



LIBERTY TREE

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STATION UPDATE

As reported in the last Liberty Tree, the radio station in Florida is still under attack by a tax-exempt corporation, Citrus County Association for Retarded Citizens, Inc. CCARC has seized all the studio and tower broadcasting equipment, putting the station off the air.

Nature Coast Broadcasting, owner of LWRN affiliate WOGF, filed a Chapter 11 bankruptcy in federal court. The bankruptcy judge allowed CCARC to retain control of the seized equipment, and ordered them into mediation with NCB to settle on a buy-back price for the equipment. Mediation will need to be concluded to begin broadcasting again, but CCARC has until April 23rd to conclude.

We welcome your prayers and support as we wait for the outcome. We will not give up!! And please listen online at www.lwrn.net.



‘LIBERTY’ defaced by DOJ and jury

Statesville, N.C. — Bernard von NotHaus, 67, the ‘architect’ of the Liberty Dollar — a privately issued silver currency, was convicted Friday, March 18 by a federal jury of “making, possessing and selling his own coins.” So says Anne M. Tompkins, the U.S. attorney for the Western District of North Carolina.

The jury’s verdict, a huge blow against monetary freedom, will embolden the DOJ to prosecute anyone attempting to trade or barter using private currency. Tompkins sets the stage for this prospect with her statements regarding the NotHaus trial:

Attempts to undermine the legitimate currency of this country are simply **a unique form of domestic terrorism**. ...While these forms of anti-government activities **do not involve violence**, they are every bit as insidious and represent a clear and present danger to the economic stability of this country. **We are deter-**

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Taxing your rights: the power to destroy

Editorial by Dick Greb

“An unlimited power to tax involves, necessarily, a power to destroy; because there is a limit beyond which no institution and no property can bear taxation.”

Fast approaching is that day that is dreaded by so many; the day that violates the sanctity of not just our right to remain silent, but our right to property as well. So, I thought this month would be a good time to

express some of my personal opinions about taxes in general.

The quote above comes from the 1819 Supreme Court case *McCulloch v. Maryland* (17 U.S. 316), but not from the court’s decision. Rather, it comes from the argument made by McCulloch’s attorney, Noah Webster. McCulloch was being sued for payment of fines imposed for having issued bank notes in violation of a tax imposed by Maryland on national banks. The question in the case was whether an individual state had the power to impose a tax on a bank established by the United States. So, while the principle laid out in the quote is most certainly true, I think it’s useful to understand the context in which it was first pronounced. Chief Justice Marshall, in

denying the right of a state to burden the exercise of any power of the general government, made the following quote, which served as the cornerstone of the reciprocal immunity from taxation of the operations and instrumentalities of the federal government and the individual state governments.

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. (*McCulloch*, p. 431.)

While this case has been cited many times with respect to such reciprocal immunity, it has rarely been used in any other context. However, an 1874 case dealing with the power to tax in general cited *McCulloch* for the ‘power to destroy’ principle. The question in *Loan Association v. Topeka* (87 U.S. 655) was whether a city could tax citizens and give the money collected to a pri-

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mined to meet these threats through infiltration, disruption, and dismantling of organizations which seek to challenge the legitimacy of our democratic form of government.¹ (emphasis added)

Tompkins' own words indict her as the terrorist here. Nothing — including trade using the currency of one's choice — can simultaneously be “a unique form of domestic terrorism” while “not involv[ing] violence,” since by definition, terrorism *means* “to use force or threats.” And although NotHaus was *not* charged or convicted of terrorism, Tompkins does blatantly threaten to infiltrate, disrupt, and dismantle organizations such as NORFED,² all through official state violence.

Tompkins threatens violence in service of “the legitimate currency” and “economic stability” of this country, and the “legitimacy of our democratic form of government.” Such barefaced misrepresentation of the Constitution, economics and politics fair takes one's breath. Because it is the unconstitutional Federal Reserve Bank which has a monopoly on America's *already illegitimate* (privately issued!) currency and through this, a death grip on its political system and economic (in)stability.³ Despite their lies in service of the central bank, even she and her fiendish cohorts at the DOJ will suffer from the hyperinflation that will result from the Federal Reserve's “quantitative easings” — massive money-printing to pay for the “securities” of the United States (Treasury debts).

There are many aspects to this tragedy, including the outrageous tactics used in prosecuting this case, but the abandonment of the rule of law stands out.

Powers of Congress

Article I, Section 8, Cl. 5 and 6 give Congress power to “coin Money” and to punish counterfeiting of the “current Coin”:

The Congress shall have Power ...To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; ... To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; ...

At the same time, Article I, Section 10 forbids states from coining money or making anything but gold and silver a legal tender:

No State shall ... coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; ...

However, nothing in the Constitution forbids private parties from founding private mints and coining their own money for trading. Indeed, the Tenth Amendment demonstrates that such power, though denied to the States, is reserved to the people.

1. See the DOJ news release at the FBI website: <http://charlotte.fbi.gov/dojpressrel/pressrel11/ce031811.htm>.

2. National Organization for the Repeal of the Federal Reserve Act and the Internal Revenue Code.

3. If you doubt this, read G. Edward Griffin's book, *The Creature from Jekyll Island*. Then watch the film “Inside Job.”

The plain meaning of counterfeit

The Constitution authorizes Congress to punish counterfeiting of “current Coin.” What did the Founders mean by this? For answer, we can turn to Noah Webster's 1828 dictionary:

Counterfeit: “To forge; to *copy or imitate*, without authority or right, and with a view to deceive or defraud, by passing the copy or thing forged, for that which is original or genuine ...”

Current coin: “Current coin is coin legally stamped and circulating in trade.”

Congress, then, is limited to punishing the issuance or passing of fake coins which directly imitate the circulating legally-stamped U.S. or foreign coins.

Unconstitutional law?

The government brought charges against NotHaus under 18 U.S.C. § 486:

Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, **intended for use as current money**, whether in the resemblance of coins of the United States or of foreign countries, **or of original design**, shall be fined under this title or imprisoned not more than five years, or both. (emphasis added)

While this law is susceptible to several interpretations (*i.e.*, it is possibly void for vagueness), the one under which the government proceeded is obvious. NotHaus was accused of making and passing coins of *original design* which were intended for use as current, circulating money. But “current money,” if it follows the Constitution, can only mean legally-stamped U.S. money (coins). Thus, passing a coin of original design is not, by definition, passing a legally-stamped coin.

Passing coins of original design does not fit the definition of counterfeiting, either, and so punishing such is not an authority granted to Congress. The only authority Congress has is to punish those who make copies of the circulating money it has coined.

What about intent?

On the other hand, although Congress does not have authority to enact laws involving private, original-design coins, it *would* be an act of fraud to make a coin of original design and to circulate it by convincing persons to whom it is offered that it is a legally-stamped coin produced by the United States. Punishing such fraud appears to be the intent of 18 U.S.C. § 486, regardless of whether such law is constitutionally authorized.

In this case, however, the evidence was overwhelming that NotHaus had no such fraudulent intent. The “Liberty Dollars” he issued even displayed the website libertydollar.org and the phone number 1.800.NEW.DOLLAR. Further, they were denominated in \$5, \$10, and \$20. At the trial, witnesses conceded that they didn't know of any legally-stamped circulating coin of the United States denominated with values of \$5, \$10, and \$20. Finally, NotHaus' testimony, as well as the litera-

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vate business as an encouragement to establish a factory for iron bridges there. Unlike the travesty in the 2005 case of *Kelo v. City of New London*,¹ where the Supremes upheld the seizure of private property through eminent domain in order to convey it to private developers, the court in the former case recognized the tyranny involved in such a situation:

To lay with one hand the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms. Nor is it taxation. (*Loan Association*, p. 662)

The ‘power to destroy’ principle is also often quoted by Patriots to support the idea that rights cannot be taxed, since those rights can thereby be destroyed. And to be sure, there is a case where the Supreme Court used this principle to deny the power to tax a right at the state level. Pennsylvania’s law requiring a license before one could solicit door-to-door was challenged by Jehovah’s Witnesses charged with distributing their literature while seeking donations. The decision striking down that law could not be clearer: “The power to tax the exercise of a privilege is the power to control or suppress its enjoyment. ... A state may not impose a charge for the enjoyment of a right granted by the federal constitution.” *Murdock v. Commonwealth of Pennsylvania*, 319 U.S. 105, 112 (1943).²

And yet, the federal government’s views on taxing rights at the federal level had already been clearly stated by Justice Cardozo in a case upholding the unemployment tax imposed by Title IX of the Social Security Act (49 Stat. 620, 639):

The historical prop failing, the prop or fancied prop of principle remains. We learn that employment for lawful gain is a ‘natural’ or ‘inherent’ or ‘inalienable’ right, and not a ‘privilege’ at all. But **natural rights, so called, are as much subject to taxation as rights of less importance.** An excise is not limited to vocations or activities that may be prohibited altogether. It is not limited to those that are the outcome of a franchise. It extends to vocations or activities pursued as of common right. *Charles C. Steward Machine Co. v. Davis*, 301 U.S. 548, 580 (1937). (emphasis added)

If the principle cited in *Murdock* extends to the federal gov-

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1. 545 U.S. 469.
2. Notice that the court erroneously refers to the rights enumerated in the First Amendment as being “granted by the federal constitution.”



LIBERTY WORKS OFFERS NEW PERSPECTIVE

Tune in on www.lwrn.net every Saturday night from 5-6 PM EST to gain a fresh perspective. Tony Spezio, host of “Perspective,” interviews forward-thinking people on the subjects of politics, health matters, lifestyle, spirituality, and anything and everything else that matters in the fight for freedom. He especially enjoys interviewing people who are “shunned by the media and should have a voice.”

Spezio began his own journey into the freedom movement in 1988 by hearing Andre Marrou, then Libertarian vice presidential candidate (Ron Paul was presidential candidate) interviewed on a popular talk show from Baltimore. A few years later, he met some libertarian activists at a rally for the right to keep and bear arms, and has been active with the Libertarian Party ever since.

Spezio’s relaxed interview style allows his articulate interviewees to present themselves in their own words, giving listeners an in-depth exposure to disenfranchised points of view rarely covered by mainstream media. Recent subjects include jury duty, private schools, integrative medicine, and everything in between — listen and be challenged!



Truth Attack

OST IV – April 18!

Correction from last month’s Liberty Tree: This year, last-minute income tax filers have until Monday, April 18th to mail returns to the IRS. This is because “Emancipation Day,” a District of Columbia holiday, will be observed on April 15th. So the official day for Operation Stop Thief, your opportunity to show up at the local post office and enlighten your fellow citizens to the real questions surrounding the federal income tax, will be April 18th (although no one will complain if you choose April 15th). Before that date, gather your truth troopers and get your flyers and signs ready. Remember, take pictures of your group in action and send it to Truth Attack to encourage others!

For more, please visit www.truthattack.org. Don’t have internet? Questions can be directed to (318) 795-2030.

**What
IncomeTax?
TruthAttack.org**

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ernment as well as the states, then there wouldn't seem to be any way to reconcile these two cases. Certainly, if the federal government can tax natural rights, then they, like the states, would also be in the position to control or suppress our enjoyment of such rights. However, according to Justice Frankfurter in his dissenting opinion in *Jones v. City of Opelika*,³ (decided together with *Murdock*, above):

The fact that a power can be perverted does not mean that every exercise of the power is a perversion of the power. Thus, if a tax indirectly suppresses or controls the enjoyment of a constitutional privilege which a legislature cannot directly suppress or control, of course it is bad. But it is irrelevant that a tax can suppress or control if it does not.

Thus, according to Frankfurter, the *possibility* of destruction is irrelevant, as long as the tax doesn't *actually* destroy the right. This same idea was earlier brought out by Justice White in *Knowlton v. Moore*, 178 U. S. 41, 60 (1900), in upholding federal inheritance taxes: “[I]f a lawful tax can be defeated because the power which is manifested by its imposition may when further exercised be destructive, it would follow that every lawful tax would become unlawful, and therefore no taxation whatever could be levied.”

So, despite the high-minded rhetoric of such cases as *Murdock*, the Supremes rarely see a federal tax they don't consider valid, even when it's imposed on a right. And the fact is, as hard as it may be for some people to swallow, there is hardly a tax in existence, or that ever was, or that could even be conceived, that doesn't fall upon some right or another. This is especially true if you

3. 319 U.S. 105, 134 (1943).

4. Article 1, §9, Cl. 4.

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ture and training for NORFED sales representatives, emphasized the private currency status of Liberty Dollar. If anything, this evidence showed that the Liberty Dollar was designed and intended *not to circulate as U.S. money*, but to be popularly acceptable enough to circulate *in competition with U.S. money*. Rather than defrauding people, NotHaus wanted to convince people this was *not U.S. money*, but a superior medium of exchange, being .995 fine silver in content.⁴

Lying about the law

Because the Liberty Dollar was obviously never intended to circulate as U.S. Money, but to compete with it, the DOJ resorted to falsehoods about the Constitution:

This [Art. I, Sec. 8, Cl. 5-6] power was delegated to Congress in order ... **to insure a singular monetary**

4. See Heather Lewis' detailed notes of the trial at <http://www.liberty4free.com/Liberty%20Dollar%20Trial.htm>.

5. See the DOJ news release at the FBI website: <http://charlotte.fbi.gov/dojpressrel/pressrel11/ce031811.htm>.

take the view, as I do, that every one of us has the right, in the pursuit of our individual happiness, to do anything that doesn't infringe on the equal rights of every other person. If I have the right to buy foreign-made goods, and I do, then import duties tax that right. If I have the right to buy domestic goods, and I do, then excise taxes on such goods burden that right. If I have the right to pass along my accumulated property to those of my choosing when I die, and I do, then inheritance or other forms of 'death taxes' infringe on that right. The Constitution itself grants the authority to lay capitations,⁴ which Black's Law Dictionary defines as "a tax or imposition upon the person," yet there can hardly be a more natural or fundamental right than the right to life. The bottom line is that being forced to pay any tax, even if it's not laid upon some other right, still violates my right to hold onto my property.

Thus, the popular idea that rights can never be taxed is really an illusory one. It sounds good, but if you carry it out to its logical conclusion, you ultimately reach the point where no valid object or event would be left to tax. And while that too sounds good at first, it just leads right back to the problem facing the Founding Fathers — that is, how the government will be funded. Because after all, the *lawful* expenses of government at all levels, if we are to have such governments, must be paid. And since those governments are our agents, doing that which we have authorized and asked them to do (but no more), who but ourselves can be responsible for providing them with the funds they need to accomplish such tasks? In this light, the grant of a power to tax can be seen as nothing more than an agreement by the people to pay the legitimate expenses of their agents. Now however, with over 200 years of experience with the current arrangement, the time is ripe to reconsider whether there's a better way.



system for all purchases and debts in the United States, **public and private**. Along with the power to coin money, Congress **has the concurrent power to restrain the circulation of money which is not issued under its own authority** in order to protect and preserve the constitutional currency for the benefit of all citizens of the nation. It is a violation of federal law for individuals ... to create private coin or currency systems **to compete with the official coinage** and currency of the United States. (emphasis added)⁵

One need only to check again the actual language of the Constitution to determine that, contrary to the U.S. Attorney's statements, Congress is *not* authorized to "insure a singular monetary system for all purchases," to restrain the circulation of monies it doesn't issue, or to make laws which forbid competing currencies.

And as we have seen, not even 18 U.S.C. § 486 forbids making original coins which *compete* with U.S. money. It appears that terrorist Tompkins really is a law unto herself, one that forbids you from "making, possessing and selling [your] own coins," and she will throw you in a filthy cage if you try.

