

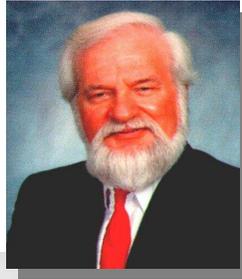
# LIBERTY TREE

Vol. 13, No. 7 — July 2011



## LIBERTY WORKS in IRS Crosshairs

*Your help  
is needed!*



A message from John B. Kotmair, Jr., Fiduciary.

The seditionists in government understand how powerful a weapon Liberty Works Radio Network can be. Ever since we started to enact the LWRN plan, they have been trying to kill it. They came with the injunction, then plots to criminally frame me. Then they visited the radio advertisers asking them who they were paying, trying to intimidate them into dropping their advertising. We have strong suspicion that they were behind the fallacious attack by CCARC in the Florida county court, and they are behind the **most recent attack by the IRS against us.** (Details are below).

The powers that be do not want the Patriot Cause to have a media voice that goes beyond the choir, a voice which is “needed yesterday” if we have any chance of winning. They have hampered LWRN’s advancement from the start, causing us to spend money that could, and should be, used to expand our efforts to fight them.

If you believe in what we are doing, understand its value, and want it to continue, we need your help immediately. With this economy, our funds have fallen below our operating costs. We were counting on those funds not only for operating expenses, but to expand our presence on the Internet and over the airways. In order to do this we need a very large portion of the Patriot community to become LWRN Fellowship members, but



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## WHAT'S IN A NAME?



Connecting  
the dots:  
from  
O.C.I.R.  
to B.I.R.  
to I.R.S.

By Dick Greb

Looking  
back  
over the many  
years that I've  
been researching po-  
litical and legal issues —

and more specifically, taxes — it strikes me how easy it is to get sidetracked, and how much time, effort and resources are ultimately wasted by chasing down false theories. Since there is basically one correct answer to a problem, but potentially hundreds, or even thousands, of wrong answers, that makes for a virtual never-ending supply of often provocative distractions. I'm speaking from experience here, because I'm certainly not immune from the lure of these sirens either. I can't count the hours and days and dollars I've spent trying to track down the answer to some new puzzle I encountered along the course of my studies.<sup>1</sup>

In the coming months, I hope to address some of the issues that I've researched, as much to share my opinions on them and the results I've found, as to finally clear out some thinking space for more productive efforts and to help prevent others from wasting their resources repeating my efforts.

This month, I will begin with an issue that still rears its head at times: the history of the Internal Revenue Service. Theories on this topic range from such easily debunked nonsense as the IRS being a corporation that was incorporated in Delaware on July 12, 1933 (except that it was not called the Internal Revenue Service, but the Internal Revenue **Tax and Audit** Service, Inc.), to more convoluted (but equally untrue) ones that the IRS is really an agency of the Philippines (or Puerto Rico, perhaps).

The whole idea that the IRS is not really a part of the federal government comes generally from a few sources. One is a memorandum written on June 18, 1953 by T. Coleman Andrews, then Commissioner of Internal Revenue, to Secretary of the Treasury George W. Humphrey, concerning the change of name from *Bureau of Internal Revenue* (BIR) to *Internal Revenue Service*.<sup>2</sup> In the memo, Andrews writes: “The name 'Bureau of Internal Revenue' is not a name created by statute, but has been adopted by usage.” If my memory serves, there has also been at least one court case where a judge has made a similar claim with respect

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1. I've written about some of them in prior issues, but there are many more that merely writing about would only add to the efforts already wasted. I won't even mention them here, because some are intriguing enough that it might just spur others to waste their time on them too, defeating the purpose of bringing them to light in the first place.
2. See this memo on attorney Larry Becraft's website, <http://home.hiwaay.net/~becraft/AndrewsMemo.pdf>

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to the name IRS. And of course, it's true that Congress never created an agency named either the BIR or the IRS, but that's not the same as having never *created* the agency that is *now* called the IRS. Obviously, changing the name of a previously existing agency would result in the scenario described, and that's just what happened. The name change referred to in Andrews' memo was accomplished by Secretary Humphrey on July 9, 1953, by means of Treasury Order 150-06, which states in part: "By virtue of the authority vested in me as Secretary of the Treasury, it is hereby ordered that: 1. The Bureau of Internal Revenue shall hereafter be known as the Internal Revenue Service."

**S**o, if neither the IRS nor the BIR was created by Congress, then where did the agency come from? That brings us to the IRS' own Internal Revenue Manual (IRM), and its explanation of IRS origins. It previously appeared at §1111.2 of the IRM, but that section was superseded in 1999 by a history of the IRS since only 1952. The old section read:

1111.2 Organic Act

(1) The Office of the Commissioner of Internal Revenue was established by an act of Congress (12 Stat. 432) on July 1, 1862, and the first Commissioner of Internal Revenue took office on July 17, 1862. ...

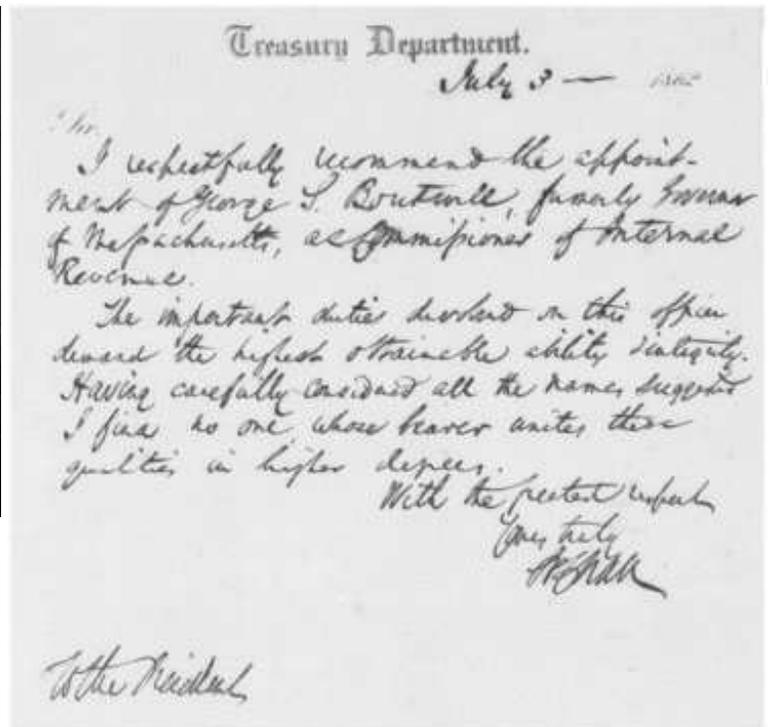
(3) **By common parlance [sic] and understanding of the time, an office of the importance of the Office of Commissioner of Internal Revenue was a bureau.** The Secretary of the Treasury in his report at the close of the calendar year 1862 stated that "The Bureau of Internal Revenue has been organized under the Act of the last session..." Also it can be seen that **Congress had intended to establish a Bureau of Internal Revenue, or thought they had,** from the act of March 3, 1863, in which provision was made for the President to appoint with Senate confirmation a Deputy Commissioner of Internal Revenue "who shall be charged with such duties in the **bureau of internal revenue** as may be prescribed by the Secretary of the Treasury or as may be required by law, and who shall act as the Commissioner of internal revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to **the office of internal revenue.**" In other words, "the office of internal revenue" was "the bureau of internal revenue," and the act of July 1, 1862 is the organic act of today's



George S. Boutwell, circa 1951, first Commissioner of Internal Revenue. At right, Secretary of the Treasury Salmon P. Chase's memo to Lincoln recommending Boutwell for Commissioner.

Internal Revenue Service. [emphasis added]

**N**ow, many patriots have taken umbrage at this history — especially the ridiculous contention that Congress **thought** they had established a Bureau of Internal Revenue — and figure that if that's the best they could come up with, they obviously couldn't prove a Congressional origin for the IRS. But while the IRS' explanation of what happened is rather self-serving, the essence of what it says is true. One reason I think many people misunderstand what Congress did is because of the use of the term "office." While that term can apply to a position — that is, a *job* — it also can, and was used to, describe a *functional unit* — that is, a bureau, agency, or whatever else you want to call it. So Congress didn't *think* they had created a functional unit; they *knew* they had. That unit was called the "Office of the Commissioner of Internal Revenue" (OCIR), and the Commissioner of Internal Revenue, to be appointed by the President, was the head of that office. Besides himself, the OCIR was to be staffed by "such number of clerks as the [Secretary of the Treasury] may deem necessary, or the exigencies of the public service may require."<sup>3</sup> Section 2 of that act authorized the President to divide the States of the United States into collection districts and to appoint an assessor and a collector for



each district. By January 13, 1863, when the first Commissioner, George S. Boutwell, submitted his first report to the Secretary of the Treasury, there were 68 clerks and a total of 3,814 assessors, assistant assessors, collectors and deputy collectors connected to the OCIR.<sup>4</sup>

It's interesting to note that Boutwell, in his report, used the name "Office of Internal Revenue" for his office, rather than the official name OCIR. And that leads to the

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3. 12 Stat. 432, Ch. 119, §1.

4. See 37<sup>th</sup> Congress, 3d Session, Senate Ex. Doc. 20. Although I found a copy of this report in the microfilm archives of a law library, I was never able to find the report of the Secretary referenced in IRM § 1111.2(3).

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at the immediate time, we need you to forward a monthly donation of \$100, \$50, \$25, or whatever you can afford. We know the financial hardships Americans are going through, but unless we get the truth to the suffering citizens, it will just keep getting worse, until our beloved Republic has been destroyed. **Don't let that happen!**

### **A short synopsis of how we got here**

As LWRN supporters are aware, the LWRN flagship station formerly in Florida, owned by Nature Coast Broadcasting (NCB), was attacked by a tax-exempt corporation, the Citrus County Association for Retarded Citizens (CCARC), which claimed default on a "lost" promissory note they also claimed had been assigned to them. Instead of the suit being thrown out of the Florida courts, or even tried on the contested facts, the Florida judge awarded CCARC a judgment of some six hundred thousand dollars, and appointed a receiver to operate the station. See February 2011 *Liberty Tree* for details.

FCC rules prevent the involuntary transfer of a station operating license, but the receiver seized all studio equipment. To stop the confiscation, NCB obtained a lawyer and filed for Chapter 11 bankruptcy. While the bankruptcy judge recognized the FCC license belonged to NCB, she agreed with CCARC that the studio and transmission equipment was not part of the bankruptcy, and that due to the "Rooker-Feldman" doctrine, she could not review the lower court's decision.

### **Victories along the way**

Fighting to keep the FCC license and to emerge from this attack with something to use to further LWRN efforts to inform Americans, we have seen a few positives along the way, and these encourage us to never give up!

For example, when NCB filed for bankruptcy, with Sabatino Cupelli, president of NCB (and station manager for LWRN) as debtor-in-possession, CCARC filed a motion claiming the court-appointed receiver was really the debtor in possession. The judge ruled against CCARC, thereby nullifying the lower court's contempt order against Cupelli, through which CCARC had attempted to jail him. Around the same time, the FCC dismissed applications made by CCARC to transfer control of the radio station and license to them.

In March 2011, the bankruptcy judge ruled that NCB controlled the FCC license and could use the tower site to broadcast. Upon seeing what had occurred in the state court, the bankruptcy judge openly chastised CCARC's

attorney, and the former defense attorney hired by NCB, calling their actions gross neglect (at a minimum).

### **A way to settle it**

Even though CCARC had no claim, and NCB would likely prevail in an adversarial case, CCARC has deep pockets, and could continue to use "lawyer delay" to run NCB and LWRN out of money to fully prosecute an adversarial action.

Meanwhile, due to the depression, bankruptcy courts are overloaded, and judges are increasingly ordering parties into mediation. Since NCB held the license, but CCARC held the equipment, the parties were ordered into mediation.

Unable to afford the costs of delay, and to avoid losing everything, NCB agreed to a cash settlement of \$200,000 to transfer the FCC license to

CCARC. This settlement became part of the bankruptcy plan, agreed to by all parties and approved by the court at a hearing June 16<sup>th</sup>.

### **America's nemesis rears its ugly head again**

Suddenly, the IRS showed up at the June 16<sup>th</sup> hearing with a claim that appears backdated to February 7, 2011. There is no record of this IRS claim being filed in the court, there is no record of the IRS serving copies of any proof of claim on any parties throughout the proceedings, and the judge remarked in open court that there was no such record. Such "claim" being out of time and of no effect, our attorney immediately filed an objection and demand of proof.

In addition, there are numerous deficiencies in the IRS claim — there are no taxpayer identification numbers, no tax assessments and no notice of demand for payment, which the claim is required to be based on. The IRS claims that corporate returns were not filed, and has made up (exactly identical) numbers for each year, 2004 through 2010, claiming a total due of over \$180,000. This despite the fact that, in an earlier court proceeding, NCB's lawyer personally handed copies of 2008, 2009 and 2010 returns to IRS agents present in the courtroom. It is clear to me that the IRS' objective is to use any means possible to keep NCB from receiving the \$200,000 settlement any time soon, to the detriment of LWRN's future.

The settlement money is in an escrow account of CCARC's attorney, and cannot be used for any other purpose then to pay NCB. Our attorney proposed that after signing the settlement papers, the money be transferred



You are invited to the July 4th celebration!  
— **Held on July 2nd** —  
in beautiful Carroll County, Md.  
Our annual event features a  
barbecue, refreshments, and best  
of all, other members and serious  
patriots from around the country.  
Meat is provided; please bring beverages and a side dish,  
from salads to desserts, and join us. For more information,  
call Headquarters at (410) 857-4441 ext. 100.

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to his account, and the IRS agreed not to object. A final settlement date is being arranged.

### Our future, and how you can help

NCB and LWRN were set to use the cash settlement to initiate our plans to increase the number of informed patriot hosts, extend LWRN programs to two other stations besides our current presence in Tennessee, and to extend our Internet web presence with the use of cutting-edge technology through live streaming to iPods, cell phones, and cars.

But until we set aside this fallacious IRS claim, we are

going to need your financial support. The financial depression has hurt our cash flow, making it almost impossible to continue without additional support.

The IRS has had an ongoing effort to silence Save-A-Patriot Fellowship since 1984, and Liberty Works Radio Network since 1998. They know that we just don't point fingers at those destroying these States united, we have a workable plan to defeat them, as outlined at LWRN.net, the Truth Attack website, and published in past *Liberty Tree* newsletters. **THINK ABOUT IT!! Together We Stand, Or Separately You Will Be Stood On!**



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A documentary stamp issued by "United States Inter. Revenue," Series of 1898. These types of stamps were required for documents such as bank checks, and were designed to finance the Spanish-American War.

point that is really at the heart of this whole issue: while the official name of the unit was OCIR, the Commissioner, the Secretary, and even Congress *routinely* called it by other names, too. I tracked the appropriations for the OCIR across the decades (followed the money, so to speak) and found many references to it by these other names, including BIR and even IRS, long before the name change in 1953. So, on the one hand, these names were used somewhat interchangeably (especially in later years), while on the other hand, the different names were also used to describe different parts of the whole.

As already mentioned, there were a few thousand assessors and collectors (including their assistants) spread out across the whole country, and this group was thought of and referred to as the *field service*, or sometimes as the *internal revenue service*. At the same time, you had the work force detailed to Washington, D.C., which though officially was the OCIR, was regularly thought of and referred to as the BIR (like the example in the IRM 1111.2 history above). For example, on Nov. 1, 1895, after using the official name OCIR in the heading of his report, the Commissioner goes on to say: "I have the honor to submit the following report of the operations of the Bureau of Internal Revenue for the fiscal year ended June 30, 1895 ..."

In the appropriation act of 1916,<sup>5</sup> the Washington, D.C. work force was comprised of the commissioner, deputy commissioners, heads of divisions, chemists, clerks, secretaries, messengers and laborers, among others. The salaries of these employees were listed under the subheading 'OCIR' and the salaries of the assessors and collectors were listed under the separate subheading "Collecting internal revenue," both listed under the major heading "Treasury Department."<sup>6</sup> In the 1927 appropriations act, the salaries of both groups simply came under the subheading "Internal Revenue Service."<sup>7</sup>

I was also able to get copies from a set of books called the "Congressional Directory" beginning with 1893. These directories contain lists of all the various departments, offices, bureaus, etc., and the names and addresses of the officers holding positions therein. From 1893 through 1927, the Commissioner was listed under the heading "Commissioner of Internal Revenue," along with the others in his office (deputy commissioners, heads of divisions, etc.). Beginning in 1928, however, the name under which they were listed was changed to "Bureau of Internal Revenue." They continued to be listed under that name until 1954, when the name under which they were listed was changed once again to "Internal Revenue Service." Since the names of the officers are listed, it's easy to see that the organization being listed under these different names is actually one and the same. For example, for 1927 and 1928, the Commissioner, assistant commissioner, and all three deputy commissioners remained the same (although a fourth deputy was added in 1928). Likewise, for 1953 and 1954, the Commissioner<sup>8</sup> and seven of the nine other people listed as officers remained, although the names of one of their positions had changed, and one held a different position than the year before.

The evidence I've laid out here is enough to convince me that the Internal Revenue Service of today is the legal descendent of the Office of the Commissioner of Internal Revenue created by Congress in 1862. I grant you that there's a hole in my history, that being whatever documentation officially changed the name from OCIR to BIR between 1927 and 1928 (similar to T.O. 150-06 for the 1953 name change). But finding that elusive document no longer holds any appeal for me, because any time and effort needed to find it would be better spent following other pursuits. And I hope, as I said at the beginning of this article, that you are convinced as well, so that you don't waste your time and energy chasing after answers to this question, too.



5. 39 Stat. 66, 82.

6. This was the first time I found all three names — i.e., Office of the Commissioner of Internal Revenue, Bureau of Internal Revenue, and Internal Revenue Service — being used in the same act.

7. 34 Stat. 389, 408.

8. T. Coleman Andrews, who wrote the memo discussed above.