

LIBERTY TREE

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Honor dead soldiers?



Or keep them alive?

By Dick Greb

The approach of Memorial Day got me thinking about how we as a country honor our war dead, and I was rather surprised to find that the federal law establishing the observance of Memorial Day — 36 U.S.C. § 116 — requests the President “to issue each year a proclamation calling on the people of the United States to **observe Memorial Day by praying**, according to their

individual religious faith, **for permanent peace.**” Even though it seems fitting to me to honor those who have died in war by praying that no more of them should be made, such an anti-war attitude is ironically seen by many as being the height of unpatriotic America-hating — or at least military-hating. The self-righteous fervor about “supporting our troops” we so often hear is usually nothing more than the unthinking repetition of clever war-mongering propaganda meant to disguise the real agenda behind such sloganeering — the continuation of our current foreign policy of imperialism and interference in the internal affairs of nations around the globe.

Throw money at 'em.

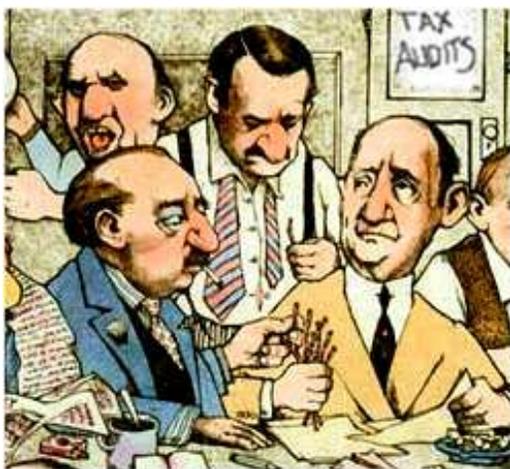
According to this line of (non)thinking, we should support our troops by spending ever-increasing amounts of money (that we don't have) to provide them with more and better equipment for killing others and to prevent themselves from being killed. We should also support them by providing returned soldiers with artificial limbs to replace those they lost in battle, and perhaps some small stipend for the spouses of those who return in a flag-draped coffin. But heaven forbid that we should support them by removing them from the dangerous kill-or-be-killed circumstances into which we've put them, and returning them to their loved ones with limbs, lives, and perhaps even consciences still intact.

Part of this mindset undoubtedly comes from the same sort of trap as throwing bad money after good: the idea that you can't quit now, because you've already got so much invested, and you don't want to lose it all. Leaving Iraq and Afghanistan *now*, after so many soldiers have

lost their lives, would mean they died in vain. But the truth is, whether we leave now, or stay in those countries another year, or five years, or forever, every one of those men have *already* died in vain, as will every future casualty. They were *lied to* so they'd be willing to go “over there” and kill foreign strangers, just as the rest of us were lied to so we would not prevent them from going. Fortunately, it's possible to prevent more soldiers from dying in vain, but every day that we fail to bring them home, some of them

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ABANDON THE LAW, YE WHO ENTER HERE



A little story about the unaccountable insanity of tax 'auditors'

One gloomy winter day, Stan D.¹ checked his mailbox and found a letter from the Minnesota Department of Revenue (Dept.). Tax “specialist” F. Zenkovic had written to inform him of the honor of being chosen for a “sales and use” tax audit. Stan was duly commanded to appear at the Dept. in two weeks with bank and credit card statements, accounting journals and ledgers, and all purchase or sales invoices or receipts for the last six years in

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1. Inspired by true events, but many details have been fictionalized to protect the innocent.

hand. Stan has installed and repaired stone floors for over 20 years, and has never collected sales tax from his customers, because he knows Minnesota imposes no sales tax on labor to improve or repair real property. What could the Dept. be thinking?

He called an accountant friend, and learned that the Dept. had recently been “auditing” many businesses for the first time ever. In 2010, the Minn. legislature gave 6.7 million FRNs in taxes to the Dept., with the goal of raising 26.9 million more through “stepped-up tax enforcement.” The ‘initiative’ multiplied revenues beyond legislators’ thieving dreams: by June 30th of 2011, the Dept. collected 40.6 million FRNs — 151 percent of its goal — by spending just 6.3 million. Over half was “generated” by “identifying nonfilers and increasing the number of audits of individuals and businesses.”²

A little background. Minnesota’s sales tax is imposed on purchases of certain types of goods and services specifically defined in the law, and is collected by retailers of those goods or services at the time of sale.³ The “use” tax is the legislators’ attempt to make persons who paid no sales tax at purchase (*e.g.*, because bought online or from another state) pay the tax themselves *directly* to the state.

For the sales and use tax, the Dept. estimated that it collects 50 percent of the assessments it generates against nonfilers such as Stan. Why not 100 percent? Perhaps because the assessments are lies to begin with. Let’s follow what happened to Stan to understand.

D emands continue. Before Stan could respond to the letter he received, specialist Zenkovic doubled up with another missive, this time demanding Stan register for a Minn. tax id number before the scheduled meeting.

Stan was upset. He has never provided taxable services under Minn. law, he is not an S Corp, he doesn’t have employees; in short, there is no need for him to apply for or receive a Minn. tax id number.⁴

In addition, Stan always buys materials for use in his business from in-state retailers, paying the full sales tax at the time of purchase, so he never owes any “use” tax.

T he department lies. A Dept. brochure informed Stan the audit would “review” his business records and tax filings “to see if you are correctly reporting your sales and purchases. If you do not file sales and use tax returns, the audit will determine if you are required to do so.”⁵

Audits are generally made of returns already filed; the Dept. disingenuously utilizes the term “audit” to mean an *investigation* into whether or not a person is liable to make a return.



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Minn. law authorizes investigations by the commissioner of revenue,⁶ but it does not contain a corresponding requirement for the subject to cooperate. As well it should not, since such a requirement would be in derogation of the Fifth Amendment right not to testify against oneself,⁷ as well as Art. I, Sec. 10 of the Minn. Constitution,⁸ which guarantees the right to be secure in one’s papers against unreasonable searches and seizures. Thus, in order for the commissioner to obtain records, he must issue an administrative subpoena which can only be enforced through the courts. This ensures Stan an opportunity to present his reasons why any subpoena is unreasonable and improper in his case, *e.g.*, by showing that his services are not taxable under Minn. law. Using an “audit” rather than an investigative subpoena is the Dept.’s illegal shortcut, calculated to avoid any unpleasant litigation for itself.

Since Stan knew he was not providing taxable services and was not liable for a use tax, he wrote to specialist Zenkovic, informing him of the facts of his business and explaining why he was not required to have a tax id number. He declined to meet with Zenkovic.

T iny despot’s rage. Zenkovic exploded: how dare his demands be met with a calmly ordered list of facts contrary to his desired conclusion? Within two days of receiving Stan’s letter, he fired back, claiming Stan had not provided any supporting documents to prove he wasn’t liable. Despite Stan’s informing him that he always paid full sales tax at the time of purchase, Zenkovic bizarrely claimed that *this proved* Stan was subject to the use tax and required to file a return. “This does not mean you have a use tax liability,” he contradicted himself, “but only that you are required to report a use tax liability if the correct [sales] tax rate was not charged.”

Zenkovic knows Minn. use tax is only owed when a retailer does not charge sales tax. He also knows that the burden of proof in any sales transaction, as to whether it was taxable, is not upon the *buyers* of the goods, it is upon the *sellers*, which in Stan’s case were big-box outfits such as Menards and Lowe’s. Zenkovic certainly can review sales tax returns of such stores to determine if they are collecting sales tax; he can also check the Dept.’s records to see if Stan had obtained a certificate of exemption from the tax. (Exemptions apply to sales of supplies used in *taxable services*, where the tax will be collected upon the sale of the service, avoiding double taxation). Detailed records of exempt sales are also kept by product retailers, since again, the *burden of proof is upon them*.

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2 “Expanded Tax Compliance Initiatives: Report to the Minnesota Legislature,” January 2012, http://www.revenue.state.mn.us/about_us/Documents/FY11_Initiative_Report_Final_1-15-2012.pdf
 3 Minn. Stat. 267A.61 defines taxable sales or purchases.
 4 www.revenue.state.mn.us/businesses/Pages/written-requirements.aspx
 5 “Understanding the Sales and Use Tax Audit Process”; apparently no official copy is available on line.
 6 (And properly authorized delegates of the commissioner).
 7. Since anything Stan would reveal could be used against him in any future criminal case.
 8. The section mirrors the Fourth Amendment to the Constitution; all states have some version of this guarantee.

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will.

'Dying for freedom'

Another aspect of war-time propaganda is the whole idea of heroes dying for their country, or for freedom, or some other rot. And of course, this is nothing new. The first celebration of Memorial Day (then called Decoration Day) was decreed by John Logan, Commander-in-Chief of the Grand Army of the Republic, for May 30, 1868, as a way to honor fallen Union soldiers:

We are organized, comrades, as our regulations tell us, for the purpose among other things, "of preserving and strengthening those kind and fraternal feelings which have bound together the soldiers, sailors, and marines who united to suppress the late rebellion." What can aid more to assure this result than cherishing tenderly the memory of our **heroic dead, who made their breasts a barricade between our country and its foes? Their soldier lives were the reveille of freedom to a race in chains, and their deaths the tattoo of rebellious tyranny in arms.** We should guard their graves with sacred vigilance. All that the consecrated wealth and taste of the nation can add to their adornment and security is but a fitting tribute to the memory of her **slain defenders.** ... Let no vandalism of avarice or neglect, no ravages of time testify to the present or to the coming generations that we have forgotten as a people **the cost of a free and undivided republic.**¹ (emphases added)

Thus we see that Union soldiers who themselves were killed in the course of killing fellow (albeit former) Americans, for the purpose of forcing them to submit to a government that no longer served their interests, are deemed heroes by those involved in putting them in harm's way. How noble Logan makes it sound to throw one's life away pursuing such a goal of political subjection.

The Union soldiers could at least claim that they were defending the republic from armed rebels within. But what excuse can our current crop of military men and women give to justify the killing they're engaged in? They aren't *defenders* at all. They attacked the citizens of foreign countries under pretexts so thin they wore out before the fighting did. In fact, the fighting is outlasting the subsequent pretexts – the ones needed to keep the troops willing to risk their lives in combat – as well. Certainly those being attacked are going to defend their countries and their homes and families, but this natural reaction is construed as aggression, necessitating further death and destruction.² The actions of those repelling the invasion of their countries thus serve as a justification for further attacks, creating a never-ending cycle of needless war.

1. General Orders No. 11, Washington, D.C., May 5, 1868, www.usmemorialday.org/order11.html.
2. This is akin to police who consider the thrashing about of a victim of their tasers to be "resisting," thus necessitating further taserings and beatings.
3. According to the April 10, 2010 Fact Sheet from the Department of Veterans Affairs (citing *National Violent Death Reporting System*), "About 18 deaths from suicide per day are Veterans." This accounts for about 20 percent of the total number of suicides in the U.S. See www.ivbhn.org/site/index.php/download_file/view/22/63.

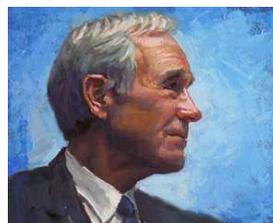
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So, should soldiers who travel to foreign countries – countries which haven't attacked the United States – to kill civilians and combatants alike be considered heroes when they die in the process? Certainly not, even if they engage in some act of bravery, like risking their own life to rescue a fallen comrade. After all, should a bank robber who risks his life to help a wounded accomplice to escape be considered a hero? I think most would agree that he should not. On the other hand, a man who risks his life to help a wounded victim of the robbery get to safety rightly is a hero. But without the jingoistic appeals of heroism and freedom-fighting, the government would probably be hard-pressed to find enough cannon-fodder to prosecute its illegal wars. After all, once soldiers realize that they're not actually defending freedom, or their country, or anything else for that matter, they're left with the realization that they're really nothing but government-sponsored hitmen, paid to kill whomever the government tells them to. And surely that has to wear on each soldier's conscience. Perhaps that's part of the reason suicides among veterans continues to be such a problem.³

Victims of another kind

The families of soldiers are likewise caught up in the war propaganda. No parent or spouse wants to think of their loved one as simply a government contract killer. How could they face them then? It's much more satisfying to believe they're "fighting terrorism over there, so we don't have to fight it here," or that they're "defending our freedoms." Of course, anyone who gives more than a cursory thought to these platitudes should readily see right through them. The continuous killing of Iraqis and Afghans "over there" (including innocent civilians) creates the animosity among their loved ones that ultimately increases the likelihood of retaliatory terrorism in our own country. And as for defending our freedoms, they are obviously doing a terrible job of it, because we are magnitudes less free than when those wars began. In fact, if the World Trade Center buildings were attacked because the terrorists hate us for our freedom, then we should be in no more danger from them anyway, since we have no more freedom than they do, now.



Honoring a real hero

It's way past time to break the cycle of endless war. A good place for all of us to start is to heed the

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suggestion of Congress and take time on Memorial Day (and every day for that matter) to pray for permanent peace. And an excellent way to help facilitate that peace is to support Ron Paul in his bid for President. He is the only candidate that understands the perils inherent in our current foreign policy of aggressive intervention in the internal affairs of other countries and military imperialism throughout the world. His platform of ending the wars in Iraq and Afghanistan and bringing all of our soldiers back home to be with their families, including those serving on the myriad overseas bases maintained by the military, is the best way to support our troops. It has the best chance of saving the most lives, not only of our soldiers, but also of those against whom they now battle.⁴ You don't need to lay down your life to help save the lives of your friends and family members in the military (and those future recruits who will have to replace them if we continue on the same course); you just need to lay down your vote for Ron Paul, and send the message to Congress (and the military-industrial complex) that we will no longer sacrifice our loved ones' lives to their racket.⁵



4. Of course, bucking the military-industrial-intelligence complex can be hazardous to one's health, as the assassination of JFK proves, making Ron Paul a real hero — one willing to put his own life at risk to save the lives of others.
5. Major General Smedley D. Butler's incisive booklet, "War Is A Racket" is a must-read, especially for those in the military. See www.warisaracket.com.

ABANDON THE LAW

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In addition, the Dept. had no evidence that Stan made purchases *outside* of Minnesota, incurring a use tax, except for Stan's *own* statements that he had not. But none of this mattered to Zenkovic, because he and his ilk consider that the law is to be (mis)used for their abusive takings, not correctly followed to the benefit of an (alleged) taxpayer.

False figures are the norm. Since Stan had not meekly surrendered every document in his possession, Zenkovic dug through the state's income tax records to find Stan's reported expenses. He capriciously claimed that none of Stan's expensed supplies had been purchased at Minnesota retailers, and that Stan owed use tax on all such items. He dummed up a "preliminary audit report" with his fake figures, and informed Stan that if he didn't provide records refuting it in two weeks, the great Zenkovic would file a formal assessment order.

Even worse, Zenkovic misconstrued an ad for Stan's services to speculate that because Stan occasionally cleaned or stripped stone surfaces before applying a permanent sealer, he should have collected a sales tax on this activity. He arbitrarily assigned a percentage of Stan's reported gross receipts to this imaginary "cleaning service" and charged sales tax on that percentage, even though Stan has never listed such "cleaning" on his invoices.

Unaccountable by design Minn. law broadly describes "building and residential cleaning ... services" as taxable. Minn. Stat. 270C.07 authorizes the commissioner to "publish interpretive revenue notices," (RNs), which "do not have the force and effect of law," but are supposed to be relied upon by taxpayers until revoked. No RN may be



Rep. Zellers speaks at a Tax Cut Rally in Minnesota, apparently flanked by a protest sign. Or else it's the tax auditors' secret message to the taxpayers ...

"modified retroactively to the detriment of the taxpayers," but the law also says all RNs are "retroactive to the effective date of the applicable law provision." No RN yet applies to Stan's situation, but if the commissioner decides for the first time that part of his "service" is included in "building cleaning," he may issue an RN declaring so, and it is treated as if it had always been! If Stan is charged *now* for all years in which he offered such service, the "tax" is stolen from his savings, rather than from his customers; is this not detrimental to him?

Begin with a vague law, delegate the definition of vague terms to an unelected official, and allow that official to retroactively define things at any time. The result? Citizens have no timely notice of the law's requirements, *i.e.*, no due process.

Zenkovic warned that if he made up an assessment order with his dummy figures, it would be considered "correct and valid" under Minn. Stat. 270C.33; this shifts the legal burden to Stan to prove the assessment is invalid through administrative appeals. The legislature has thus allowed 'specialists' to declare someone liable, and then force him or her to 'prove' they are not. Probable cause? Facts? Sacrificed on the altar of official theft.

Zenkovic surely knows Stan can show he has paid the sales tax on his expenses, and that it is highly questionable Stan's services are taxable, but that is not the point — the point is the pleasure of using arbitrary power against a refusenik.⁹

Scared into submission. Rather than face a long wrangle through nonresponsive appeals, Stan chose another painful route. He called a tax attorney who, for a fee, will fail to challenge the fact that the Dept. generated a 'naked' assessment with no basis in fact or law. He began by informing Stan to do exactly as demanded — hand over his records. In the end, the lawyer will negotiate a lesser amount due than specialist Zenkovic invented. If all follows the Dept.'s usual estimates of collections against nonfilers, it will end up some 50 percent lower.¹⁰ Naturally, Stan will owe a chunk to the lawyer too, but he'll feel grateful for *that* theft.

Thus people who don't owe taxes are made to pay anyway, via a bureaucratic process that ultimately mocks the rule of law. And 'your' taxes pay for it.



9. Minn. Stat. 270C.275 provides for civil damages against Dept. employees who recklessly or intentionally disregard "a law administered by the commissioner," but suit can only be brought after all administrative appeals are exhausted; a weak scarecrow indeed.
10. Not a bad return on made-up figures! See estimate in "Expanded Tax Compliance Initiatives: Report to the Minnesota Legislature," January 2012.