that no legal requirement exists for a person to have or apply for an SSN. Those who have never applied for an SSN, and do not have any such number, cannot be forced, by the REAL ID Act or State governments, to obtain a number just so that they can be issued a driver's license or ID card. This is because of at least two factors, discussed herein: 1) mandatory social security is

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1. As discussed in the July 2012 *Liberty Tree*, most of the States implementing their own REAL ID-compliant laws have simply repeated this "requirement" verbatim.

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directly unconstitutional, and 2) what cannot be imposed directly by law cannot be imposed indirectly.

Mandatory social security is UNconstitutional

It cannot be stressed too often that socialism in America is voluntary, not mandatory. This is because the Constitution grants no power to the federal government to provide for anyone's basic needs.

In 1934, the United States became a member of the International Labor Organization, even though it stayed out of the League of Nations. In 1934, Congress passed the first federal social security act tied to the federal power over interstate commerce — those subject to the act were engaged in interstate transportation. The constitutionality of this act was challenged and the Supreme Court held that act unconstitutional in *Railroad Retirement Board v. Alton R. Co.*, 295 U.S. 330 (1935). The decision not only found that the federal government lacked the power to adopt the act, but also that a *vast array of social programs* were equally beyond the power of Congress:

> The catalogue of means and actions which might be imposed upon an employer in any business, tending to the satisfaction and comfort of his employees, seems endless. Provision for free medical attendance and nursing, for clothing, for food, for housing, for the education of children, and a hundred other matters might with equal propriety be proposed as tending to relieve the employee of mental strain and worry. Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of any or all of these things? Is it not apparent that they are really and essentially related solely to the social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of congressional power. *Id.,* at 368.[2]

This decision clarified that mandating involvement in social welfare programs is forbidden to the federal government by the Constitution, and it has never been overturned. This is why, even today, federal social and welfare benefits are distributed only upon voluntary application by a recipient, and nothing mandates such application.

The second social security act was adopted in August 1935, just three months after the decision in *Alton*. When this second federal social security law was adopted, it was immediately challenged. The federal appellate courts were split regarding its validity, so the Supreme Court took those cases. Since the knowing adoption of an unconstitutional law would necessarily be rejected by the Supreme Court again, another explanation was provided by the Supreme Court as the constitutional foundation for the second act. This was based on the tax itself. In *Charles C. Steward Mach. Co. v. Davis*, 301 U.S. 548 (1937), and *Helvering v. Davis*, 301 U.S. 619 (1937), the Court held the social security ***tax*** valid. Since the excise tax on "wages" was paid into the general fund of the Treasury and subject to appropriations like all other general public moneys, the ***tax*** was ruled constitutional. This outcome did not change whether a person could be required to accept social security benefits, however. Thus, application for benefits is still voluntary, and a citizen without a number obtains one by applying for federal benefits.

Nevertheless, because of the seeming requirement to provide an SSN in order to obtain a driver's license in States compliant with REAL ID, citizens lacking familiarity with legal principles might be persuaded that the REAL ID Act has *replaced* the voluntary nature of applying for a social security number with a *requirement* to do so in order to obtain a driver's license. Since the REAL ID Act itself contains no requirement that any citizen without an SSN apply for one, any such conclusion would be false.

The ILO and Social Justice

The International Labor Organization was established in 1919 at the Treaty of Versailles, following WWI. The ILO's "Constitution" was drafted by a commission chaired by Samuel Gompers, the head of the AFL union (American Federation of Labour). This socialist monstrosity's preamble states that "universal and lasting peace can be established only if it is based upon *social justice*."

"Social justice" is a nebulous term, and apparently was in use even in the 1800s. Most agree that it stands for the doctrine of egalitarianism — that is, that everyone should be *equal* with respect to something — usually economics. In short, social justice simply means redistribution of wealth, *i.e.,* socialism. Socialism, in turn, means the perpetual tyranny of the financial elite, *a.k.a.* the planners or technocrats in government, over the working classes. This is being accomplished in America through (a) unrelenting indoctrination that "social justice" is good, humanitarian and even Christian, (b) a totalitarian police state of unrelenting control, and (c) whatever combination of the first two works for the elite.

2. All emphases throughout, unless otherwise noted, have been added.

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Laws which require or allow government agencies to use SSNs already assigned do not override the provisions of the social security law with respect to application for SSNs, and cannot make mandatory that which is voluntary for the citizen. This follows from the legal principle that what cannot be required directly cannot be required indirectly. To explore this principle, we'll take an important historical detour to see what the Supreme Court held with respect to a type of unconstitutional totalitarianism implemented by Missouri in 1865.

Corrected totalitarianism after the "rebellion"

In 1867, shortly after the end of the War of Northern Aggression *(a.k.a* the War Between the States), Missouri revised its Constitution to ***forbid*** anyone holding any constitutional office, or acting as an officer, councilman, director, trustee or manager of any public or private corporation, or acting as a professor or teacher in any educational institution, or anyone holding any real estate or other property in trust for the use of any church, religious society, or congregation, or anyone practicing as an attorney, or as a priest, bishop, deacon, minister, elder, or other clergyman of any religious persuasion or denomination, to teach, preach or solemnize marriages ***unless they took an oath*** within 60 days of first holding or practicing their particular office or pursuit.[3]

As seems entirely too common for the postbellum South, the oath required any person who wanted to involve himself or herself in the aforementioned callings and pursuits to *deny* that he or she had had anything to do with the former "rebellion" of the southern States, and the oath further involved more than thirty affirmations, including that the affiant "deny not only that he has ever 'been in armed hostility to the United States, or to the lawful authorities thereof,' but, among other things, that he has ever, 'by act or word,' manifested his adherence to the cause of the enemies of the United States, foreign or domestic, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in rebellion, or has ever harbored or aided any person engaged in guerrilla warfare against the loyal inhabitants of the United States, or has ever entered or left the State for the purpose of avoiding enrolment or draft in the military service of the United States; or, to escape the performance of duty in the militia of the United States, has ever indicated, in any terms, his disaffection to the government of the United States in its contest with the Rebellion."[4]

If the oath was not taken, the government could fine and imprison anyone caught exercising the office or vocations so prohibited. If the oath were taken, but the government decided the affiant had committed perjury, such affiant could also be tried and punished by imprisonment.

In *Cummings v. Missouri,* 71 U.S. 277 (1867), the Supreme Court decided the case of a Roman Catholic priest who had been sentenced to a fine of $500 and was committed to jail until he had paid the fine, for preaching and teaching the Catholic religion without having taken the oath. Since his "crime" was failure to take an oath, and he had never been convicted of any of the activities which the oath required a person to deny, for the purpose of convenience in discussing this case, we'll pick just one allegedly evil deed to represent the whole gamut of deeds it could have been assumed he committed: any person who entered Missouri to avoid being drafted into the Union's military.

At first blush, it is obvious the requirement of the oath is pure tyranny in that it criminalizes religious freedom and freedom of conscience. The Supreme Court, however, decided the case on whether the Missouri Constitution was in conflict with the U.S. Constitution. In doing so, it analyzed whether the constitutional provisions offended the U.S. Constitution by being in the nature of a bill of attainder or an *ex post facto* law. At Article I, Sec. 10, the Constitution of the United States declares: "No State shall .... pass any Bill of Attainder [or] ex post facto law." Thus, if the Missouri legislature had passed a law to punish persons who previously had entered Missouri to avoid the Union draft, such law would have been in violation of at least the ban on *ex post facto* laws, because such action was not previously punished by Missouri law.

Violations of Due Process

The Court reasoned that the constitutional provision was *no different* in substance and effect than the legislature passing a law which *assumed* that Cummings, by name, was guilty of having entered Missouri to avoid being drafted into the Union's military, and which therefore imposed a punishment of depriving him from teaching or preaching. This type of law — whether naming Cummings specifically, or

3. *Cummings v. Missouri,* 71 U.S. 277 (1867), at 317.
4. *Id.*, at 316-317.

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naming a class of clergymen, is considered a bill of attainder.

Bills of attainder, said the Court, are legislative enactments creating a deprivation of life, liberty or property without any of the due process provided for the "security of the citizen in the administration of justice" by the courts. A bill of attainder imposes a specific punishment upon a named person or class of persons for acts the legislature declares to have been committed by such persons.

Missouri's Constitution punished failure to swear the oath with the loss *of freedom* to pursue a profession, and any *property* one might acquire in such profession. This is deprivation of liberty and property, stated the Court, without constitutional safeguards (*i.e.,* due process):

> The disabilities created by the Constitution of Missouri must be regarded as penalties that constitute punishment. We do not agree with the counsel of Missouri that 'to punish one is to deprive him of life, liberty or property, and that to take from him anything less than these is no punishment at all.' The learned counsel ... does not include under liberty freedom from outrage on the feelings as well as restraints on the person. He does not include under property those estates which one may acquire in professions, though they are often the source of the highest emoluments and honors. *The deprivation of any rights, civil or political, previously enjoyed, may be punishment,...* [d]isqualification from the pursuits of a lawful avocation, or from positions of trust ... often has been imposed as punishment. *Cummings*, at 320.

The constitutional amendments were effectively the same as a bill of attainder, said the *Cummings* Court, because "the existing clauses [in Missouri's 1865 Constitution] presume the guilt of the priests and clergymen, and adjudge the deprivation of their right to preach or teach unless the presumption be first removed by their expurgatory oath. In other words, they assume the guilt and adjudge the punishment conditionally." *Id.,* at 325.

The difference between a bill of attainder, and the legal effect of the constitutional provisions for the oath, was one "of form only, and not of substance." The Court stated:

> The deprivation is effected with equal certainty in the one case as it would be in the other, but not with *equal directness*. The purpose of the lawmaker in the case [of a bill of attainder] would be only avowed; in the case [of the constitutional provision] it is only disguised. The legal result must be the same *for what cannot be done directly cannot be done indirectly*. The Constitution deals with substance, not shadows. Its inhibition was levelled at the thing, not the name. It intended that the rights of the citizen should be secure against deprivation for past conduct by legislative enactment, under any form, however disguised. If the inhibition can be evaded by the form of the enactment, its insertion in the fundamental law was a vain and futile proceeding. *Id.*, at 325.

Disguising a deprivation of liberty or property by using a different form than that obviously prohibited by the people through their constitution, and thereby evading the safeguards of due process, is the most common method of tyrannical governments to usurp power not granted specifically to them. The maxim of law which calls this method out and names it is: *Quando aliquid prohibetur ex directo, prohibetur et per obliquum*. This translates as: What cannot, by law, be done directly, cannot be done indirectly. In other words, that which is prohibited directly is also prohibited indirectly. The latin "obliquum," translated as "indirectly," is also the root of the word "obliquely." To be oblique, a thing may not only be indirect, but it may be obscure, or even devious or underhanded. Thus, what is prohibited by law may not be accomplished through indirect, obscure, disguised, or underhanded means.

Deprivation of Liberty

Since requiring persons to apply for SSNs is unconstitutional (and illegal), requiring persons to apply for SSNs indirectly, under the disguise of the REAL ID Act, is also unconstitutional. No provision of the REAL ID Act requires anyone to apply for such numbers, and it cannot be used to pressure citizens into obtaining numbers for the purpose of being issued driver's licenses or ID cards.

By seeming to impose a requirement that one must either obtain an SSN or prove that one is "ineligible" to obtain an SSN as a prerequisite to obtaining a driver's license or identification card, the States are participating in a federal scheme to restrict a fundamental human right — the right to travel. Perhaps the "learned counsel" of the States do not include under liberty freedom from restraint on the person such as travel restriction entails. Yet the deprivation of liberty is a punishment, said the *Cummings* Court, and liberty must only be restricted after the safeguards of due process are exhausted. Is mere refusal to have or use an SSN now to be punished by deprivation of your liberty? It seems so, but there is more to be considered with respect to this matter, and we will do so in a future installment.