The Liberty Tree,
St. John's Campus Annapolis, Maryland

THE LIBERTY TREE

Vol. 27, No. 4 — Autumn 2025

To be or not to be …

Constitutional: Part X

By Dick Greb

In this current series, we've been examining the false myth I've dubbed 'technical constitutionality' — that is, the proposition that the income tax laws are constitutional because Congress wrote them such that citizens are not made subject to the tax except in special circumstances. I've explained why the proposition fails from both the logical and historical perspectives, and have shown various ways that adherence to the theory has caused (and will continue to cause) detrimental effects to the Tax Honesty movement. I then detailed how the 5th Amendment's prohibition against compelled testimony presents a constitutional barrier to a tax on that peculiar species of personal property that is "income." To be sure, the government never flinches from violating the Constitution at every turn, despite the fact that it is solely by means of that instrument that it obtains the power to act in any capacity whatsoever. And so it is with respect to the income tax, for which it has enacted statutes that purport to compel you to testify against yourself in various ways.

Unsurprisingly, the black-robed liberty thieves in the judiciary branch have most often upheld these unconstitutional encroachments on our rights. There's a few reasons why this is so. First, many of the cases dealing with the 5th Amendment have arisen from grand jury proceedings where a person is deemed to be susceptible of compelled testimony, leaving only the privilege against self-incrimination to be argued. Second, far too many of those who assert 5th Amendment protections wrongly frame their argument as the right against self-incrimination rather than the broader right against compelled testimony of any kind, thereby giving the courts the opportunity to use a less restrictive standard — that is, whether the testimony is incriminating, rather than simply whether it was compelled. Third, even in those relatively few cases where claimants have properly asserted the right against compelled testimony, *the courts wrongly treat the claim as one against self-incrimination*, thereby once again giving them the chance to use the less restrictive standard.

These courtroom shenanigans are why it's important to always keep in mind the proper application of the 5th Amendment as it is routinely recognized in criminal trials. *In that circumstance, the prosecution is prohibited from calling the defendant as a witness.* He cannot be compelled to take the stand and provide non-incriminating testimony, forcing him to protest on a question-by-question basis when he believes the answers might incriminate him (which of course gives the judge the prerogative of deciding whether his claims will be upheld). NO! The defendant is simply protected from being forced to take the stand in the first place. And that is the position that needs to be enforced in the context of tax returns and IRS summonses.

Whodunnit?

I left off in the last installment discussing so-called '5th Amendment returns' — the government's classification given to virtually every return containing any protest to the filing, paying, or even the existence of income taxes. In the early days of the tax movement, such returns were fairly common, but by the mid-1980's, they had mostly gone by the wayside. It was somewhere in that time period that the idea of technical constitutionality came into vogue. But the question that needs to be asked is this: where

(Continued on page 2)

(Continued from page 1)

did the idea come from?

Well, I must confess that the answer to this question continues to elude me. Many of the patriots who were involved in the movement at that time have gone on to their final reward, and unfortunately I hadn't begun my search until after they were gone. Recently however, I was given access to a veritable treasure trove of audio and video recordings from the early years of the tax movement. Unfortunately, although listening to these recordings has helped to establish a time line of sorts to the arguments in vogue through the period, I have yet to determine a particular vector for the introduction of technical constitutionality. But, I still have quite a few tapes to review, so perhaps clues are yet to be discovered. So far, my impression from listening to these recordings is that those who advocated theories of technical constitutionality had probably been influenced by others — that is, none have claimed to be the originator of the idea that the laws were written not to apply to citizens, only that they had come to that understanding.

Just think about it for a minute. Does *the government* benefit by the people who oppose it being misdirected? Or dispersed in their energies? Remember, even small amounts of energy when channeled together and wisely directed can be very effective, so *the government* has an interest in preventing its opponents from achieving that synergy.

Cui bono?

We may never discover the identity of the specific individual who diverted the course of the tax movement into unproductive and destructive channels. I suppose we will just have to be content with knowing that ultimately he will be called to account for his sins at the judgment seat of Jesus Christ himself. But in the mean time, I think we could probably come up with a pretty good hypothesis about the larger group who may be behind it all. After all, if we consider the question above — cui bono? (that is, who benefits?) — the probabilities narrow considerably. Who has the most to gain from the situation that has developed? I think the most obvious answer to that question is: *the government.*

Just think about it for a minute. Does *the government* benefit by the people who oppose it being misdirected? Or dispersed in their energies? Remember, even small amounts of energy when channeled together and wisely directed can be very effective, so *the government* has an interest in preventing its opponents from achieving that synergy. On the other hand, consider how it uses that method to further its own agenda. Quoting again from my article in the April 2017 issue of *Liberty Tree*:

> [W]hen change is desired, like ***when somebody starts getting too close to an uncomfortable truth*** perhaps, ***it is still sometimes possible to induce error by gently nudging them into new false beliefs***. As long as the new ones are close in many respects to their currently held beliefs, the natural resistance can be minimized. Here again is an advantage of taking the long view of things, and being willing and able to bide ones time to achieve ones goals. A well-placed mole, who ingratiates himself into a position of influence in an organization (or even someone in such a position who has been unwittingly influenced by an outside change agent), can start bumping them slightly off their course, in gradual (perhaps imperceptible at the time) steps. Eventually, that small deviation accomplishes a complete change of direction.[1]

And again:

> This dynamic easily translates into the long-range plans of the shadow government. It has an interest in spreading misinformation, but unlike the sincere dupes just discussed, the malicious individuals at the beginning of the chain know they are telling lies. Their job is to convince the first round of (preferably influential) dupes, who will then carry their program forward unwittingly.
>
> There are certain forces at play that make this initial work easier than it might at first seem. One is through secret operations like COINTELPRO, where for decades, government agents provocateur infiltrated groups which the government considered subversive. And even though this particular project

(Continued on page 3)

[1] "Land of the free, Home of the slave — which are you learning to live in?," page 2; *Liberty Tree*, July 2017.

(Continued from page 2)

was eventually revealed, that's no reason to think that the same type of thing is not still going on.[2]

Government varmints

The recognition that all the detrimental effects of technical constitutionality that I've mentioned in this current series turn out to be advantageous for the government should rightly make us suspicious of its involvement. Infiltration operations into movements and organizations characterized by the government as being subversive — such as COINTELPRO — have now been openly admitted. And even though cursory looks at declassified documents from that specific program didn't reveal any references to the tax protest movement in particular, there's no reason to believe that it didn't happen. In fact, in a 1981 speech given in Atlanta,[3] John Kotmair claimed he was told by an FBI agent that there were indeed moles in the movement! John just passed over this revelation in his speech, so he may never have given much thought to the idea that such moles operate via a two-way street. That is, they are just as likely to introduce false ideas into a movement as they are to provide intelligence about the movement out to their government handlers.[4] The possibility of such government infiltration and diversionary tactics should make each of us in the tax movement re-examine the positions we hold (and especially those we advocate to others) to ensure they are based in reality and not just wishful thinking. After all, do we really want to be pushing their agenda for them, whether knowingly or unknowingly?

Show me yours

So dear readers, in the course of this current series (along with many other *Liberty Tree* articles and series over the years), I've laid out the foundation for my repudiation of the theory of technical constitutionality. I've shown what the people who enacted the income tax explicitly stated about their intent in doing so. I've shown that there's no advantage to the government to secretly exclude citizens from the tax while defrauding them into paying it anyway, as well as the significant advantages they obtain by the reliance of the tax movement on the false theory of technical constitutionality. And I've shown that the law itself (going all the way back to the early income tax acts) does not actually exclude them. So, if despite all this evidence to the contrary, you still believe that technical constitutionality is true, then what exactly do you base that belief on? What evidence can you bring to the table to show that Congress believed it was unconstitutional to tax citizens? Or that, even if they did so believe, that they wrote the law so as to exclude them, rather than simply taxing

(Continued on page 4)

[2] *Ibid*., page 1.

[3] The audio of this speech will soon be put into rotation with the 'Just The Facts' seminars on Liberty Works Radio Network. Check the program schedule at: https://tinyurl.com/3r3j8fya for days and times of "Kotmair Archives."

[4] Good examples of this are the FBI-induced Michigan militia kidnapping plot and the January 6, 2020 "fed-surrection" in Washington, D.C., both of which were orchestrated by undercover government operatives. In a recent interview, the author of a book dealing with the Oklahoma City bombing spoke about a similar incarnation of government spying programs active at that time: PATCON, which specifically targeted patriot organizations.

(Continued from page 3)

them anyway? What mechanism in the law itself can you provide that explicitly precludes the application to citizens? Just as importantly, can you refute any of the evidence I've provided to prove the theory wrong? Because after all, as expounded by John Stuart Mills, that's the real test of validity of a proposition. Going back to my article "The Whole Truth" in the September 2013 issue of *Liberty Tree*:[5]

> In our search for the whole truth, it's all too easy to fall into the trap of dismissing those with whom we disagree. After all, if they disagree with us, then obviously they must be wrong! But ultimately, such dismissal will seriously hamper us in our search, because exposure to those whose views oppose our own is a necessary part of cementing our understanding of an issue. It's been said that the biggest obstacle to learning something is the belief that you already know it. Mills says:
>
>> He who knows only his own side of the case, knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side; if he does not so much as know what they are, he has no ground for preferring either opinion. The rational position for him would be suspension of judgment, and unless he contents himself with that, he is either led by authority, or adopts, like the generality of the world, the side to which he feels most inclination.[6]

Now you have just such a contrary view to compare to your own, so you can weigh them in the balance, rather than merely choosing the view you prefer. Also, if you have evidence that you believe I've overlooked, or that proves any aspect of technical constitutionality, feel free to email me at the Fellowship[7] and enlighten me. I will be happy to consider anything you care to send (even if I don't personally respond to every one). And since it's my intention to devote some future articles to discussion of other positions that fall within the category of technical constitutionality, perhaps your submission will provide a basis for one of them (anonymously, of course).

Insanity is ...

I hope that everybody reading this will consider the overall state of the tax movement today, and compare that to the state of it whenever you first got involved with it, however long ago that might be. Do you honestly believe that any significant progress has been made in that time? Are there more people involved? Are we winning more court cases? Preventing a greater number of adverse IRS actions? From my personal perspective, the answer to each of these questions is a resounding "No." If anything, the movement has regressed from the time I got involved over 40 years ago, at least insofar as involvement. As for the rest, I've seen no appreciable change one way or the other, since there were very few wins throughout the whole period to begin with.

Isn't it about time to re-evaluate our efforts to see if improvements should be made? If we continue doing what has not worked to our advantage in almost half a century, then should we expect that next week, or next month, or even next year, the situation will reverse itself and will start bearing fruit? The definition of *insanity* is said to be *repeating the same thing over and over, and expecting different results*. When should we start trying a more sane approach? Should we wait until even more of us have aged out of the fight?

I sincerely believe that technical constitutionality was introduced into the tax movement by government infiltrators for the express purpose of diverting it into the unproductive avenues it has followed for the past five decades. At the time, major players recognized that filing returns meant giving up their rights. And so, they were pressing hard on the issue. They were insisting that the government show them how they could file a return without waiving any of their rights — "signing their rights away," as they called it. Of course, the government never could show them how it would be possible to do so. However, according to John Kotmair, in his interview titled "Creature from Maxwell,"[8] they *were* willing to throw Arthur J. Porth into a mental institution for refusing to stop asking the question. Perhaps he was getting a little too close for comfort. I say it's time to make them feel the heat once again.

[5] See https://tinyurl.com/yc3hzzwa.

[6] John Stuart Mill, *On Liberty*, Chapter 2, "On the liberty of thought and discussion," lines 793–802.

[7] Send your information to: greb@save-a-patriot.org. Include "tech. const." in the subject line so it doesn't get overlooked.

[8] This interview about the founding of the Save-A-Patriot Fellowship can also be heard in the rotation of 'Kotmair Archives' on LWRN.