

In United States, sovereignty resides in people the Congress cannot invoke the sovereign power of the People to override their will as thus declared.,

Wages Are Not INCOME

Courts today may rule that wages are income until they are blue in the face, but the judges can only do so because they have an armed bailiff in the court who will visit physical violence on anyone who continues to ask about the cases below after the judge has said, Shut up! It still all comes down to lies and the power to impose those lies. ICE

* **Stapler v U.S.**, 21 F Supp 737 AT 739.

Income within the meaning of the Sixteenth Amendment and the Revenue Act, means gain And in such connection Gain means profitproceeding from property, severed from capital, however invested or employed, and coming in, received, or drawn by the taxpayer, for his separate use, benefit and disposal Income is not a wage or compensation for any type of labor.

* **Oliver v. Halstead** 86 S.E. Rep 2nd 85e9

There is a clear distinction between `profit and `wages, or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word `profit, as ordinarily used, means the gain made upon any business or investment a different thing altogether from the mere compensation for labor.

* **Helvering v Edison Bros. Stores**, 133 F2d 575.

The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment.

* **Flora v U.S.**, 362 US 145, never overruled

The government can collect the tax from a district court suitor by exercising

its power of distraint But we cannot believe that compelling resort to this extraordinary procedure is either wise or in accord with congressional intent. Our system of taxation is based upon

<http://www.prostar.com/web/amerika/cfr601.htm>VOLUNTARY ASSESSMENT AND PAYMENT , NOT UPON DISTRAINT

[Footnote 43]

If the government is forced to use these remedies(distraint) on a large scale, it will affect adversely the taxpayers willingness to perform under our VOLUNTARY assessment system.

* Evens v Gore, 253 U.S. 245. US Supreme court, never overruled
After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question.
(A tax on salary)

* Edwards v. Keith, 231 F 110,113

The phraseology of form 1040 is somewhat obscure . But it matters little what it does mean; the statute and the statute alone determines what is income to be taxed. It taxes only income derived from many different sources; one does not derive income by rendering services and charging for them IRS cannot enlarge the scope of the statute.

* McCutchin v Commissioner of IRS, 159 F2d,

The 16th Amendment does not authorize laying of an income tax upon one person for the income derived solely from another.[wages]

* Blatt Co. V U.S., 59 S.Ct. 186.

Treasury regulations can add nothing to income as defined by Congress.

* Olk v. United States, February 18, 1975, Las Vegas, Nevada.

Tips are gifts and therefore are not taxable.

* Commissioner of IRS v Duberstein, 80 5. Ct. 1190.

Property acquired by gift is excluded from gross income.

* Brushaber v Union Pacific R/R 240 U.S. 1, 17; 36 S.Ct. 236, 241.

Income has been taken to mean the same thing as used in the Corporation Excise Tax of 1909 (36 Stat. 112). The worker does not receive a profit or gain from his/her labors—merely an equal exchange of funds for services

* Central Illinois Publishing Service v. U.S., 435 U.S. 31

Decided cases have made the distinction between wages and income and have refused to equate the two.

* Anderson Oldsmobile, Inc. Vs Hofferbert, 102 F Supp 902

Constitutionally the only thing that can be taxed by Congress is income. And the tax actually imposed by Congress has been on net income as distinct from gross income. THE TAX IS NOT, NEVER HAS BEEN, AND COULD NOT CONSTITUTIONALLY BE UPON GROSS RECEIPTS

* Conner v US 303 F supp 1187 Federal District court, Houston, never overruled

..whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true at the time of Eisner V Mcomber, it was true under section 22(a) of the Internal Revenue code of 1938, and it is likewise true under Section 61(a) of the IRS code of 1954. If there is not gain, there is not income, CONGRESS HAS TAXED INCOME, NOT COMPENSATION!!!

* Bowers vs Kerbaugh-Empire Co., 271 US 174D

Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment and in the various revenue acts subsequently passed .

* *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1

The conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such

* *Simms v. Ahrens*, 271 SW 720

An income tax is neither a property tax nor a tax on occupations of common right, but is an <http://www.prostar.com/web/amerika/courts2.htm> EXCISE tax. The legislature may declare as privileged and tax as such for state revenue, those pursuits not matters of common right, but it has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right.

* *Eisner v. Macomber*, 252 US 189 US Supreme court, never overruled the definition of income approved by this court is: The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets.

* *Laureldale Cemetery Assoc. vs Matthews*, 345 Pa. 239;

Reasonable compensation for labor or services rendered is not profit

* *Schuster v. Helvering*, 121 F 2nd 643

Income is realized gain.

And in one of the most eloquent opinions ever delivered by the Court..

* *Butchers Union Co. v. Crescent City Co.*, 111 U.S. 746. 1883

Among these unalienable rights, as proclaimed in the Declaration of Independence is the right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment. It has been well said that, THE PROPERTY WHICH EVERY MAN

HAS IS HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST SACRED AND INVOLABLE

a.. 1818: U.S. v. Bevens, 16 U.S.336. Establishes two separate jurisdictions within the United States Of America: 1. The federal zone and 2. the 50 States. The I.R.C. only has jurisdiction within the federal zone.

The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein, 3 Wheat., at 350, 351.

a.. 1883: Butchers Union Co. v. Crescent City Co., 111 U.S. 746. Defines labor as property, and the most sacred kind of property

Among these unalienable rights, as proclaimed in the Declaration of Independence is the right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoymentIt has been well said that, THE PROPERTY WHICH EVERY MAN HAS IS HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST SACRED AND INVOLABLE

a.. 1894: Caha v. United States, 152 U.S. 211. Restricts jurisdiction of the federal government inside the states. The law of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government.

b. 1900: Knowlton v. Moore, 178 U.S. 41. Defines the meaning of direct taxes

Direct taxes bear immediately upon persons, upon the possession and enjoyment of rights; indirect taxes are levied upon the happening of an event as an exchange.

a.. 1901: *Downes v. Bidwell*, 182 U.S. 244. Establishes that constitutional limits on the Congress do not apply within the federal zone and described where they do apply.

CONSTITUTIONAL RESTRICTIONS AND LIMITATIONS [Bill of Rights] WERE NOT APPLICABLE to the areas of lands, enclaves, territories, and possessions over which Congress had EXCLUSIVE LEGISLATIVE JURISDICTION

a.. 1906: *Hale v. Henkel*, 201 U.S. 43. Defined the distinction between natural persons and corporations as it pertains to 5th Amendment protections within the U.S. Constitution.

we are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest

or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.

Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges.

b.. 1911: *Flint v. Stone Tracy Co.*, 220 U.S. 107. Defined excise taxes as taxes laid on corporations and corporate privileges, not in natural persons.

Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain

occupations and upon corporate privileges the requirement to pay such taxes involves the exercise of [220 U.S. 107, 152] privileges, and the element of absolute and unavoidable demand is lacking. Conceding the power of Congress to tax the business activities of private corporations.. the tax must be measured by some standard. It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the measure of taxation is found in the income produced in part from property which of itself considered is nontaxable.

a.. 1914: Weeks v. U.S., 232 U.S. 383. Established that illegally obtained evidence may not be used by the court or admitted into evidence. This case is very useful in refuting the use by the IRS of income tax returns that were submitted involuntarily (note that these returns must say submitted under compulsion in violation of 5th Amendment rights or some such thing at the bottom.

The effect of the 4th Amendment is to put the courts [232 U.S. 383, 392] of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers, and effects, against all unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all entrusted under our Federal system with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting accused persons to unwarranted practices destructive of rights

secured by the Federal Constitution, should find no sanction in the judgments of the courts, which are charged at all times with the support of the Constitution, and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights.

[.]

The case in the aspect in which we are dealing with it involves the right of the court in a criminal prosecution to retain for the purposes of evidence the letters and correspondence of the accused, seized in his house in his absence and without his authority, by a United States marshal holding no warrant for his arrest and none for the search of his premises. The accused, without awaiting his trial, made timely application to the court for an order for the return of these letters, as well or other property. This application was denied, the letters retained and put in evidence, after a further application at the beginning of the trial, both applications asserting the rights of the accused under the 4th and 5th Amendments to the Constitution. If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the 4th Amendment, declaring his right to be secure against such searches and seizures, is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land. The United States marshal could only have invaded the house of the accused when armed with a warrant issued as required by the Constitution, upon sworn information, and describing with

reasonable particularity the thing for which the search was to be made. Instead, he acted without sanction of law, doubtless prompted by the desire to bring further proof to the aid of the government, and under color of his office undertook to make a seizure of private papers in direct violation of the constitutional prohibition against such action. Under such circumstances, without sworn information and particular description, not even an order of court would [232 U.S. 383, 394] have justified such procedure; much less was it within the authority of the United States marshal to thus invade the house and privacy of the accused. In *Adams v. New York*, 192 U.S. 585 , 48 L. ed. 575, 24 Sup. Ct. Rep. 372, this court said that the 4th Amendment was intended to secure the citizen in person and property against unlawful invasion of the sanctity of his home by officers of the law, acting under legislative or judicial sanction. This protection is equally extended to the action of the government and officers of the law acting under it. *Boyd Case*, 116 U.S. 616 , 29 L. ed. 746, 6 Sup. Ct. Rep. 524. To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not an open defiance, of the prohibitions of the Constitution, intended for the protection of the people against such unauthorized action.

b.. 1916: *Brushaber vs. Union Pacific Railroad*, 240 U.S. 1. Established that the 16th Amendment had no affect on the constitution, and that income taxes could only be sustained as excise taxes and not as direct taxes.

the proposition and the contentions under [the 16th Amendment] would cause one provision of the Constitution to destroy another;

That is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment into

irreconcilable conflict with the general requirement that all direct taxes be apportioned;

This result, instead of simplifying the situation and making clear the limitations of the taxing power, which obviously the Amendment must have intended to accomplish, would create radical and destructive changes in our constitutional system and multiply confusion.

Moreover in addition the Conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it.

..the Amendment demonstrates that no such purpose was intended and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation.

..the [16th] Amendment contains nothing repudiating or challenging the ruling in the Pollock Case that the word direct had a broader significance since it embraced also taxes levied directly on personal property because of its ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the Constitution a condition which clearly demonstrates that

the purpose was not to change the existing interpretation except to the extent necessary to accomplish the result intended, that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself and thereby to take an income tax out of the class of excises, duties and imposts and place it in the class of direct taxes

Indeed in the light of the history which we have given and of the decision in the Pollock Case and the ground upon which the ruling in that case was based, there is no escape from the Conclusion that the Amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the Amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment.

c. 1916: *Stanton v. Baltic Mining*, 240 U.S. 103. Declared that the 16th Amendment conferred no new powers of taxation to the U.S. government, but simply prevented income taxes from being taken out of the category of indirect (excise) taxes to which they inherently belonged.

..by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently

belonged and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived, that is by testing the tax not by what it was a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed.

a. 1918: *Peck v. Lowe*, 247 U.S. 165. Stated that the 16th Amendment does not extend the taxing power to new or excepted subjects, but removed the need to apportion direct taxes on income.

The plaintiff is a domestic corporation chiefly engaged in buying goods in the several states, shipping them to foreign countries and there selling them. In 1914 its net income from this business was \$30,173.66, and from other sources \$12,436.24. An income tax for that year, computed on the aggregate of these sums, was assessed against it and paid under compulsion. It is conceded that so much of the tax as was based on the income from other sources was valid, and the controversy is over so much of it as was attributable to the income from shipping goods to foreign countries and there selling them.

The tax was levied under the Act of October 3, 1913, c. 16, 11, 38 Stat. 166, 172, which provided for annually subjecting every domestic corporation to the payment of a tax of a specified per centum of its entire net income arising or accruing from all sources during the preceding calendar year. Certain fraternal and other corporations, as also income from certain enumerated sources, were specifically excepted, but none of the exceptions included the plaintiff or any part of its income. So, tested merely by the terms of the act, the tax collected from the plaintiff was rightly computed on its total net income. But as the act obviously could not impose a tax forbidden by the Constitution, we proceed to consider

whether the tax, or rather the part in question, was forbidden by the constitutional provision on which the plaintiff relies.

The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the states of taxes [247 U.S. 165, 173] laid on income, whether it be derived from one source or another. *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1, 17-19, 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112-113, 36 Sup. Ct. 278.

b.. 1920: *Evens v. Gore*, 253 U.S. 245. Overturned by *OMalley v. Woodrough* (307 U.S. 277). Court ruled that income taxes on federal judges were unconstitutional.

After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question. [A direct tax on salary income of a federal judge]

a.. 1920: *Eisner v. Macomber*, 252 U.S. 189. Defined income within the meaning of the 16th Amendment as profit. Prohibited direct, unapportioned taxation of income of a stockholder.

The Sixteenth Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted. In *Pollock v. Farmers Loan & Trust Co.*, 158 U.S. 601, 15 Sup. Ct. 912, under the Act of August 27, 1894 (28 Stat. 509, 553, c. 349, 27), it was held that taxes upon rents and profits of real estate and upon returns from investments of personal property were in effect direct taxes upon the property

from which such income arose, imposed by reason of ownership; and that Congress could not impose such taxes without apportioning them among the states according to population, as required by article 1, 2, cl. 3, and section 9, cl. 4, of the original Constitution.

Afterwards, and evidently in recognition of the limitation upon the taxing power of Congress thus determined, the Sixteenth Amendment was adopted, in words lucidly expressing the object to be accomplished:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among [252 U.S. 189, 206] the several states, and without regard to any census or enumeration.

As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income. *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1, 17-19, 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112 et seq., 36 Sup. Ct. 278; *Peck & Co. v. Lowe*, 247 U.S. 165, 172, 173 S., 38 Sup. Ct. 432.

A proper regard for its genesis, as well as its very clear language, requires also that this amendment shall not be extended by loose construction, so as to repeal or modify, except as applied to income, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal. This limitation still has an appropriate and important function, and is not to be overridden by Congress or disregarded by the courts.

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After examining dictionaries in common use (Bouv. L. D.; Standard Dict.; Websters Internat. Dict.; Century Dict.), we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (Strattons Independence v. Howbert, 231 U.S. 399, 415 , 34 S. Sup. Ct. 136, 140 [58 L. Ed. 285]; Doyle v. Mitchell Bros. Co., 247 U.S. 179, 185 , 38 S. Sup. Ct. 467, 469 [62 L. Ed. 1054]), Income may be defined as the gain derived from capital, from labor, or from both combined, provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the Doyle Case, 247 U.S. 183, 185 , 38 S. Sup. Ct. 467, 469 (62 L. Ed. 1054).

Brief as it is, it indicates the characteristic and distinguishing attribute of income essential for a correct solution of the present controversy. The government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word gain, which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. Derived-from- capital; the gain-derived-from-capital, etc. Here we have the essential matter: not a gain accruing to capital; not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being derived-that is, received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal- that is income derived from property. Nothing else answers the description.

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Thus, from every point of view we are brought irresistibly to the conclusion that neither under the Sixteenth Amendment nor otherwise

has Congress power to tax without apportionment a true stock dividend made lawfully and in good faith, or the accumulated profits behind it, as income of the stockholder. The Revenue Act of 1916, in so far as it imposes a tax upon the stockholder because of such dividend, contravenes the provisions of article 1, 2, cl. 3, and article 1, 9, cl. 4, of the Constitution, and to this extent is invalid, notwithstanding the Sixteenth Amendment.

a.. 1922: Bailey v. Drexel Furniture Co., 259 U.S. 20. Prohibited Congress from legislating or controlling benefits that employers provide to their employees. A major blow against socialism in America!

Out of a proper respect for the acts of a co-ordinate branch of the government, this court has gone far to sustain taxing acts as such, even though there has been ground for suspecting, from the weight of the tax, it was intended to destroy its subject. But in the act before [259 U.S. 20, 38] U.S. the presumption of validity cannot prevail, because the proof of the contrary is found on the very face of its provisions. Grant the validity of this law, and all that Congress would need to do, hereafter, in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the states have never parted with, and which are reserved to them by the Tenth Amendment, would be to enact a detailed measure of complete regulation of the subject and enforce it by a so-called tax upon departures from it. To give such magic to the word tax would be to break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the states.

a.. 1924: Cook v. Tait, 265 U.S. 47. The Supreme Court ruled that Congress has the power to tax the income received by a native citizen

of the United States domiciled abroad from property situated abroad and that the constitutional prohibition of unapportioned direct taxes within the states of the union does not apply in foreign countries.

b.. 1930: *Lucas v. Earl*, 281 U.S. 111. The Supreme Court ruled that wages and compensation for personal services were not to be taxed in their entirety, but instead, the gain or profit derived indirectly from them.

c.. 1935: *Railroad Retirement Board v. Alton Railroad Company*, 295 U.S. 330. The Supreme Court ruled that Congress that it has no constitutional authority whatsoever to legislate for the social welfare of the worker. The result was that when Social Security was instituted, it had to be treated as strictly voluntary.

The catalog of means and actions which might be imposed upon an employer in any business, tending to the comfort and satisfaction of his employees, seems endless.

Provisions for free medical attendance and nursing, for clothing, for food, for housing, for the education of children, and a hundred other matters might with equal propriety be proposed as tending to relieve the employee of mental strain and worry.

Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of any or all of these things?

Is it not apparent that they are really and essentially related solely to social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of Congressional power.

a.. 1938: *Hassett v. Welch*, 303 U.S. 303. Ruled that disputes over uncertainties in the tax code should be resolved in favor of the taxpayer.

In view of other settled rules of statutory construction, which teach that if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer

a.. 1939: *OMalley v. Woodrough*, 307 U.S. 277. Overturned portions of *Evens v. Gore*, 253 U.S. 245, but not the part about the 16th Amendment.

However, the meaning which *Evans v. Gore*, supra, imputed to the history which explains Article III, 1 was contrary to the way in which it was read by other English-speaking courts.[1] The decision met wide and steadily growing disfavor from legal scholarship and professional opinion. *Evans v. Gore*, supra, itself was rejected by most of the courts before whom the matter came after that decision[2]

a.. 1945: *Hooven & Allison Co. v. Evatt*, 324 U.S. 652. Ruled that there are three distinct and separate definitions for the term United States. The income tax only applies to one of the three definitions!

The term United States may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States ex- [324 U.S. 652, 672] tends, or it may be the collective name of the states which are united by and under the Constitution.

a.. 1959: *Flora v. United*, 362 U.S. 145. Ruled that our tax system is based on voluntary assessment and payment, not on force or coercion.

Our system of taxation is based upon voluntary assessment and payment, not upon distraint.

a.. 1961: *James v. United States*, 366 U.S. 213, p. 213, 6 L.Ed 2d 246. Income that is taxed under the 16th Amendment must derive from a source. Also established that embezzled money is taxable as income.

.the Sixteenth Amendment, which grants Congress the power to lay and collect taxes on incomes, from whatever source derived. *Helvering v. Clifford*, 309 U.S. 331, 334; *Douglas v. Willcuts*, 296 U.S. 1,9. It has long been settled that Congress broad statutory definitions of taxable income were intended to use the full measure of taxing power. The Sixteenth Amendment is to be taken as written and is not to be extended beyond the meaning clearly indicated by the language used. *Edwards v. Cuba R. Co.* 268 U.S. 628, 631 [From separate opinion by Whittaker, Black, and Douglas, JJ.] (Emphasis added)

a.. 1970: *Brady v. U.S.*, 397 U.S. 742 at 748. Supreme Court ruled that: Waivers of Constitutional Rights not only must be voluntary, they must be knowingly intelligent acts, done with sufficient awareness of the relevant circumstances and consequences.

b.. 1975: *Garner v. United States*, 424 U.S. 648. Supreme Court ruled that income taxes constitute the compelled testimony of a witness: The information revealed in the preparation and filing of an income tax return is, for the purposes of Fifth Amendment analysis, the testimony of a witness.

Government compels the filing of a return much as it compels, for example, the appearance of a witness before a grand jury.

c.. 1978: *Central Illinois Public Service Co. v. United States*, 435 U.S. 21. Established that wages and income are NOT equivalent as far as taxes on income are concerned.

Decided cases have made the distinction between wages and income and have refused to equate the two in withholding or similar controversies. *Peoples Life Ins. Co. v. United States*, 179 Ct. Cl. 318, 332, 373 F.2d 924, 932 (1967); *Humble Pipe Line Co. v. United States*, 194 Ct. Cl. 944, 950, 442 F.2d 1353, 1356 (1971); *Humble Oil & Refining Co. v. United States*, 194 Ct. Cl. 920, 442 F.2d 1362 (1971); *Stubbs, Overbeck & Associates v. United States*, 445 F.2d 1142 (CA5 1971); *Royster Co. v. United States*, 479 F.2d, at 390; *Acacia Mutual Life Ins. Co. v. United States*, 272 F. Supp. 188 (Md. 1967).

a.. 1985: *U.S. v. Doe*, 465 U.S. 605. The production of evidence or subpoenaed tax documents cannot be compelled.

We conclude that the Court of Appeals erred in holding that the contents of the subpoenaed documents were privileged under the Fifth Amendment. The act of producing the documents at issue in this case is privileged and cannot be compelled without a statutory grant of use immunity pursuant to 18 U.S.C. 6002 and 6003. a.. 1991: *Cheek v. United States*, 498 U.S. 192. Held that if the defendant has a subjective good faith belief no matter how unreasonable, that he or she was not required to file a tax return, the government cannot establish that the defendant acted willfully in not filing an income tax return. In other words, that the defendant shirked a legal duty that he knew existed.

b.. 1992: *United States v. Burke*, 504 U.S. 229, 119 L Ed 2d 34, 112 S Ct. 1867. Court held that income that is taxed under the 16th Amendment must come from a source.

Congresss intent through § 61 of the Internal Revenue Code (26 USCS § 61(a))which provides that gross income means all income from whatever source derived, subject to only the exclusions specifically enumerated elsewhere in the Codeand § 61(a)s statutory precursors

a.. 1995: *U.S. v. Lopez*, 000 U.S. U10287. Establishes strict limits on the constitutional power and jurisdiction of the federal government inside the 50 States.

We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, 8. As James Madison wrote, [t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. *The Federalist No. 45*, pp. 292-293 (C. Rossiter ed. 1961). This constitutionally mandated division of authority was adopted by the Framers to ensure protection of our fundamental liberties. *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991) (internal quotation marks omitted). Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. *Ibid.* The Constitution delegates to Congress the power [t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. U.S. Const., Art. I, 8, cl. 3. The Court, through

Chief Justice Marshall, first defined the nature of Congress commerce power in *Gibbons v. Ogden*, 9 Wheat. 1, 189-190 (1824):

Commerce, undoubtedly, is traffic, but it is something more: it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse.

The commerce power is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution. *Id.*, at 196. The *Gibbons* Court, however, acknowledged that limitations on the commerce power are inherent in the very language of the Commerce Clause.

It is not intended to say that these words comprehend that commerce, which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and is certainly unnecessary.

Comprehensive as the word `among is, it may very properly be restricted to that commerce which concerns more States than one. . . . The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State. *Id.*, at 194-195.

For nearly a century thereafter, the Courts Commerce Clause decisions dealt but rarely with the extent of Congress power, and almost entirely with the Commerce Clause as a limit on state

legislation that discriminated against interstate commerce. See, e.g., *Veazie v. Moor*, 14 How. 568, 573-575 (1853) (upholding a state-created steamboat monopoly because it involved regulation of wholly internal commerce); *Kidd v. Pearson*, 128 U.S. 1, 17, 20-22 (1888) (upholding a state prohibition on the manufacture of intoxicating liquor because the commerce power does not comprehend the purely domestic commerce of a State which is carried on between man and man within a State or between different parts of the same State); see also L. Tribe, *American Constitutional Law* 306 (2d ed. 1988). Under this line of precedent, the Court held that certain categories of activity such as production, manufacturing, and mining were within the province of state governments, and thus were beyond the power of Congress under the Commerce Clause. See *Wickard v. Filburn*, 317 U.S. 111, 121 (1942) (describing development of Commerce Clause jurisprudence).

[.]

Consistent with this structure, we have identified three broad categories of activity that Congress may regulate under its commerce power. *Perez v. United States*, supra, at 150; see also *Hodel v. Virginia Surface Mining & Reclamation Assn.*, supra, at 276-277. First, Congress may regulate the use of the channels of interstate commerce. See, e.g., *Darby*, 312 U.S., at 114; *Heart of Atlanta Motel*, supra, at 256 ('[T]he authority of Congress to keep the channels of interstate commerce free from immoral and injurious uses has been frequently sustained, and is no longer open to question.' (quoting *Caminetti v. United States*, 242 U.S. 470, 491 (1917))). Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. See, e.g., *Shreveport Rate Cases*, 234

U.S. 342 (1914); *Southern R. Co. v. United States*, 222 U.S. 20 (1911) (upholding amendments to Safety Appliance Act as applied to vehicles used in intrastate commerce); *Perez*, supra, at 150 ([F]or example, the destruction of an aircraft (18 U.S.C. 32), or . . . thefts from interstate shipments (18 U.S.C. 659)). Finally, Congress commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, *Jones & Laughlin Steel*, 301 U.S., at 37, i.e., those activities that substantially affect interstate commerce. *Wirtz*, supra, at 196, n. 27.

FEDERAL CIRCUIT COURT CASES:

a.. *U.S. v. Tweel*, 550 F.2d 297, 299-300 (1977)

Silence can only be equated with fraud when there is a legal or moral duty to speak, or when an inquiry left unanswered would be intentionally misleading We cannot condone this shocking conduct If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately

a.. *Lavin v. Marsh*, 644 F.2d 1378, 9th Cir., (1981)

Persons dealing with government are charged with knowing government statutes and regulations, and they assume the risk that government agents may exceed their authority and provide misinformation

a.. *Bollow v. Federal Reserve Bank of San Francisco*, 650 F.2d 1093, 9th Cir., (1981)

All persons in the United States are chargeable with knowledge of the Statutes-at-Large.. It is well established that anyone who

deals with the government assumes the risk that the agent acting in the governments behalf has exceeded the bounds of his authority

a.. Economy Plumbing and Heating v. U.S., 470 F.2d 585 (Ct. Cl. 1972)

Persons who are not taxpayers are not within the system and can obtain no benefit by following the procedures prescribed for taxpayers, such as the filing of claims for refunds.

a.. Long v. Rasmussen, 281 F. 236, at 238

The revenue laws are a code or a system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope. No procedures are prescribed for non-taxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither the subject nor the object of the revenue laws.

a.. redfield v. Fisher, 292 P. 813, 135 Or. 180, 294 P.461, 73 A.L.R. 721 (1931)

The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed.

a.. U.S. v. Ballard, 535 F2d 400, cert denied, 429 U.S. 918, 50 L.Ed.2d 283, 97 S.Ct. 310 (1976)

income is not defined in the Internal Revenue Code

Act of state

An act of state cannot be questioned or made the subject

of legal proceedings in a court of law

Banco Nacional de Cuba vs. Sabbatino, 376 U.S. 398:

Ricaud vs. American Metal Co., 246 U.S. 304:

Oetjen vs. Central Leather Co., 246 U.S. 297:

F. Palacio y Compania, S.A. vs. Brush, 389 U.S. 830;

256 F. Supp. 481; 375 F.2nd 1011:

Blacks Law Dictionary, 6th ed. Pgs. 33-34.

BANKS cannot lend credit:

1. “In the federal courts, it is well established that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him.” *Farmers and Miners Bank v. Bluefield Nat ‘l Bank*, 11 F 2d 83, 271 U.S. 669.

2. “A national bank has no power to lend its credit to any person or corporation . . .” *Bowen v. Needles Nat. Bank*, 94 F 925, 36 CCA 553, certiorari denied in 20 S.Ct 1024, 176 US 682, 44 LED 637.

3. “Mr. Justice Marshall said: The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often . . .

Zinc Carbonate Co. v. First National Bank, 103 Wis 125, 79 NW 229.”

American Express Co. v. Citizens State Bank, 194 NW 430.

4. “A bank may not lend its credit to another, even though such a transaction turns out to have been of benefit to the bank, and in support of this a list of cases might be cited, which would look like a catalog of ships.” [Emphasis added] *Norton Grocery Co. v. Peoples Nat. Bank*, 144 SE 505, 151 Va 195.

5. “It has been settled beyond controversy that a national bank, under federal law being limited in its powers and capacity, cannot lend its credit by

guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires . . .”

Howard & Foster Co. v. Citizens Nat’l Bank of Union, 133 SC 202, 130 SE 759 (1926).

6. “. . . checks, drafts, money orders, and bank notes are not lawful money of the United States . . .”

State v. Neilon, 73 Pac 324, 43 Ore 168.

7. “Neither, as included in its powers not incidental to them, is it a part of a bank’s business to lend its credit. If a bank could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics, Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another.

1 Morse, Banks and Banking, 5th Ed. Sec 65;

Magee, Banks and Banking, 3rd Ed. Sec 248.”

American Express Co. v. Citizens State Bank, 194 NW 429.

8. “It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in any of the various ways in which that might be done.”

Federal Intermediate Credit Bank v. L ‘Harrison, 33 F 2d 841, 842 (1929).

RESTRICTIONS ON SEARCH AND SEIZURE

DISTRICT COURT CLERK’S MANUAL

Overton v. Ohio, 151 L.Ed 2d 317 (October 2001): The Fourth Amendment provides that no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. U.S. Const., Amdt. 4. The probable-cause determination must be made by a neutral magistrate in order to insure that the deliberate, impartial judgment of a judicial officer will be interposed between the citizen and the police, to assess the weight and