LIBERTY TREE

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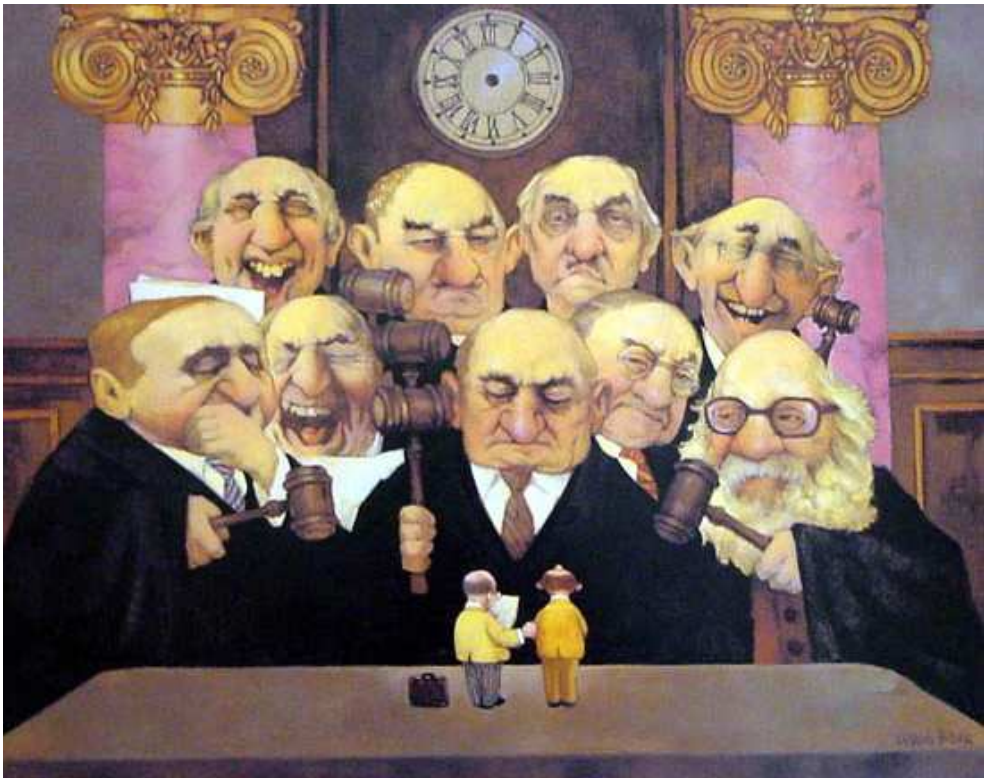
Confidence Games

An editorial by Dick Greb



"May It Please the Court." Artist Charles Bragg depicts the true plight of ordinary citizens before the 'citizens' of the courts in this brilliant work.

Just before the real April Fool's Day (the 15th, not the 1st), the Department of Justice announced the creation of a new project — the National Tax Defier Initiative (TAXDEF). According to their press release of April 8, 2008, the "purpose of this initiative is to reaffirm and reinvigorate the Tax Division's commitment to investigate, pursue and, where appropriate, prosecute those who take concrete action to defy and *deny the fundamental validity of the tax laws*." (Emphasis added) The press release goes on to define a "tax defier" as "someone who rejects the legal foundation of the tax system, despite decades of legal precedent upholding the system's constitutional and statutory validity, and who takes specific and concrete action to violate the law." In a New York Times article announcing the government's announcement, a DOJ spokesman is quoted as saying that Nathan Hochman, the assistant attorney general for the tax division, rejects the moniker *tax protester* and "is calling them tax defiers because he feels 'protesters' implies constitutionally protected rights."[1]

The first thing to consider is that decades of legal precedence recognizes that our founding fathers "believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government."[2] Yet, despite this time-honored principle, embodied in the 1st Amendment to the Constitution, Hochman believes that you don't have the right to think that the tax system violates the Constitution. So, I guess this makes him a *rights* de-

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[1]See www.nytimes.com/2008/04/09/business/09tax.html?_r=1&oref=slogin.

[2]*Whitney v. People of State of California*, 274 U.S. 357, 375 (1927).

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fier!

Of course, even long lines of legal precedent are no guarantee of correctness. The nature of "case law" is that bad precedence is often, if not usually, followed for decades before it is rectified. This practice was acknowledged in *United States v. Ekwunoh*, 813 F.Supp. 168, 171 (1993), where the United States District Court for New York said, "Acquiescence in an invalid rule of law does not make it valid. See *Brown v. Board of Education*, 347 U.S. 483 (1954), overruling *Plessy v. Ferguson*, 163 U.S. 537 (1896)." For those of you who don't recognize them, *Plessy* was the Supreme Court case that established the "separate but equal" doctrine, while *Brown* was the case that invalidated it. It's important to understand that the doctrine was begun in 1896, and until the Supremes reversed themselves in 1954 — nearly ***6 decades*** later — it was considered by all the courts of this nation to be binding precedent for their own decisions. Yet, the underlying principle of the equal protection of the laws never changed in those 58 years. It was only the *beliefs* of the black-robed liberty thieves who decided those cases that changed. In case the point escapes you, the nation's court of last resort came to opposite conclusions on the same Constitutional principle, which means ... they must have been WRONG at least one of those times. And if they can be wrong on that issue, then what confidence can we have in their decisions on other important Constitutional questions?

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You can probably see where I'm going with this. The government wants to target people who believe that the Supreme Court was wrong when they upheld the validity of the federal income tax, even if they have cogent reasons to support those beliefs. And the basis for this persecution, according to the press release, is because of "decades of legal precedent upholding the [tax] system's constitutional and statutory validity." In other words, it is based solely on the confidence that, with respect to this important Constitutional issue, the Supreme Court justices — mere humans like the rest of us — have made no mistakes!

And yet, the Supreme Court is in a unique position to prevent mistakes from being corrected, whether its own, or those of the lower courts in conflict with each other or with the Supreme Court itself. So, when the 9th Circuit, for example, in *Stumpf v. C.I.R.*, 865 F.2d 1271 (1989), says that "The sixteenth amendment gives Congress the power to impose an unapportioned direct tax," in direct contradiction to the Supreme Court's holding in *Stanton v. Baltic Mining Company*, 240 U.S. 103 (1916) that "the 16th Amendment conferred ***no new power of taxation***," they need do nothing more than refuse to correct the error by denying certiorari.[3] Being allowed to cherry-pick the cases they deign to hear, and simply refusing to hear all the rest, helps the Supremes maintain the illusion of confidence that the public has in their pronouncements. After all, the more often lower courts are reversed, the less confidence people will have in judicial decisions at all levels.

Some may argue that the DOJ is not pursuing people who merely *believe* that income taxes are unconstitutional, but only those who also "take specific and concrete action to violate the law." And yet, those who honestly believe that the laws are unconstitutional, would not have the state of mind necessary to violate the law. After all, as Supreme Court Chief Justice John Marshall said *two centuries* ago, "Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void." *Marbury v. Madison*, 1 Cranch 137, 177 (1803). Or, as Justice Field explained eight decades later, "[a]n unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." *Norton v. Shelby County*, 118 U.S. 425, 442 (1886). In other words, if you have an honest belief that laws requiring filing of returns or payment of income taxes are unconstitutional — that is, are *inoperative* — then there is no law for you to violate. And even though the majority of the Supreme Court, in *Cheek v. United States*, 498 U.S. 192 (1991), decided that a good-faith belief that the tax law imposed no duty on you (by operation of the

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[3]See *Stumpf v. C.I.R.*, 493 U.S. 953 (1989).

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text of the law) removed the element of willfulness necessary for conviction of tax crimes, while a good-faith belief that it imposed no duty on you (because of its unconstitutionality) did not, Justice Scalia — *11% of the court* — recognized that there was no logical reason for distinguishing between the two beliefs. The bottom line is that the government intends to target anybody who acts in accordance with these beliefs.

The TAXDEF press release claims tax defier conduct "threatens the foundation of the tax system" and "undermines the public's confidence in the fairness of the tax system." And what is the foundation of the tax system? According to the Supreme Court, in *Flora v. United States*, 362 U.S. 145, 176 (1960), "Our system of taxation is based upon voluntary assessment and payment, not upon distraint." Many well-meaning Patriots misunderstand this statement and proclaim that taxes are voluntary, but the court was actually explaining that it was neither wise nor Congress' intent to make the government resort to distraint as a normal mode of collecting assessed taxes. Instead, the normal mode of collection was designed to be simply receiving the pay-

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Enough is enough!

The Oklahoma House of Representatives has finally had its fill of the federal government's constant overreach into areas where it has no legal authority. On March 13, 2008, the House passed, by a vote of 92 to 3, Joint Resolution No. 1089 in which they "[*re*] claim sovereignty under the Tenth Amendment to the Constitution of the United States." They reminded the federal government that it has *limited*, ***enumerated*** powers, and that States retain all powers not enumerated in the Constitution. Of course, State governments need reminding that they too are creatures of enumerated powers, by way of State constitutions, but it's a start. Representative Charles Keys, who introduced the resolution, hopes other state legislatures will follow Oklahoma's lead.

Exceptional Opportunity for Members!

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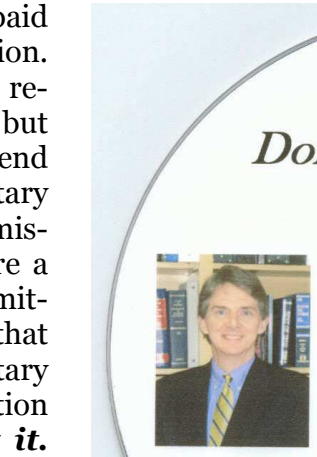
ments determined by taxpayers to be due and paid without the necessity of government intervention. Most Patriots seem to miss that the court is really revealing the seed of destruction of the tax system, but the government is well aware of it. Indeed, they spend lots of time and energy trying to improve voluntary compliance. Roscoe Eggers, former IRS Commissioner, clearly spells it out in his testimony before a subcommittee of the House Ways and Means Committee on April 19, 1982: "Believe me when I tell you that the service knows full well how important voluntary compliance is to the success of our tax administration system. ***We simply cannot operate without it.*** We are well aware that the extent of that voluntary compliance — and therefore the success of our system — rests to a large degree on taxpayers' ***perceptions of the fairness and equity of tax administration***." (Emphasis added) There it is, folks! The Commissioner admits that the tax system would collapse if not for a sufficient number of citizens willing to cooperate, and that their willingness to do so is dependent on their confidence in the fairness and equity of the system.

This is the reason for the TAXDEF initiative. The government has no choice but to come down hard on anybody who, by showing the public the inherent unfairness and unconstitutionality of the tax system, undermines the public's confidence in its legitimacy. Otherwise, their game would soon be up, because that's exactly what it is — a *confidence game*. Black's Law Dictionary (6th Edition) defines the term as: "Obtaining of money or property by means of some trick, device, or swindling operation in which advantage is taken of the confidence which the victim reposes in the swindler." Like any confidence game, once the trust in the swindler evaporates, the victims will refuse to cooperate. And as cuckolded spouses know, trust, once lost, is not easily rebuilt, so the victims will likely be harder to swindle the next time around.

As the public becomes more aware of the uncountable ways the government is swindling them — fiat money, election fraud, secret treaties (North American Union, for example), and institutional corruption at all levels, to name a few — they will also begin to see the extent to which such things depend on their active cooperation. And once that fragility sinks in, so will the realization that merely refusing to volunteer is the beginning of the end for the swindlers. When that is combined with active participation in efforts to hold government swindlers accountable, they will be running for the hills.



This DVD is a MUST-SEE for EVERYONE!

As the police powers of government continue to grow, unchecked by the judiciary, it is imperative to memorize and practice the principles of this presentation. Recently posted to the Internet and downloaded from youtube, the videos here were put on DVD so that some not able to see them on the Internet can benefit from viewing this excellent presentation.

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