

## **\* 16<sup>th</sup> & 17<sup>th</sup> Amendments + FRB \***

**"I love Sir Allen Greenspan!" says the Queen of England**



**Why was this man knighted?!**

What did Greenspan do for England to obtain such an award?

Who was behind the passing of the 16<sup>th</sup> Amendment?

Who was behind the passing of the 17<sup>th</sup> Amendment?

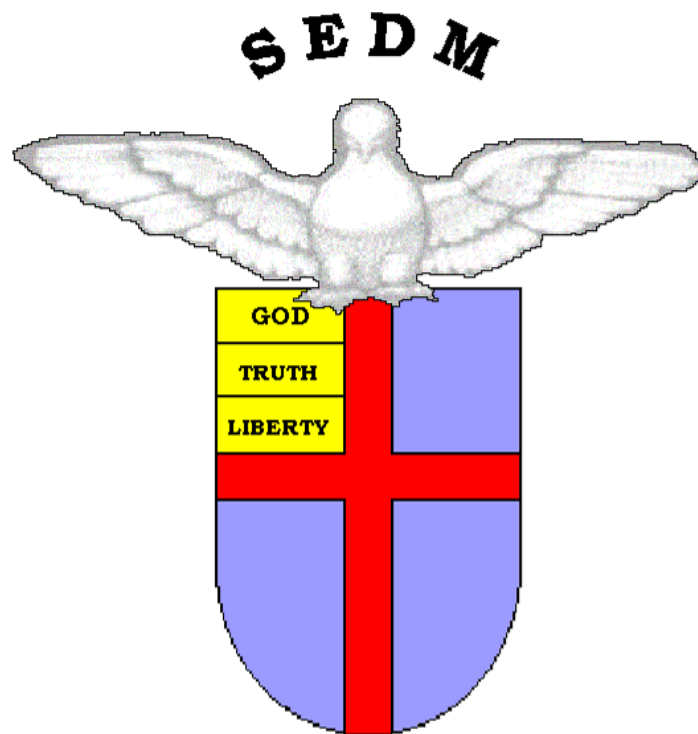
Who was behind the passing of the Federal Reserve Bank Act?

What is the purpose of these alleged enactments?

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## **Introduction**

What happened to our country in 1913 before any of us were even born? How do those events of 1913 effect us today? These are the subjects of this month Dispatch.

Before we can start to understand the 1913 events, we need to go back and review the “Administrative Equity, VIP Dispatch”. Review what we said about Equity and how Equity was the fuel needed to power the 16<sup>th</sup> and 17<sup>th</sup> amendments and the Federal Reserve Act.

The Law of Equity enabled the powers that be “International Banksters” to get their more then equitable share of the American dream without doing any real hard labor. They simply took control of the political process at the time through their agents like Paul Warburg, Jacob Schriff, and also a host of others by promising them a piece of the American dream also along with their families.

The Supreme Court ruled that the 16<sup>th</sup> Amendment created no new taxing powers. If you read the propaganda newspaper articles at the time it was portrayed as a taxing amendment that would soak the rich and not

bother the little guy. As we now know few rich people pay any tax at all and most large corporations pay no tax also.

The IRS admitted in the hearings of 1998 the majority of people they went after made \$25,000.00 or less. We know many people in the system who have more taxes going out of their paychecks than they take home. We ask them what is going to happen to them five years from now or even ten years from now? Are you going to keep working until you owe the Feds money for working? It's sure nice to know that there are a lot of people who love to pay their unfair share and will continue to do so until they have no "share" to give at all.

We learned a long time ago that it was almost impossible for the average American to own anything in his or her name. They only give us the illusion of owning something. People will tell us "I own my car!" Nope, look at the title at the top it says "State of \_\_\_\_\_". "I own my house!" Nope, just look at your deed and if you don't pay those property taxes, the house is gone. Then we have people who will say that their "Drivers License", that they paid for, is theirs. Nope, look whose name is on it. "The State of \_\_\_\_\_". How about your kids? They are not yours either. Did

you and your spouse get a state marriage license? Were you married by a state official or a Title 26, 501(c) (3) corporate religious officer? Actually you were officially married as soon as you purchased that state marriage license or should we say as soon as you paid the tax on the privilege of you and your spouse getting “married” to the state. Also the state can come and take your children away through children’s services anytime they wish based upon any pretext. As we have seen at Ruby Ridge Idaho, Waco Texas, the Murrah building in Oklahoma City, the “Feds” can get even away with the outright act of killing children.

Now you could say that the passage of the 16<sup>th</sup> Amendment did not cause all that. We never said it did. But, let’s turn up the temperature of the pot of boiling equity law and look at the 17<sup>th</sup> Amendment.

The Senators were in the Organic Constitution of 1787 to be chosen by the State Legislator not by the electors of the state. These senators were chosen by the state legislators to protect state rights. The people in the states voted for their representative to the House of Representatives in Washington D. C. to speak for them, and to protect their substantive rights. Notice the section that the 17<sup>th</sup> Amendment supposedly did away with in the

Constitution is still there. It was never removed, just bypassed. Look at what a mess this has gotten us into, as Federal Senators are no longer answerable to anyone. The mainstream media doesn't cover their voting records. So, if you ask someone how their Senator voted on a certain bill they don't have a clue. But, if you ask them how many swings it took Tiger Woods to win the Open or who won the Indy 500 in a particular year, they can tell you. "Specific indifference" or "who cares". Equity takes over and our substantive rights are long gone.

We see and hear all the hype by some people about the 16<sup>th</sup> Amendment, but those same people say nothing about larger issues such as those concerning the 17<sup>th</sup> Amendment.

Now, at last, we get to the stake that was driven through the heart of our Monterey system that was set up in the organic constitution of 1787. Remember the little clause in that document that talks about Gold and Silver? Almost out of nowhere came the Federal Reserve Banking Act of 1913. What was it designed to do? What did it accomplish? For whom? Why? Who actually wrote the Act itself? Who spoke out against the passage of the Act but actually pushed for its passage behind the scenes.

Who was sent from Germany with lots of money to make sure it actually got passed. Who stole our Gold in 1933 and had it deposited with the Federal Reserve Bank? Why has there never been an accounting of the Federal Reserve Bank? Why is your tax money deposited into the Federal Reserve Bank? Why are all customs duties deposited into the Federal Reserve Bank? Why under section 904 of the Social Security Act are all the moneys deposited into the Federal Reserve Bank? Who wrote that section into the Social Security Act of August 14<sup>th</sup>, 1935? Why? Where did that section come from? Who said in 1935 that the Social Security Trust Fund was a joke on the American people and that there was to never be any money put into that trust fund? Why did the Queen recently knight Allen Greenspan? We hope you know it is very, very, politically incorrect to bring up these issues, much less to discuss them openly as though you have a Fundamental Right to free speech.

## *An Excise Tax upon the Privilege of Doing Business as an artificial entity*

- A. Congressional Record – Senate June 16, 1909 sent to the Senate by President Taft.
- B. The Supreme Court struck down the prior income tax legislation so here comes William Taft wanting a graduated inheritance tax which he says would be easy to collect
- C. On page 12, at the arrow, we see the discussion about an excise tax as opposed to a corporation income tax.
  - 1. Read the next paragraph. It says “all [Federal] Corporations” and goes on to say, “this is an excise tax upon the privilege of doing business as an artificial entity.”
  - 2. In some of the Social Security court cases the Court states that Social Security is an excise tax upon the privilege of working for a corporation.
    - a. Working for the federal government has been held to be a privilege, not a right.
- D. We have been turned into a Nation of privileges having been induced into giving up our substantive rights.
  - 1. We have known for years that we have traded our rights for privileges. We have seen groups come and go who pop up with some new hot program dealing with tax topics or legal issues, but they just don’t usually hang around very long because they fail to recognize certain long held legal principles. Many of these groups or people will, when the pressure comes down, take the money and run leaving the people they hoodwinked in a major bind if the local, state, or Feds don’t get them first.
  - 2. Most of those groups and individuals have come up with a ploy to induce people to buy into their program, whatever it is, and they usually don’t have experience with or care about what will happen to their program as they go against the tide of government.
- E. We want to educate people so they can make their own decisions. With this background of education, hopefully, people will not be so easily induced to hop on board of the newest patriot hoax but instead ask pertinent questions.

1. We get calls weekly by those wanting us to join them in some old or new hoax from filing a national lawsuit against the IRS, to selling a couple of silver bullet letters, that will magically end someone's IRS problems, for a few thousand bucks.
  2. Why would we join in league with someone who has never been through our IRS course Level I, II, and III courses, or who does not even subscribe to the "DISPATCH".
- F. In all our years of study we find few people winning by fighting against the whole system. You'll have a hard time getting water to run up hill.
1. So, you are in the system like everyone else who has been induced into through ignorance or complacency. We recognize that. If you have an IRS problem why not just take care of THAT problem and not create a whole host of other problems that you don't need to bring on.
  2. Think twice before getting in over your head. Some of these arguments are "designed to fail". Now, who would promote such arguments? Perhaps the System?

## CONGRESSIONAL RECORD-SENATE JUNE 16, 1909

PAGES 3344-3345

The Secretary read as follows:

*To the Senate and House of Representatives:*

It is the constitutional duty of the President from time to time to recommend to the consideration of Congress such measures as he shall judge necessary and expedient. In my inaugural address, immediately preceding this present extraordinary session of Congress, I invited attention to the necessity for a revision of the tariff at this session, and stated the principles upon which I thought the revision should be effected. I referred to the then rapidly increasing deficit and pointed out the obligation on the part of the framers of the tariff bill to arrange the duty so as to secure an adequate income, and suggested that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among them I recommended a graduated inheritance tax as correct in principle and as certain and easy of collection. The House of Representatives has adopted the suggestion, and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of the debate indicate that it may not agree to this provision, and **it is now proposed to make up the deficit by the imposition of a general income tax, in form and substance of almost exactly the same character as, that which in the case of *Pollock v. Farmers' Loan and Trust Company* (157 U. S., 429) was held by the Supreme Court to be a direct tax [Unconstitutional], and therefore not within the power of the Federal Government to impose unless apportioned among the several States according to population.** This new proposal, which I did not discuss in my inaugural address or in my message at the opening of the present session, makes it appropriate for me to submit to the Congress certain additional recommendations. [Clarification added]

Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency, **The decision of the Supreme Court in the income-tax cases deprived the National Government of a power which, by reason of previous decisions of the court, it was generally supposed that Government had.** It is undoubtedly a power the National Government ought to have. It might be indispensable to the Nation's life in great crises. Although I have not considered a constitutional amendment as necessary to the exercise of certain phases of this power, a mature consideration has satisfied me that an amendment is the only proper

course for its establishment to its full extent. **I therefore recommend to the Congress that both Houses, by a two-thirds vote, shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government without apportionment among the States in proportion to population.** (emphasis added)

**This course is much to be preferred to the one proposed of reenacting a law once judicially declared to be unconstitutional.** For the Congress to assume that the court will reverse itself, and to enact legislation on such an assumption, will not strengthen popular confidence in the stability of judicial construction of the Constitution. It is much wiser policy to accept the decision and remedy the defect by amendment in due and regular course.

Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency, but by putting on the statute book a law already there and never repealed will simply be suggesting to the executive officers of the Government their possible duty to invoke litigation. If the court should maintain its former view, no tax would be collected at all. If it should ultimately reverse itself, still no taxes would have been collected until after protracted delay.

It is said the difficulty and delay in securing the approval of three-fourths of the States will destroy all chance of adopting the amendment. Of course, no one can speak with certainty upon this point, but I have become convinced that a great majority of the people of this country are in favor of investing the National Government with power to levy an income tax, and that they will secure the adoption of the amendment in the States, if proposed to them.

↙ Second, the decision in the *Pollock* case left power in the National Government to levy an excise tax, which accomplishes the same purpose as a corporation income tax and is free from certain objections urged to the proposed income tax measure.

**I therefore recommend an amendment to the tariff bill Imposing upon all [Federal] corporations and [Federal] joint stock companies for profit,** except national banks (otherwise taxed), savings banks, and building and loan associations, an excise tax measured by 2 per cent on the net income of such corporations. **This is an excise tax upon the privilege of doing business as an artificial entity** and of freedom from a general partnership liability enjoyed by those who own the stock. [Clarification added]

I am informed that a 2 per cent tax of this character would bring into the Treasury of the United States not less than \$25,000,000.

The decision of the Supreme Court in the case of *Spreckels Sugar Refining Company* against *McClain* (192 U. S., 397), seems clearly to establish the principle that such a tax as this is an excise tax upon privilege and not a direct tax on property, and is within the federal power without apportionment according to population. The tax on net income is preferable to one proportionate to a percentage of the gross receipts, because it is a tax upon success and not failure. It imposes a burden at the source of the income at a time when the corporation is well able to pay and when collection is easy.

Another merit of this tax is the federal supervision which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidentally able to possess the Government and the stockholders and the public of the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.

I recommend, then, first, the adoption of a joint resolution by two-thirds of both Houses, proposing to the States an amendment to the Constitution granting to the Federal Government the right to levy and collect an income tax without apportionment among the States according to population; and, second, the enactment, as part of the pending revenue measure, either as a substitute for, or in addition to, the inheritance tax, of an excise tax upon all corporations, measured by 2 per cent of their net income.

Wm. H. Taft.

THE WHITE HOUSE, June 16, 1909.

## **Senate Document No. 154 (1924)**

- A. The CONSTITUTION as amended to December 1, 1924 by the 68<sup>th</sup> Congress, First Session.
1. The following few sections have been extracted from the above book and is the oldest (1924) Senate approved and printed by the GPO that we have in our collection for this time frame.
  2. We chose these pages because they contain the 16<sup>th</sup> and 17<sup>th</sup> amendments with the annotated information from 1924.
  3. Make sure you read these pages carefully especially page 745 of this section at the arrow, "When applying the sixteenth amendment and income tax laws enacted under it, the courts must regard matters of substance and not mere form."
  4. Now, all of that is gone and the substance and form have been turned into Legal Fictions under Administrative Equity.
- B. Do not miss the section on page 746 almost at the bottom about "Salary of Federal Judges."
1. Salary of a Federal Judge was originally to be immune from an income tax.
  2. This induced the Federal Judges to go along with the 16<sup>th</sup> Amendment and to hand down favorable rulings.
  3. After the Federal judges had been sucked in and thought they were on easy street, they had the rug jerked out from under them and they had to start paying. At least they did put up a fight, but to no avail.
  4. No more independent judiciary.
- C. There is also a section concerning the 17<sup>th</sup> Amendment so when we refer to the 16<sup>th</sup> or 17<sup>th</sup> Amendment in this "DISPATCH" you can turn back and read it again.

# THE CONSTITUTION

OF THE  
UNITED STATES OF AMERICA

AS AMENDED TO DECEMBER 1, 1924

(ANNOTATED)

WITH CITATIONS TO THE CASES OF THE  
SUPREME COURT OF THE UNITED STATES  
CONSTRUING ITS SEVERAL PROVISIONS  
COLLATED UNDER EACH PROVISION



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1924

## AMENDMENTS 16-19.—RECENT.

### Amendment 16.—INCOME TAX.<sup>1</sup>

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

#### In General

It is clear on the face of this text that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. In *Brushaber v. Union Pac. R. Co.* (240 U. S. 17) the court said:

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.

See also—

*Pollock v. Farmers', etc., Co.*, 157 U. S. 429; 158 U. S. 601.  
*Stanton v. Baltic Min. Co.*, 240 U. S. 103.  
*Tyee Realty Co. v. Anderson*, 240 U. S. 115.  
*Peck v. Lowe*, 247 U. S. 165.  
*Southern Pac. Co. v. Lowe*, 247 U. S. 330.

→ Questions of taxation must be determined by viewing what was actually done rather than the declared purpose of the participants. When applying the sixteenth amendment and income tax laws enacted under it, the courts must regard matters of substance and not of mere form.

*Weiss v. Stearn*, 265 U. S. 242.

*Burk-Waggoner Oil Assn. v. Hopkins*, 296 Fed. 492.

In *Smietanka v. Bank* (257 U. S. 602) it was held that the income tax act made no provision for taxing income held and accumulated by a trustee for unborn and unascertained beneficiaries.

In *De Ganay v. Lederer* (250 U. S. 376) the court sustained a Federal tax upon the income from stock, bonds, and mortgages owned by alien nonresidents, but in the hands of a resident agent.

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<sup>1</sup> This amendment takes income taxes out of the apportionment provision of Art. I, sec. 2, cl. 3. For ratification, see p. 31.

## Amend. 16.—Income Tax.

In *Atlantic Coast Line v. Daughton* (262 U. S. 413) it was held that taxation of income from property, as distinguished from income of owner is constitutional.

In *U. S. v. Boss and Peake*, 285 Fed. 410, it was held that retrospective income tax law was not unconstitutional.

**Taxation of Dividends**

Congress was at liberty, under this amendment, to tax as income without apportionment everything that became income in the ordinary sense of the word after the adoption of the amendment, including dividends received in the ordinary course by a stockholder from a corporation, even though they were extraordinary in amount and might appear upon analysis to be a mere realization in possession of an inchoate and contingent interest that the stockholder had in surplus of corporate assets previously existing.

*Lynch v. Hornby*, 247 U. S. 339.

**Stock Dividends**

The word "income" as used in this amendment does not include a stock dividend. Such a dividend is capital and not income and can be taxed only if the tax is apportioned among the several States in accordance with Article 1, section 2, clause 3, and Article I, section 9, clause 4 of the Constitution.

*Eisner v. Macomber*, 252 U. S. 189, following *Towne v. Eisner*, 245 U. S. 418.

*U. S. v. Phellis*, 257 U. S. 156.

*Rockefeller v. U. S.*, 257 U. S. 176.

*Miles v. Safe Deposit Co.*, 259 U. S. 247.

**Property Outside the United States**

Congress has power to tax the income received by a native citizen of the United States domiciled abroad from property situated abroad.

*Cook v. Tait*, 265 U. S. 47.

**Proceeds of Life Insurance**

A construction of a war taxing act as imposing both an income and an estate tax on the proceeds of life insurance should be avoided unless required in express terms.

*U. S. v. Supplee-Biddle Co.*, 265 U. S. 189.

**Salary of Federal Judges**

This amendment does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the States of taxes laid on incomes from whatever source derived.

*Evans v. Gore*, 253 U. S. 245, reversing 262 Fed. 550, and holding that the salary of a Federal judge was immune from an income tax by virtue of Article III, section 1, prohibiting the diminishing of a judge's salary during his term of office.

**Domestic and Foreign Corporations**

Income tax not unconstitutional because of inequality as between domestic and foreign corporations.

*National Paper Co. v. Edwards*, 292 Fed. 632.

## Amend. 17.—Popular Election of Senators.

Amendment 17.—POPULAR ELECTION OF SENATORS.<sup>1</sup>

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

In *U. S. v. Aczel* (219 Fed. 917) it was said that the right to vote for United States Senators is not derived merely from the constitution and laws of the State in which they are chosen but has its foundation in the Constitution of the United States.

Amendment 18.—PROHIBITION OF INTOXICATING LIQUORS.<sup>2</sup>

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SECTION 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

**In General**

This amendment is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers, and individuals within those limits, and of its own force invalidates every legislative act, whether by Congress,

<sup>1</sup> This amendment modifies Art. I, sec. 3. For ratification, see p. 31.

<sup>2</sup> See p. 32 for ratification.

# Who Worded The 16th Amendment?

*by Otto Skinner*

Nelson W. Aldrich of Rhode Island was the Republican "whip" in the Senate, a business associate of J.P. Morgan, and the maternal grandfather of Nelson A. Rockefeller and David Rockefeller. He was a member of the Senate Committee on Finance in 1909. He was known as the Wall Street Senator; a spokesman for big business and banking. He was wealthy in his own right. One of his "toys" for demonstrating his wealth and power was his own private luxurious railroad car.

A close associate of Senator Aldrich was Paul Warburg, a partner in Kuhn, Loeb & Company, and the architect of the Federal Reserve Act of 1913 which authorized private banking firms to essentially create money out of nothing and loan it out at interest. Paul Warburg eventually became a member of the Federal Reserve Board. While Paul Warburg was involved with the Federal Reserve Banks in the United States during WW1, his brother, Max Warburg, was the Director of the Reich Bank in Germany and the financial advisor to the Kaiser. To say the least, Senator Aldrich was well entrenched with the world banking powers.

Senator Aldrich was a strong proponent of an "income" tax amendment to the Constitution. The congressional records show that finding the proper wording for such an amendment seemed to be a bit difficult. Several attempts were made. On June 17, 1909, Senator Norris Brown of Nebraska introduced Senate Joint Resolution 39 proposing that the Constitution of the United States be amended as follows:

"The Congress shall have power to lay and collect direct taxes on incomes without apportionment among the several states according to population." S.J. Res. 39, as read in the Congressional Record Senate, page 3377, June 17, 1909, by Senator Norris Brown.

The resolution was printed and referred to the Senate Committee on Finance. Those masterminding the plan knew that if the amendment authorized a direct tax, it would cause one part of the Constitution to come into irreconcilable conflict with Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4.

Senator Aldrich controlled the discussion regarding the proposed amendment during the hearings in the Committee on Finance. He told the committee that he would be gone for a few days and when he came back he would tell them how to write the proposed Sixteenth Amendment. A few days later, he returned with the new wording as promised. On June 28, 1909, he brought back this new wording to the Senate under a new joint resolution (S.J. Res. 40) which DID NOT contain the word "direct", but which reads exactly as the sixteenth amendment reads today:

"The Congress shall have power to lay and collect taxes on incomes, from whatever

source derived, without apportionment among the several States, and without regard to any census or enumeration." S.J. Res. 40, as read in the Congressional Record Senate, page 3900, June 28, 1909, by Senator Nelson Aldrich.

The sixteenth amendment was presented to the American people as a "soak-the-rich" scheme. Yet, it was the richest of the rich who were in back of the scheme with the purported intention of supposedly soaking the rich. They were very careful to write an amendment in a manner that would pass constitutional muster in the United States Supreme Court, and yet lead the American people to erroneously believe it was an amendment granting Congress some sort of new taxing power.

Senator Aldrich's connection with the so-called "income" tax and the Federal Reserve System is extremely important. Both were designed to fool the American people for the benefit of the private banking interests. Both were designed to bleed the hard working Americans of more and more of their production and manipulate them, and the nation, into deeper and deeper debt. The Federal Reserve System gave private banking interests the license to create money out of nothing (through fractional reserve banking) and charge interests on that which was created out of nothing. In the end, the bankers win. Senator Aldrich and his cohorts have done their job well.

## *Constitutional Income, Do You Have Any*

- A. Our good friend Phil Hart spent hundreds of hours putting this book together and is extremely informative.
  - 1. Some of you have already ordered this book, but please realize that we have a number of new people ordering the “VIP Dispatch” who have not.
    - a. We want to show those new people and those who failed to order this book, number 200, on our list and why they might just want to order this book.
- B. In the next few pages, we have three sections from Phil Hart’s book for educational purposes that are quite interesting.
- C. Many of you, like us, have children in school. This book contains historical information that you can pass on to your children or grandchildren whatever the case may be. If we don’t teach them, who will?
  - 1. As you read through these three sections we hope you appreciate all the time and effort that Phil put into bringing this information to us.

### Section One



# *Constitutional Income:*



**10 Key Facts**

**Cover Page**

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**Foreword**

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**The First Chapter**

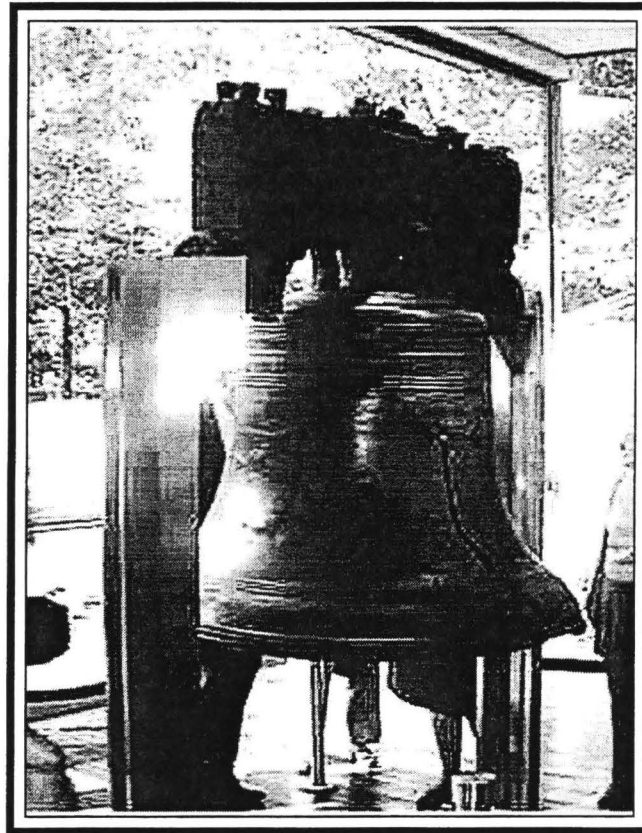
**The Last Chapter**

**About Phil Hart**

**Notice**

**To Order**

**Petition to  
Supreme Ct.**



**The Liberty Bell**  
**"Proclaim Liberty Throughout the Land**  
**To All the Inhabitants Thereof"**  
 --- Leviticus 25:10 ---

## **Foreword**

The issue of direct v. indirect taxes has been debated in Congress since not long after the constitutional ink had dried. From page 1898 of *The Annals of Congress* (the 4th Congress, 1797) Representative Williams from New York was recorded as reminding Congress of the Roman example of direct v. indirect taxation.

**"History, Mr. W. said, informed them of the annihilation of nations by means of direct taxation. He referred gentlemen to the situation of the Roman Empire in its innocence, and**

**asked them whether they had any direct taxes? No. Indirect taxes and taxes upon the luxuries and spices from the Indies were their sources of revenue but, as soon as they changed their system to direct taxation, it operated to their ruin; their children were sold as slaves, and the Roman Empire fell from its splendor. Shall we then follow this system? He trusted not."**

By the late 1800s and up until the passage of the 16th Amendment in 1913 the people of this country demanded their legislators levy an income tax on accumulated wealth. This was because families such as the Carnegies and the Morgans were virtually untaxed and controlling national politics with their vast and ever-increasing fortunes. By reading the Congressional Record, House and Senate documents, newspapers, magazines, law journal articles of the time and the writings of the people who were intimately involved in the development of the 16th Amendment, we will find that the intent was to tax the annual profit from unincorporated businesses and the net annual income from personal property. Wages and salaries from labor were not considered income within the original meaning and intent of the 16th Amendment.

Taxes on labor, as currently collected by the IRS as an "income" tax, cannot be described as anything other than a direct tax.

Senator Norris Brown from Nebraska, the man who wrote the 16th Amendment, defined clearly what income was and what the income tax was intended to accomplish. Not once did Sen. Brown mention that Congress intended to pass an amendment that would grant the federal government a new power to directly tax the wages or salaries of working people.

The historical record shows that the Republicans, acting as agents for those who had monopolized the American economy, set the wages-are-income concept into motion by creating a tax code after the 16th Amendment was passed that, benevolently, would "exempt" the first \$4,000 of a person's "income." Since the average family's earned income was about \$500 a year at the time, it wasn't until after World War II, when this nation's economy was really booming and national pride was

peaking, that Americans, as a nation of millions of working people, really began paying taxes on their wages. Back then Americans took for granted that they could trust the federal government, and the average person had long since forgotten the debates of the income tax issue and what was included in "income" and what was not. They certainly did not see how "paying their fair share" of taxes deducted from their labor was analogous to conditions that contributed to the fall of the Roman Empire.

We have been conditioned since kindergarten to believe that wages and salaries generated from our labors are income for tax purposes when the opposite, as borne out in the written history leading up to the passage of the 16th Amendment, is actually the truth.

The government knew what it was doing then and it knows what its doing today. The U.S. Constitution recognizes two kinds of taxes: direct and indirect. Congress does not have the constitutional right to lay direct taxes against the people unless the tax burden is equally apportioned by population among the several States. Congress does have the right to lay indirect taxes on privileges, events and activities. Taxes on cigarettes, alcohol and gasoline are examples of constitutional indirect taxes.

There is no intelligent way to argue that a tax on a man's wages or salary is anything but a direct tax. We work, get paid for our work and then get taxed according to the amount of money we are paid. If you don't work, you don't eat and you die. Whereas you can choose not to consume cigarettes, alcohol or gasoline, you have no choice in whether to pay the taxes that are calculated and summarily deducted from your wages - unless you choose to go to prison

Such a tax on wages is a tax on our right to exist. It is a feudal system. It is a direct tax - as direct as any tax can be. An unapportioned federal income tax on our wages is unconstitutional and the federal government knows it. Well, this only a half truth. If you live in Puerto Rico, Guam, or the U.S. Virgin Islands an unapportioned direct tax on your wages is constitutional; if you live in the several States of the Union it is not.

Although the income tax statutes are constitutional, they don't mean what you think they mean. The fraud has

been accomplished by clever wordsmithing. The original intent of the 16th Amendment was to tax accumulated wealth and not the wages of working Americans.

Through threats and coercion, and brown shirt tactics, the federal government has by deceptive means taken what, by now, must be in the trillions of dollars from the American people in what has to be the most profitable extortion scheme in world history. We are being Taxed without Our Consent.

It is my hope as an American, as a man who has dedicated his life to the pursuit of truth and the return of justice and decency to our embattled Republic, and as a man who has tremendous respect for the author of Constitutional Income: Do You Have Any?, that the American people will stand up against their servant, the federal government, and demand to be treated in a manner consistent with the laws of this land. It is my hope that millions of Americans will realize that they are paying unconstitutional taxes when they allow their wages to be diminished by the income tax.

I have spent my journalism career encouraging Americans, who have learned truths such as those contained in this book to stand up for those inalienable rights, those principles of natural law that gave birth to this most magnificent country: the right for all good people to have life, liberty and to pursue happiness.

**Don Harkins, *The Idaho Observer*  
Spirit Lake, Idaho, April 13, 2001**



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## *Section Two*

### A. Aldrich's Scheme:

1. Defective Amendment
2. Ambiguous in its terms.
3. Defeat it at the State level.
4. Manipulate it.
5. Placate the people.
6. Corporate Tax Act of 1909.
7. Any income tax on corporate profits could be passed to the consumer.
8. Feudalistic system of taxation.
9. The reject Amendment.
10. Hastily drawn and mischievous effects.
11. Lack of scrutiny was scandalous.
12. Most reckless bit of constitutional legislation known to our history.
13. 16<sup>th</sup> Amendment created no new class of taxes, and that income taxes were inherently indirect taxes.
14. The 16<sup>th</sup> Amendment did not give Congress any new power.
15. The working people are stung again.
16. "Eternal Vigilance is the price of liberty."

otherwise belong..." Taxes on **net income** are inherently indirect, taxes on **gross income** are inherently direct. The *Stanton Case* was about taxes on his net income. Adam Smith would agree.

Apportionment among the states would require any income tax to be geared to what the average investor or businessman in Mississippi could afford, while the great incomes were actually located in New York. Under the apportionment rule, the tax collected from each state would be allocated according to the population of each state with each person being responsible for the same dollar amount of tax, on the average. If, in 1909, all that could be reasonably afforded by an investor or businessman of Mississippi was an income tax of \$50 per person annually, then this is the same amount an investor or businessman in New York would pay, on the average. Such a condition made the levying and collection of such a tax impractical, especially since the tax sought to reach unearned income—gain and profit, not wages. There were not many people in Mississippi who had the former.

Said another way, because the people of America understood the word "income" to mean unearned income, gain and profit, a tax on the income would inherently be an indirect tax subject only to the rule of uniformity. As an indirect tax, it would not have to be apportioned. But this was impossible because the Supreme Court had determined that there was a linkage between an income tax on net income and the source of the income. Unless this linkage could be severed, what was inherently an indirect income tax would have to be apportioned. The *Pollock Decision* needed to be overturned by way of constitutional amendment to accomplish this end. The 16th Amendment severed the linkage between net income and the source of the income upon which the *Pollock Decision* was based. At that time, only a minority of Americans had an "income" as most people worked for wages.

In other words, in apportioning a tax on income, as *Pollock* would have required, the quotient of total income tax paid by each state divided by the number of people who lived in the

state would be the same in every one of the several States. Thus as a direct tax, a tax on the income of Mr. Carnegie and Mr. Rockefeller would be geared more to what the average investor or businessman in Mississippi could afford than to the amount of income the wealth of these men produced every year.

Gearing a national income tax to the lowest common denominator is impractical. There would have been three alternatives for Congress at this time. The first would be to do nothing, which is what the Republicans preferred, as they liked the high protective tariff system. The second would be to modify the direct taxation clauses of the Constitution to provide for a "direct" tax on incomes freed from apportionment. And the third would be to provide for an income tax of an "indirect" nature subject only to the rule of uniformity. What was done was the latter as the American People sought only to overturn the offensive parts of *Pollock* through the constitutional amendment process.

### Aldrich's Scheme

Senator Nelson Aldrich of Rhode Island, a Republican and the godson of Nelson A. Rockefeller, was considered the most powerful member of Congress. His daughter Abby married John D. Rockefeller, Jr. He was chairman of the Senate Finance Committee and had relationships with many of the central bankers of Europe. Although Senator Brown of Nebraska was the one who proposed the 16th Amendment, Aldrich definitely had his hand in the construction of it.

Stuck with the reality that the Republicans had to endorse an income tax amendment to the Constitution, Aldrich chose to manipulate the process. Reluctantly, he allowed the income tax amendment to be approved by the Senate Finance Committee. Later he acquiesced to its approval by Congress, and sent the amendment to the several States for ratification. His real motive, however, was to defeat it. The strategy employed was to write a defective amend-

ment, ambiguous in its terms, allow it to go out to the States for ratification and defeat it there. Should it be defeated by the state legislatures, the issue of an income tax amendment to the Constitution would be dead for years.

If by chance the amendment was somehow ratified, by writing it with ambiguous terms, he could later manipulate it to the advantage of the wealth class who were currently benefitting from the protective tariff. Aldrich was very forward thinking and the Democrats were fools not to have proposed their own language years earlier as part of their party's presidential platform.

"Mr. SULZER. Sir, let me say, however, that I am not deceived by the unanimity in which this resolution is now being rushed through the Congress by the Republicans, its eleventh-hour friends. I can see through their scheme. I know they never expect to see this resolution [the 16th Amendment] become a part of the Constitution. It is offered now to placate the people. The ulterior purpose of many of these Republicans is to prevent this resolution from ever being ratified by three-fourths of the legislatures of the States, necessary for its final adoption, and thus nullify it most effectually...I have been here long enough to know, and I am wise enough to believe, that its passage now is only a sop to the people by the Republicans, and that their ulterior purpose is to defeat it in the Republican state legislatures." 44 Cong. Rec. 4418 (1909).

"Mr. BACON. I particularly protest, however, that it is not proper parliamentary procedure to endeavor to force us to first vote on this amendment [the Corporate Tax Act of 1909] under a device which was given out to the public as intended for the purpose of preventing a vote on the income tax, which was given out as a great parliamentary achievement on the part of the Senator from Massachusetts [Lodge] and the Senator of Rhode Island [Aldrich], that they had so shaped matters that we would be compelled to vote upon the corporation-tax amend-

ment [to the tariff bill] before we were allowed to vote first on the income-tax amendment [to the Constitution]. This amendment [the Corporate Tax Act of 1909] is avowed by the Senator from Rhode Island to be intended to defeat the income tax. If so, we should have the opportunity to vote first on the income tax amendment [to the Constitution]." 44 Cong. Rec. 4063 (1909).

What Aldrich had done was to interject the Corporate Excise Tax Act of 1909, which was an amendment to the tariff bill, into the income tax debate. Through skillful parliamentary maneuvering Aldrich managed to have the corporate income tax bill heard by Congress before the constitutional income tax amendment. Aldrich was hoping that once the corporate income tax legislation was in place, the American people would be pacified and would not call for the taxation of individual wealth. Aldrich knew that any income tax on corporate profits could be passed to the consumer, and thus his rich friends would continue to escape taxation. This was Aldrich's plan "A" and he even admitted this on the floor of the Senate:

"Mr. ALDRICH. I do not expect the income tax to be adopted...And if it were adopted, I do not expect to destroy the protective system now...I think perhaps it would be destructive in time...I shall vote for the corporation tax as a means to defeat the income tax...I will be perfectly frank with the Senate in that respect...I am willing that the deficit shall be taken care of by a corporation tax. That corporation tax, however, at the end of two years, if my estimate should be correct, should be reduced to a nominal amount or repealed....at the end of two years." 44 Cong. Rec. 3929 (1909).

It was through the Senate Finance Committee, chaired by Senator Aldrich, a Republican, that the final version of the Income Tax Amendment came to the floor of the Senate. *Sutherland on Statutory Construction* (sec. 48.14, 5th Edition) states that additional judicial authority may be given to the opinions of the chairman of a committee, "The committeeman in charge has the duty of defending

the bill, has familiarized himself with the situation sought to be remedied by the bill and his statements may be taken as the opinion of the committee about the meaning of the bill." But our case here is a strange one as we have the committeeman in charge of the bill, Senator Aldrich, doing all he can to kill the amendment. Why is there so much scandal around a piece of legislation of such significance?

Now, Aldrich was one unethical politician. The American people were demanding an income tax as a way to more fairly distribute the burdens for the support of government and all Aldrich could do was to scheme about how to maintain the feudalistic system of taxation that was presently in place. Aldrich was extremely successful in his evil as what we have today is still a feudalistic system of taxation and not something that belongs in a constitutional republic of limited powers.

"Mr. BYRD. It is a well known fact that the tariff law will be the product of the brain of one Senator [Aldrich], and however infamous the measure may be, it will receive the unqualified support of enough Republicans to pass both Houses.

"It seems that the Republican Party has permanent control of the Government, and that Senator Aldrich absolutely dominates this party. As long as it triumphs, he will be czar of the Nation." 44 Cong. Rec. 4415 (1909).

"Mr. DANIEL. Mr. President, if this was a class of competitive examination in order to show who was the most tired man of this debate, I would expect to win the first place in the competition. The Senator from Rhode Island [Aldrich] is a great actor, a great wizzard, and he is also a great ventriloquist. With an activity, eagerness, earnestness, and freshness which are unsurpassed in this body, he comes upon the stage and says we must adjourn right now; that he is tired out. That is only one phase of his diverse genius. He is very different from the rest of us plain and prolix people. He does by magic

what we have to try to do by toil. He waves his wand and utters his incantations, and so-called 'insurgents' march with the vigor and measured tread of Roman soldiers following Caesar to victory. More than that, Mr. President, we hear a murmur yonder; we hear a murmur here and a murmur there. Presently the Senator rises and flings his voice around the Senate and the next moment everybody is talking just like him, and Senators think that right which before they had murmured was wrong." 44 Cong. Rec. 4236 (1909).

"Mr. BORAH. Take the....Senator from Rhode Island [Aldrich]. He has been perfectly frank. He has been open and candid. No friend of the income-tax law now dare go home and say to his constituents: 'The Senator from Rhode Island fooled me.' He has been open and above board. He has told you that he brought this measure [the Corporate Tax Act of 1909] here to kill the income tax, and he has told you furthermore that it is an enemy of protection. He has said unhesitatingly that if it is in his power he will throttle it for all time to come. Do you underestimate his influence?" 44 Cong. Rec. 3998 (1909).

During the ratification process there was a great amount of debate over the 16th Amendment. The main point of concern was the Amendment's ambiguous terms. It was the Democrats' idea with the language drafted by specific Republicans who were strongly opposed to it. Aldrich wanted the Amendment to be highly criticized and defeated by the states. This is why it was so poorly written; it was Aldrich's plan "B." The debate was so intense that Senator Borah (Idaho) proposed Senate Resolution No. 175 authorizing a study to be done by the Judiciary Committee to answer the questions for which the amendment was being criticized. See the *New York Times* article The Rejected Amendment, on the next page.

### The Rejected Amendment

"The income tax amendment failed on Tuesday to get the necessary votes in the Assembly [New York Legislature], and that disposes of it for the present session. It may be brought before the Legislature at the next session, but it is not likely, in its present form, to be received with any more favor.

"The chief objection to the amendment, we think, in the minds of the public, as well as its opponents in the Legislature, is that it was hastily drawn, involved a principle of mischievous effect on the interests of the states, and would give rise to indefinite contention as to its real meaning. There was, however, another objection relating not to the substance of the amendment, but to the manner in which it was brought into being. It was originally proposed to the Senate of the United States to save Mr. Aldrich and his associates from defeat on the revision of the tariff. To avoid this, the amendment, together with the corporation tax, was contrived. It was not a nice device - to use no stronger term - and in the exigency existing it was carried out in a bungling fashion. If we are to have the Constitution changed in this matter, it certainly would be better to have it done decently and in order." The Rejected Amendment, N.Y. Times, page 10, May 5, 1910.

"It is far from representing the considered opinion of Congress. No time was spent on it apart from that necessary for the formalities. There was no inquiry, and no discussion worthy of the name. It is a political dodge, adopted from the most questionable of motives. It is part of the price paid for the enactment of a tariff law which was adopted under false pretenses." Editorial, The Income Tax, N.Y. Times, page 10, April 19, 1911.

In my investigation of this subject matter, I looked for Congressional reports and Congressional hearings on the 16th Amendment and found little or none. A congressional report would have disclosed the purpose of the amendment and the reasons behind its wording. There was no report at all from the Senate Finance Committee when it voted the 16th Amendment out of committee. When the House Ways and Means Committee issued a report on the amendment it amounted to only a one paragraph report known as House Report No. 15 recommending approval of the 16th Amendment. I think this lack of scrutiny was scandalous.

One of the major issues of the War of Independence and of the Constitutional Convention was taxation. Had not the compromise been struck over apportionment and direct taxes, the country would have likely come apart after the Articles of Confederation proved to be a failure. Today over 80% of federal government revenue comes from income taxes. To have so much of our federal revenue dependent on such an ill-conceived amendment is outrageous.

"Mr. McCALL. Mr. Speaker, I imagine that nothing which I may be able to say will defeat the prearranged programme and prevent the passage of the joint resolution [on the income tax amendment], but for the House to perform its part in such a solemn transaction as amending the Constitution of the United States without having the form of the amendment seriously considered by one of its committees strikes me as a proceeding in extraordinary levity...I say this amendment should be more carefully considered...The amendment has not carefully been considered by a committee of this House or by anyone else in the United States that I know of." 44 Cong. Rec. 4391 (1909).

I believe this also was by design. Certainly the fruit of this lack of committee review played to Aldrich's favor and to those of the wealth class who sought to control everything. For Aldrich also had

a plan "C." This was in the event that this poorly worded and poorly constructed amendment were to somehow be ratified. Ambiguous in its terms, it could be manipulated later.

"Furthermore, the adoption of the sixteenth amendment, the 'crudest, most reckless bit of constitutional legislation known to our history,' removing the constitutional limitations on the power of Congress to levy taxes on incomes, and 'putting all property and all human effort at the mercy of the government' by authorizing it 'to take whatever it will and in any way it will,' appears to....be an act fraught with grave danger to the liberties of the people and, therefore, a step backward in our progress..., John W. Burgess, *The Reconciliation of Government with Liberty*, 369, New York, Charles Scribner's Sons, (1916)." 31 *Political Science Quarterly* 143, 144 (1916).

The People's intention in supporting the 16th Amendment was honorable and justified. The purpose was to bring tax relief to wage-earners by shifting some of the tax burden onto net incomes from accumulated wealth. Unfortunately, its ambiguous terms would have offended a man like Thomas Jefferson who believed that government should be "bound with the chains of the Constitution." We are blessed in that the Supreme Court did not construe the 16th Amendment in such a way as its critics had feared and as Senator Aldrich must have hoped. Both in the *Brushaber Case* and in the *Stanton Case* the Supreme Court held that the 16th Amendment created no new class of taxes, and that income taxes (on unearned income, gain or profit from business activity) were inherently indirect taxes. Thus, the 16th Amendment did not give Congress any new power, nor did it create a new class of taxation, nor did it grant to Congress power to impose any type of direct tax without apportionment.

This last point will be addressed again in Chapter 6. No, the 16th Amendment did not give Congress any new power, but the IRS and the Tax Court conveniently ignore this and both are out of harmony with the Supreme Court. In a perfect world this would not be the case. But the world is not perfect.

In an editorial, *The New York Times* had this to say about the income tax amendment:

"Senator Root's argument only embarrasses the Republicans. Either they intended to do a bad thing, or else they designed to deceive the people into thinking they were voting to do that thing, but to avoid doing it by argument after enactment. It is bad for a party when people say after too many of their acts, 'stung again.' The tariff should be added to the above list, and then it may be asked how much of this can the people stand because the Republican Party was once the party of great ideas and acts." Editorial, Perfectly Plain and Bad Laws, N.Y. Times, page 8, March 2, 1910.

Well, the average man and woman have been "stung again." Just as the working man paid for the support of government under the protective tariff, while the wealth of the Nation went untaxed, so now the working man is paying for the support of government under our current income tax system. But not only does he support government, he also supports a myriad of "entitlement programs." It is a system so complicated that those in Congress who wrote the statutes and approved their regulations cannot even understand them.

Why? Because the average American has forgotten the words of Wendell Phillips who said, "Eternal vigilance is the price of liberty."

### **Section Three**

A. Senator Brown proposed three income tax amendments, second column.

1. Brown proposed first 16<sup>th</sup> Amendment April 28, 1909 S.J.R No. 25.
2. Apportionment proposition.
3. Not the intent of this amendment to tax individuals.
4. Pollock case in 1895 held that a tax on income was a direct tax.
5. Graduating the income tax.

to continue to intervene by injunction in purely private labor disputes." U.S. v. United Mine Workers of America, 330 U.S. 258, 277-8 (1947).

Although the latter cite relates to a labor dispute, what we have here is a rule of construction whereby when the congressional debate is overwhelmingly uniform, that this debate will be used in determining the intent of a statute. Read the quotes in the appendix of this book and you won't need to wait for the Supreme Court to tell you what the intent of Congress was.

There is an additional issue we must consider on the subject of the hierarchy of legal authority. The highest legal authority in our Nation is the Constitution, being considered "primary authority." But where do we go when we need to determine the intent of the framers of that great document? We go to the Federalist Papers and to Elliot's Debates (Madison's notes) for evidence as to the intent of the framers. In a sense, when the issue is clouded, the Federalist Papers and Elliot's Debates are elevated to a level nearly equal to the Constitution as they become the commentary on that document, for they document the arguments of the authors of the instrument itself.

In the case of an amendment to the organic law, the Congressional Record then becomes the commentary to the organic law in so far as that amendment is concerned. We then don't look to the judicial history for the meaning of the amendment as we normally would do on most other issues where "case law" is authoritative. Instead we look to either the judicial history or political history only to determine what the problem was that created the need for the constitutional amendment, i.e., "the evils sought to be remedied."

"These extrinsic aids may show the circumstances under which the statute was passed, the mischief at which it was aimed and the object it was supposed to achieve. Although a court may make and pronounce findings about the pur-

pose of a statute, or the mischief it was to remedy, without referring to its historical background, knowledge of circumstances and events which comprise the relevant background of a statute is a natural basis for making such findings." Sutherland on Statutory Construction, sec. 48.03 (5th Edition 1992).

Senator Brown of Nebraska proposed the income tax amendment. He actually proposed three of them. The first two versions were rejected as these were out of *harmony* and in conflict with the direct taxation clauses of the original Constitution. When Senator Brown, on April 28, 1909, proposed the first of his three income tax amendments known as Senate Joint Resolution (S.J.R.) No. 25, he had this to say about the *Pollock Case*, about Supreme Court Justice Harlan's opinion on *Pollock*, and the purpose of his proposed amendment:

"Mr. BROWN. Now listen to the justice-

"When, therefore, this court adjudges, as it does now adjudge, that Congress can not impose a duty or tax upon *personal property, or upon incomes arising either from rents of real estate or for personal property, including invested personal property, bonds, stocks, and investments of all kinds* (emphasis mine), except by apportioning the sum to be so raised among the States according to population, it practically decides that, without an amendment of the Constitution—two-thirds of both Houses of Congress and three-fourths of the States concurring—such property and incomes can never be made to contribute to the support of the National Government.

"This is the trouble that confronts the Nation. Unless we have a Constitution about which the courts will not disagree, giving Congress the power to pass this legislation which we favor, Congress is without power to levy the taxes on this vast volume of property, even though Congress might desire to pass such a law. Mr. President, it

ought to make the blood run to our faces when we stop to think that there is not another enlightened nation on the face of the earth that does not have and exercises the power to levy taxes on this kind of property except ourselves...'

"Mr. President, I come now for a moment to the proposition raised by the Senator from Maryland. Upon that question I simply want to demonstrate to him, as well as to the Senate, that as construed now the power of Congress to levy taxes on incomes by apportioning them according to population amounts practically to a denial of the power of Congress to levy such taxes. In the dissenting opinion of Mr. Justice Brown this was shown conclusively. Similar illustrations were made in the arguments to the court. There was shown mathematically the practical impossibility, tested by any measure of approximate justice, to apportion those taxes, and this illustration of the learned justice has never been impeached by word or intimation by anybody disagreeing with him in his general conclusions. On page 688, (second Pollock) the justice makes an application of the law according to population. He says:

"By the census of 1890, the population of the United States was 62,622,250. Suppose Congress desired to raise by an income tax the same number of dollars, or the equivalent of \$1 from each inhabitant. Under the system of apportionment, Massachusetts would pay \$2,238,943. South Carolina would pay \$1,151,149. Massachusetts has, however, \$2,803,645,447 of property, with which to pay it, or \$1,252 per capita, while South Carolina has but \$400,911,303 of property, or \$348 to each inhabitant. Assuming the same amount of property in each State represents a corresponding amount of income, each inhabitant of South Carolina would pay in proportion to his means three and one-half times as much as each inhabitant of Massachusetts. By the same course of reasoning, Missis-

issippi, with a valuation of \$352 per capita, would pay four times as much as Rhode Island, with a valuation of \$1,459 per capita.'

"Mr. President, no man in this Chamber need have any doubt about how the apportionment proposition would work. All we need to do to be satisfied is to recall what would happen in our own States if the tax were to be distributed between the counties according to population. It is the theory of the friends of the income-tax proposition that property should be taxed and not individuals [emphasis mine]. I do not believe the fathers ever contemplated that income taxes must be apportioned according to population, but the courts have said that they did. I am here today presenting an amendment to the Constitution which will compel the courts to announce the contrary doctrine." 44 Cong. Rec. 1570 (1909).

Earlier that day Senator Brown said in reference to the *Pollock Decision*:

"It is sufficient for the purpose that I have in mind this morning to say on that subject that I am in full accord with the proposition of laying some of the burdens of taxation upon the incomes of the country, but I raise this morning for the purpose of challenging the attention of the Senate to the fact that the Constitution of our country stands today in need of an amendment upon this subject if we are to have an income-tax law at all about the validity of which there can be no question.

"...Our courts [as in *Pollock*] have demonstrated a faculty to change their opinions on this question, for they have decided it at different times different ways, and while we might hope and believe that that decision would be permanent, no man can justify a conclusion with any certainty that it would be permanent.

"It is for that reason, Senators, that I present to you today the imperative and commanding necessity for an amendment to the Constitution which will give the court a Constitution that can not be interpreted two ways. I undertake to say that the people of the United States have a right to have an opportunity to amend the Constitution and to make it so definite and so certain that no question can ever be raised again of the power of Congress to legislate on the subject." 44 Cong. Rec. 1568 (1909).

We see from the very beginning, it was the purpose of Congress to offer to the People the opportunity to overturn the *Pollock Decision* so that, as this quote states, incomes from rents of real estate and personal property including bonds, stocks and investments could be taxed. If Senator Brown wanted his income tax amendment to be "so definite and so certain that no question can ever be raised again," he shouldn't have let Senator Aldrich get his hand in the process.

Brown also affirmed that it was not the intent of his amendment to tax individuals. Nor could any such amendment without alternative language tax the wage or salary of a man. As we know from Adam Smith's *Wealth of Nations*, a tax on the wage or salary of person is a capitation tax. Capitation taxes are outside the scope of the 16th Amendment. Nowhere in any of the congressional debates on the 16th Amendment did anyone ever challenge the authority of Adam Smith, who was by far the most quoted of all authorities.

Senator Brown also published a paper as to the purpose of the 16th Amendment. This paper can be found in the appendix of this book and at Senate Document No. 705, 61 Congress, 1910 and is entitled, Shall the Income-Tax Amendment be Ratified. *Sutherland on Statutory Construction* tells us at section 48.12, 5th Edition: "Commentaries of persons intimately involved with drafting of legislation are entitled to weight in interpretation of a statute." Senator Brown wrote in this document:

"It would not be necessary to eliminate this rule of apportionment except for the decision of the Supreme Court of the United States, in what is known as the Pollock case, decided in 1895, which held that a tax on incomes was a direct tax.

"The effect, therefore, of the proposed amendment, if ratified, will be to restore to the people and to the Government a power for many years exercised by them in national emergencies to tax income without apportionment.

"The sole question, therefore, presented by the amendment, and the sole consideration involved in its ratification or rejection, is whether of not the United States, the foremost nation of the world, shall be clothed with this prerogative of national sovereignty - the power to tax incomes according to their value and without regard to apportionment among the several States according to population."

Notice that in the previous paragraph Senator Brown said the amendment would allow Congress to "tax incomes." If the purpose of the Amendment was to "tax people" don't you think he would have said so? Brown goes on to list those things that would be taxed.

"The growing objection to the tax on consumption [the protective tariff] is vitalized by the fact that such a tax discriminates against those least able to pay the tax and in favor of those whose ability to pay the tax is unquestioned and whose protection from the Government is so much greater because of their larger property requires and receives a larger measure of protection. When the government seeks to lay a tax for its defense or support on the incomes of the country, it should reach all incomes. If the income arises from an investment in lands, it should be taxed; if it arises from investments in manufacturing enterprises, in railroads, in banks, in newspapers, in the mercantile business, or in steamship lines, it should be taxed.

**"Why should an income arising from an investment in State or municipal bonds not be taxed? Why should the holder of these securities enjoy his income free from any contribution to assist this Government, which protects him and his property no less than it protects other people owning another class of property? Why should he escape and other people be compelled to pay?"** *Id.* at 7.

Senator Brown didn't say a word about taxing wages or salaries. His entire argument dealt with taxing income from property, either real or personal. The totality of Senator Brown's argument focused on the very items that were at issue in the *Pollock Case*. The entire purpose of the income tax amendment was to bring tax relief to those who earned wages and paid a greater proportion of their earning in taxes under the tariff system (tax on consumption) and therefore to place a greater tax burden on the accumulated wealth and investments of the country.

At this time in our history most of the people from the wage earning class kept what little savings they had in mutual savings banks and building associations. These were banks that were generally owned by their depositors and that focused on providing mortgages to the lower classes.

These banks were very popular and very profitable. Yet in the 1894 income tax statute, in the Corporate Excise Tax of 1909, and in the first income taxing statute from 1913 passed under the authority of the 16th Amendment these banks were exempt from each of these taxing statutes. In 1894, 1909 and 1913 there was great public outcry directed at Congress to exempt these banks as an income tax on the profits of these banks would indirectly be an income tax on the depositors who were "wage-earners." (See the many quotes from the Congressional Record at the end of this chapter and in the appendix.) This public outcry and the resulting statutory exemptions granted over this 19 year period

provides conclusive evidence that it was not the intent that income taxes were to be paid (not even indirectly) by those who only earned a wage or salary.<sup>1</sup>

The American people were well aware that any income tax amendment to the Constitution was a Democratic party proposition, as the Republican party had fought the income tax tooth and nail. There was a presidential election the year before the income tax amendment was sent out to the states for ratification. Harry Truman said, "Platforms are contracts with the People." We all should remember the "Contract with America" of the Republican party that resulted with the so-called "Republican Revolution of 1994." Contracts are the basis of all human relations and even our relationship with our Creator. When contracts become meaningless, organized society ceases to exist. Now in the case of contracts, should our political leaders set the example for us, or do we expect them to be the worst offenders?

In the presidential election of 1908, the Republican party platform was silent on the income tax issue. The Democratic party platform had this to say:

**"We favor an income tax as part of our revenue system, and we urge the submission of a constitutional amendment specifically authorizing Congress to levy and collect a tax upon individual and corporate incomes, to the end that wealth may bear its proportionate share of the burdens of the Federal Government."** 44 Cong. Rec. 3309 (1909). (This text from the Democratic party platform of 1908 was quoted in the Congressional Record at least a dozen times during the income tax debates.)

It is not the intent of this book to create a class warfare and to beat up on the wealthy. Most of us aspire to be wealthy someday. On the other hand, some of the wealthy, both today and in 1909, accuse those who support an income tax as being socialistic. There is balance in the middle, and this is what the majority of the American people and those members in Congress who supported the

income tax amendment were trying to achieve. The latter's argument and purpose was to have wealth pay for its share of the expense of supporting government in proportion to the benefit wealth received from government. That is not socialistic. What becomes socialistic is to graduate the rate of the income tax. By graduating the income tax, wealth pays more for government than it receives in benefits.

Our world has changed dramatically in our lifetimes. But back in 1909, their world was only just beginning to change. In 1909, the horse and buggy was everywhere and the automobile was a novelty. Back then the thoughts of Indian warriors, bank robbers who hid out in the wilderness and pirates on the seas were not only old stories in one's memory, but were contemporary with the people of that time. The American People understood the primary function of government was to provide protection for life, liberty and property. Government served to protect the citizenry from these predators. What the citizen paid to government in taxes was actually more of an insurance premium for the protection the citizen received from government. Today we pay "protection money" to government to keep government away from us as government is now the predator.

All property therefore benefitted from the protection of government. Think of a fire district. Does a 100 unit apartment building receive a larger or smaller benefit from the existence of a well equipped and well funded fire district than that of, say, a single family dwelling? Of course the apartment building receives a greater benefit and the owner of which should therefore pay a greater amount for the support of the fire district than the owner of the single family dwelling. The thinking of Congress was that those who possessed wealth in the millions should pay more for the greater benefit they received from government than those

whose net worth was only a few hundred dollars. Remember at the time nearly all the revenue collected by the federal government was from taxes on consumption.

**"Mr. DIXON. ...In 1872 Senator Sherman said in the Senate:**

**'A few years of further experience will convince the whole body of our people that a system of national taxes which rests the whole burden of taxation on consumption and not one cent on property or income is intrinsically unjust. While the expense of the National Government is largely caused by the protection afforded to property, it is but right to require property to contribute to the payment of those expenses. It will not do to say that each person consumes in proportion to his means. This is not true. Everyone must see that the consumption of the rich does not bear the same relation to the consumption of the poor as the income of the one compares with the wages of the other. As wealth accumulates this injustice in the fundamental basis of our system will be felt and forced upon the attention of Congress.**

**'The income tax is a measure of justice. The people will pay in proportion to their financial ability to pay. It will tax wealth in proportion to its abundance rather than poverty according to its necessities. Federal taxation is not levied upon the wealthy of the country. It is imposed by way of taxes, internal-revenue duties levied upon liquors and tobacco used, and the import duties levied upon the clothing used and articles necessary for their comfort. The millionaires pay only on what they eat, drink, wear, and on what they use, and this is true of the poorer citizens likewise.**

**'The wealthy man makes no other contribution to the support of the Government; nothing for the army which protects his wealth; nothing for the judiciary which settles his property rights; nothing to the support of the adminis-**

→ **Sixteenth Amendment.** An amendment of 1913 to the U.S. Constitution which permits Congress to tax incomes "from whatever source derived," thus nullifying the Supreme Court's decisions in *Pollock v. Farmers' Loan and Trust Co.*, which had declared that an income tax was a direct tax, which would be constitutionally valid only if apportioned among the States according to population. ←

**Source.** That from which any act, movement, information, or effect proceeds. A person or thing that originates, sets in motion, or is a primary agency in producing any course of action or result. An originator; creator; origin. A place where something is found or whence it is taken or derived. *Jackling v. State Tax Comm.*, 40 N.M. 241, 58 P.2d 1167, 1171.

→ *The source of income.* Place where, or circumstances from which, it is produced. *Union Electric Co. v. Coale*, 347 Mo. 175, 146 S.W.2d 631, 635.

**Sources of the law.** The origins from which particular positive laws derive their authority and coercive force. Such are constitutions, treaties, statutes, usages, and customs.

In another sense, the authoritative or reliable works, records, documents, edicts, etc., to which we are to look for an understanding of what constitutes the law. Such, for example, with reference to the Roman law, are the compilations of Justinian and the treatise of Gaius; and such, with reference to the common law, are especially the ancient reports and the works of such writers as Bracton, Littleton, Coke, Fleta, Blackstone, and others.

**Derive.** To receive from a specified source or origin. *Crews v. Commissioner of Internal Revenue*, C.C. A.10, 89 F.2d 412, 416. To proceed from property, sever from capital, however invested or employed, and to come in, receive or draw by taxpayer for his separate use, benefit, and disposal. *Staples v. United States*, D.C.Pa., 21 F.Supp. 737, 739.

→ **Derived.** Received from specified source.

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WHAT IS THE SPECIFIED SOURCE THAT IS TAXABLE?

## **WHO WAS PHILANDER KNOX?**

### **IS IT CREDIBLE THAT HE WOULD COMMIT FRAUD?**

*Understanding a crime or a misdeed involves learning not only what was done and who did it, but also what the motivation was. With a clear motive, evidence of the "what" and "who" becomes much more credible. Allegations that Secretary of State Philander Knox was not merely in error, but committed fraud when he falsely declared the 16th amendment ratified in 1913, require us to look at who he was to understand why he would commit such an act. The following sketch was prepared by the We The People Foundation For Constitutional Education and is condensed from Bill Benson's research report on the ratification of the 16th Amendment, "The Law That Never Was," Volume II (1985), pages 122-135.*

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Philander Chase Knox was born in 1853 in western Pennsylvania, son of a bank cashier. While attending college in Ohio, he became closely acquainted with William McKinley, then the local district attorney, who was prosecuting a local tavern owner for selling alcohol to the college students. Knox took McKinley's advice and became a lawyer.

McKinley, having chaired the powerful House Ways and Means Committee in Congress, was elected governor of Ohio in 1891. Although he owed his election to support from both business and labor, he quelled the labor strike called by Eugene V. Debs against the Great Northern Railroad in 1894 by summoning federal troops.

McKinley won the 1896 presidential race with a great deal of support from Big Business, e.g., John D. Rockefeller's Standard Oil contributed \$250,000 to the "front porch" campaign that defeated Bryan and his populist platform of returning to the constitutionally mandated monetary system and reform of McKinley's high tariffs that had allowed domestic manufacturers to raise their prices to a level that matched the artificially-induced higher prices of foreign goods, thus causing a severe depression. Knox helped in this financial and political effort that was directed by the wealthy Ohio industrialist Mark Hanna, who was appointed to a vacant U.S. Senate seat the following year by Ohio's governor. McKinley had already been saved from personal financial ruin by help from his old friend, Philander Knox, who had become wealthy as counsel to the very wealthy.

Knox came to be regarded as one of the ablest lawyers in the country, his repute due in no small measure to his being counsel for Carnegie and Vanderbilt and their corporate enterprises. He was instrumental in Carnegie's big victory in a crucial patent case in which the most important invention for the manufacture of crude steel was at stake. In 1892, he defended Henry Frick, Carnegie's steel plant manager, who was being sued by the steel workers who had been beaten up by Pinkertons brought in by Frick during the infamous Homestead strike, a strike that was provoked by two of Carnegie's presidents, one of whom was also an attorney for J.P. Morgan. Knox also deflected prosecution and civil suit against Carnegie in 1894 after it was shown to Congress that Carnegie had defrauded the Navy with inferior armor plate for U.S. warships. Morgan himself had defrauded the U.S. Army in arms sales during the Civil War. And Knox averted prosecution of Carnegie after the president of the Morgan-controlled Pennsylvania Railroad testified that Carnegie had regularly received illegal kickbacks from the railroad. Knox's other big client at the time, the Vanderbilt family, was connected to Carnegie primarily through the railroad industry.

President McKinley offered Knox the post of U.S. Attorney General in 1899, but Knox had to

decline, because he was then and for two more years engaged in arranging the merger of the railroad, oil, coal, iron and steel interests of Carnegie, J.P. Morgan, Rockefeller, and other robber barons into the largest conglomerate in history - U.S. Steel. This immense corporation encompassed the interests of nearly all the robber barons in what Knox's new client, J.P. Morgan, referred to as a "community of interest." One important component of the conglomerate was Consolidated Iron Mines in the Mesabi Range of Minnesota, which Rockefeller had fraudulently swindled from the Merritt family, who later successfully sued John D. for fraud, but had to settle for a fraction of the award because they ran out of money during Rockefeller's appeals.

After the U.S. Steel merger, Knox accepted McKinley's offer to make him Attorney General, an appointment that was personally promoted by Carnegie in a letter to McKinley and by Morgan in a personal visit to the White House. The appointment was strenuously and loudly opposed by anti-trust forces, since it would then be up to Knox to prosecute anti-trust law violations against the very robber barons who had been his clients for many years and who had made him a wealthy man. Sure enough, the public outcry to investigate the big new U.S. Steel monster that Knox had created met with Knox's response that he knew nothing and could do nothing, and nothing is what he did.

After McKinley's assassination in 1901, Knox continued as Attorney General under Theodore Roosevelt. Even though Roosevelt labeled himself as a "trust-buster," Knox saw to it that very little harm came to his benefactors. U.S. Steel was unscathed, and most of the actions that were taken against the railroad companies were largely done with the urging of the railroad giants themselves, who were the strongest advocates of federal regulation of the industry, because that regulation, with their own agents working in the federal commissions, enabled them to gain greater control over the industry, be protected from competition, and maintain prices. The best-known anti-trust case was against Northern Securities, a railroad holding company formed by Morgan as a show of strength for the benefit of Hill, Harriman, Rockefeller, and their bankers, Kuhn, Loeb & Company. The dissolution of Northern by the Supreme Court in 1904 was deemed "inconsequential" by the financial press, since the two major railroads it encompassed had not been competing anyway, and the defendants ended up suffering no loss. Knox, of course, did not pursue any of the criminal sanctions that he should have undertaken against his former allies and clients, but the case gave the appearance that Roosevelt was doing something and was a public relations success for the president. But Roosevelt, while touting himself as an anti-trust champion, disparaged and labeled as "muckrakers" those journalists who actually investigated and exposed the corrupt activities of the robber barons.

Harriman's great fortune had been acquired through a series of fraudulent maneuvers, key of which was legislation signed by Roosevelt, at that time governor of New York, allowing New York banks to invest in railroad bonds being sold by Harriman and his partners at inflated prices. Hill profited enormously from fraud, deceit, and outright theft involving vast amounts of public lands that were given to the railroads and then resold, or raped and then traded to the government for new lands. The Vanderbilt fortune had also gained greatly from fraudulent maneuvers involving railroad securities and Cornelius's evasion of taxes. When all this was investigated after Cornelius's death, Morgan came to the Vanderbilt's rescue (managing to take control of their New York Central Railroad in the process).

Knox persuaded Roosevelt that the anti-trust laws should be accompanied by increased regulation of business. He advocated and drafted federal statutes that gave his rich and powerful friends even more power and control over interstate commerce - setting rates and eliminating competition in restraint of trade - all under federal authority and with agents of the conglomerates appointed to and sitting on the governmental boards and commissions. This plan derived from and implemented a strategy set by

Morgan and the other robber barons at a meeting in 1889. Knox continued in this vein as a U.S. Senator from Pennsylvania, being appointed to a vacant seat by Pennsylvania's governor in 1904 at the behest of several powerful capitalists, including Carnegie's man, former client Frick (which showed they approved of Knox's handling of anti-trust matters as Attorney General).

Knox, by now a multi-millionaire, was in the Senate when the Morgan-controlled financial Panic of 1907 hit, which led to a congressional inquiry into the monetary and banking systems. Senator Nelson Aldrich (father of the wife of John D. Rockefeller, Jr. and namesake and god-father of Nelson A. Rockefeller) led the inquiry producing the 1912 report that recommended a national bank (controlled and owned by the robber barons) and ultimately resulted in the Federal Reserve Act of 1913, co-authored by Aldrich and Robert Owens. Owens later testified to Congress that the banking industry conspired to create financial panics like the one in 1907 in order to rouse the people to demand reform - reform that would be directed by, and to the benefit of, the very financial experts who had caused the panic.

Knox resigned from the Senate and became Secretary of State under President Taft from Ohio in 1909. He was the most powerful figure in the Taft administration, and drew up the lists from which Taft appointed his other cabinet members, many of whom were intimately concerned with the giant corporations. He was Taft's primary confidante.

Knox became active in organizing the international court at The Hague, and fought hard for the Rockefeller/Morgan-inspired concept of a League of Nations, although U.S. opposition to the Treaty of Versailles forced him to temper his public views on the League. He proclaimed the era of "Dollar Diplomacy," his legacy to U.S. foreign policy, under which the Secretary of State's office was used to promote and protect American commercial and industrial interests in foreign countries, especially in Latin America, but also in East Asia and even Europe. This period of U.S. imperialism featured the annexation of Hawaii in the 1890s at the request of American businesses there despite the unanimous opposition by Hawaiians; the taking of Cuba and the Philippines from the Spanish as well as from the native rebels whom the U.S. had ostensibly come to assist in gaining their liberty (this included the massive slaughter of a hundred thousand Filipinos by the U.S. Army in a war in which the news media was censored. (even William Randolph Hearst, who had helped instigate the war with Spain, was aghast and disgusted.) Then came the Honduras financial crisis of 1909, in which Knox brokered a deal for J.P. Morgan & Company to make huge loans to that country, backed by the full faith and credit of the U.S., and for American bankers to take control of the Honduras taxing authority (to ensure adequate cash flow to make the loan payments). Knox's diplomatic maneuvers resulted in the U.S. Navy being sent to support and give victory to rebel forces in Nicaragua, who then made arrangements, again devised by Knox, to give control of Nicaraguan taxing authority and tax collection to Americans. American bankers then immediately made big loans to Nicaragua, once again guaranteed by the U.S. government, providing a risk-free investment environment for Knox's banker friends.

Knox tried to conduct the same kind of activity in the rest of Central America and much of South America as well, and used America's claim against the Chinese from the Boxer Rebellion to coerce China to deal with a syndicate of Harriman and his bankers Kuhn & Loeb, Morgan and his First National Bank, and the Rockefeller-controlled National City Bank, instead of with the British, French, and Germans, in a scheme to establish a round-the-world transportation system using American steamship and railroad lines. There was even action by Morgan's man in that syndicate, Henry Davidson, to supply arms to the Bolsheviks in hopes of gaining oil and commerce concessions in Russia if they were victorious.

At the international level, Knox has been criticized for oafish and heavy-handed diplomacy that caused ill will and damaged the reputation of the United States worldwide. His conduct was more that of a huckster than a diplomat. Domestically, Knox's influence extended to the Supreme Court, where he succeeded in having Taft appoint three justices who were extremely sympathetic to the big business trusts: Devanter, Lamar, and Pitney. The first two of these had formerly had clients among the big corporate trusts, including the railroads.

The 16th Amendment itself was given its decisive shove through Congress in 1909 by Sen. Nelson Aldrich of Rhode Island (co-author of the Federal Reserve Act of 1913), who spoke for the "community of interest" of both Morgan and Rockefeller. This represented and led to an astonishing reversal of attitudes among the old-line big-business conservatives in the Senate, who had long staunchly opposed an income tax. Obviously, something was afoot to change their minds. It was that the robber barons had already figured out how to avoid the proposed income tax, especially through the establishment and use of foundations, the number of which grew from 18 in 1910 to 94 by 1920 and 267 by 1930. The super-rich have avoided the income tax ever since, leaving it to be paid instead by the middle and lower classes.

## CONCLUSIONS

Deceit and fraud were, for the robber barons, standard operating procedures - among the numerous underhanded methods they typically employed to achieve their objectives. Knox had protected them from fraud charges many times. His term as Attorney General was itself a big fraud in regard to enforcement of the anti-trust laws, especially against former clients to whom he owed so much of his own professional success.

Besides preying on the government with their fraudulent activities, the robber barons employed a strategy of locking in and stabilizing their advantageous positions by using government authority and regulations to reduce competition, keep prices at very profitable levels, control labor problems, minimize risk, and generally make themselves quite comfortable. They also expanded their scope of operations, including financing and extension of credit, to other countries and used government to aid them in these adventures. Knox, of course, was a key man, perhaps the key man, in the Administration in all of this, both as Attorney General and then as Secretary of State.

J.P. Morgan seems to have been the real genius and visionary behind much of this strategy. His background was more oriented to finance, and his financial acumen enabled him to make inroads against the other robber barons on their own turfs - a robber baron's robber baron. He was regarded as more cultured and cosmopolitan than most of the others, and perhaps that is why he was able to envision and plan on such an international scale. His financial perspective helped him to see the benefits of making monetary loans to governments and securing them with strong and reliable methods of tax collection.

One might wonder why Knox seemed to be in such a hurry in 1913 to declare the 16th amendment ratified. We can see that it was because of the Federal Reserve Act of 1913. It was important to the banking interests that would be lending money to the U.S government that there be an assured flow of revenue, especially since the robber barons would be removing themselves from the income tax system. Just as an ordinary bank wants to know that a borrower who is given a mortgage has a cash flow adequate to meet the payments, so the banks comprising the Federal Reserve System wanted to be sure the federal government had a dependable method of tax collection in place to provide ample

money to pay its debts to them. The income tax and the Federal Reserve are inextricably tied together; it was not mere coincidence that they happened in the same year. The robber barons, their bankers, and Knox had developed this concept and practiced it in Latin America, and in 1913 they were ready to apply it to the United States.

In less than a month after proclaiming the 16th amendment ratified, Knox returned to private practice in Pittsburgh, resigning as Secretary of State so that the new president, Woodrow Wilson, could appoint his own man to the post.\* One gets the distinct impression that getting the amendment through the ratification process had indeed been his ultimate goal; he wasn't just a disinterested public official objectively administering the procedure. If he hadn't declared it ratified before leaving office, there was no way to know or control what his successor would do.

The title of this piece asks whether it's credible that Knox would commit fraud in ratifying the 16th amendment. We leave it to readers to decide for themselves, but for us, it seems like a "no-brainer." He would and he did.

\*Taft's brand of republicanism had upset Roosevelt enough that the latter ran again for President in 1912. His third party "Bull Moose" candidacy spoiled Taft's re-election, and Democrat Wilson won.

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**The Law That Never Was**  
**— The fraud of the 16th Amendment and personal Income Tax —**  
**by**  
**Bill Benson and M. J. 'Red' Beckman**

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## Opening Argument

The narratives which follow were written to provide the basis for testimony in court. That's why the writing style is somewhat dry and technical, and that is also why each narrative, whenever applicable, repeats a major principle involved in the charge of fraud brought in this book, the principle of concurrence, which requires any State Legislature that would presume to cast its vote in favor of the ratification of any amendment to our Constitution must do so only in complete agreement with, and to, the exact form of the amendment as presented to them in the certified copy of the Congressional Joint Resolution including every punctuation mark. This principle is mentioned in the foregoing memorandum of February 15th, 1913 written by the Solicitor of the United States Department of State to Philander Knox, the Secretary of State.

The office of the Solicitor of the Department of State was, and is, the office of the general counsel for that department of the federal administration. One of its primary functions is to provide legal advice for the benefit of the Secretary of State. Secretary Knox, himself a lawyer and former U. S. Senator, received such legal advice, in several memorandums, from his Solicitor concerning the status of the ratification of the proposed Sixteenth Amendment.

The argument employed by the Solicitor to justify the discrepancies in the copies of the resolutions purportedly ratifying the proposed Sixteenth Amendment, which were transmitted by the States to Washington, is undergirded by the assertion that since the Fourteenth Amendment had "been repeatedly before the courts," and that, since, on those occasions, the courts had enforced the provisions of that amendment, the courts had, therefore, acceded to the "errors" made in the ratification of that amendment. There is an obvious problem of logic in this line of reasoning. To have a statute or a Constitutional provision before a court is not the same thing as having the method, by which a statute or a constitutional provision came into being, before a court. Furthermore, the Solicitor, nor any of his successors, ever brought any of this nonsense before a court. The Solicitor thereby turned the acceptance of the "errors" committed in the purported ratification of the Fourteenth Amendment into "a precedent which [might] be properly followed in proclaiming the adoption" of the proposed Sixteenth Amendment. Any change in amendments proposed to the States was to now be considered an "error" and all "errors" were acceptable. This is a hard one to swallow all by itself, but, in addition, nowhere, in this memorandum, does the Solicitor even suggest that the Secretary of State ought, with all due diligence, to check and make sure that the duly noted discrepancies were by mistake, and not intent. Instead, the Solicitor presumes that it was the intent of each and every Legislature, flawed ratification resolution or not, to have passed upon the exact wording and that changes in wording were "probably

inadvertent." The Solicitor rationalized this cavalier attitude by stating that the various Legislatures did not intend to reject the amendment by these changes. This is an incredible statement in light of his unequivocal pronouncement immediately preceding that "a legislature is not authorized to alter in any way the amendment proposed by Congress, the function of the legislature consisting merely in the right to approve or disapprove the proposed amendment." In other words, the Solicitor advised the Secretary of State that, while intentional alterations were not acceptable, alterations by way of "error" were.

How did the Solicitor know that the changes made to the proposed amendment were "errors" as opposed to intentional changes? According to the Solicitor, it was a "necessary presumption" that the Legislatures did not do something that they weren't allowed to do. Apparently, this presumptive attitude led both the Solicitor and the Secretary to ignore the evidence of not only the intent to change the wording, but of gross misconduct and fraud. This was a natural outgrowth of the seemingly official policy which undertook to label all of the evident problems in the copies of State action received in Washington as "errors" and to accept them as such without any further investigation.

In the case of the purported ratification in the State of Kentucky, Philander Knox did request those parts of the Kentucky journals which showed the events relating to the purported ratification. If Secretary Knox had an inkling that there might be something amiss in the State of Bluegrass, after he had received a copy of a paraphrased extract of the journals and of the journals themselves, Mr. Knox could have had no doubt. The paraphrased extract showed a vote in the Senate of 27 in favor and 2 against. The official journal showed a vote of 9 in favor and 22 against. Having been presented with an undeniably damaging situation in only the second State to ratify, Knox decided to ignore the entire matter. This was probably due to the opinion rendered in this matter by the Solicitor on March 21st, 1912.

After the Solicitor had an opportunity to inspect the extracts (it is not evident whether Knox showed him the official journals), he delivered an opinion in which he made a great show of the authenticity and acceptability of the extracts. Based strictly upon the extracts, of course, the Senate of the State of Kentucky seemed to have voted in favor of the ratification resolution. The official journal showed otherwise. Neither Philander Knox nor his Solicitor further communicated with anyone from the State of Kentucky for the duration of the ratification process.

An enormous hole in the Solicitor's logic about presumptions of errors as opposed to deliberate changes in the wording, capitalization and punctuation of the proposed amendment cannot be covered up as easily as he might have liked. That hole was created by all those certified copies of Senate Joint Resolution No. 40 which were sent out to the Governors of each State, sometimes more than once. Those certified copies and the acknowledgements of their receipt by the Governors had one function—namely, to ensure that Knox knew that each State had possession of the exact text of the proposed amendment and that each Governor knew that he had the exact text of the proposed amendment. Why? To eliminate any possibility that anyone could claim that the States didn't have the exact text of the proposed amendment. The Governor of a State was the logical, official receiver of these certified copies because—

1. he was the chief executive of his State and, thus, finally, responsible for his State's handling of such matters

2. his Secretary of State would be involved in the final certification process
3. sending a certified copy to each of the legislators would have made for a very messy acknowledgment procedure

The Governor of Kentucky contended that a Legislature would not have proper jurisdiction of the amendment if the Governor did not transmit the certified copy to his Legislature. This transmission was an important link in the chain of evidence that the exact text of the proposed amendment contained in the certified copy of the Congressional Joint Resolution was properly passed on to the next holder in due course of that highly important legislative material. For a Legislature, the subject matter of an amendment to the Constitution of the United States is somewhat akin to the subject matter in a special session of the Legislature—the only jurisdiction of subject matter over which the Legislature may exercise legislative control is the subject matter presented to the Legislature by the Governor for that special session.

Knox did send certified copies to each Governor. Knox did receive acknowledgments from almost every Governor. Upon receipt of an acknowledgment, Knox then knew absolutely that that State's Governor possessed a certified copy of the resolution from Washington, D. C. Most Governors also acknowledged that they would transmit the certified copy to their Legislatures. Here the presumption could reasonably be held that those Governors would do their ministerial duty and transmit those certified copies to their Legislatures. Knox and his Solicitor could then not presume that discrepancies in the text of the legislative actions returned were errors. They were bound to presume that those discrepancies were in fact deliberate changes, because each and every one of the Legislatures had the exact text, which the Solicitor states could not be changed "in any way," before them for consideration. Checking through any particular Legislature's ratification action, letter for letter, comma for comma, did not take more than one-half hour in any case, yet the Solicitor is more than forgiving to the States for their "typographical" "errors" which were "incident to an attempt to make an accurate quotation." If these changes by the various States were attempts to make accurate quotations, one has to wonder what they would do if they weren't so diligently trying to be accurate?

An enrolled bill is "a final copy of a bill or joint resolution which has passed both houses of a legislature and is ready for signature." Black's Law Dictionary, 5th Ed. It is presumed that the text in an enrolled bill is what the legislators intended to enact. Philander Knox and his Solicitor knew this rule of legislation very well. And with a running leap, they flew in the face of this presumption of legislative intent in an obvious, brazen and successful attempt to jam this amendment down the throats of the American people.

Finally, on the topic of "errors," the Solicitor completely ignored the subject of the preamble of Senate Joint Resolution No. 40. He did ignore the "errors" made on the preamble of the Seventeenth Amendment (memorandum of May 10th, 1912). As the preamble to the Constitution of the United States itself explains the intent of the framers so does the preamble to the resolution proposing an amendment to that Constitution. It is impossible to give assent to the wording without also having given assent to the intent. And as the various original thirteen States had to agree to the preamble, the statement of intent, as well as to the body of the Constitution, so do all States in any subsequent modification of that Constitution have to agree to the statement of intent of

any proposed amendment.

Another problem highlighted by the State of Kentucky which the Solicitor tried to address, in a memorandum dated April 20th, 1911, was that of the signature of the Governor, or rather, the lack of it. The official journals of Kentucky showed that the Governor vetoed the only version of the Kentucky Legislature's ratification resolution which passed both houses. He had two reasons for the veto—one, the resolution which the Senate had passed was not the same as the one which the House had passed, and, two, the Legislature did not have jurisdiction of the matter until after the Governor had transmitted the certified copy of the Congressional Joint Resolution to that body. In the passage of the resolution which the Solicitor claims was valid, the official journal shows that the Senate rejected the resolution. This is why the Governor's signature was not required in that situation. Had the resolution validly passed both houses, the Governor may very well have signed it, but, it did not pass both houses—an excellent reason for him not to have signed it.

The Solicitor made the statement that the situation existing at the time of the framing of the Constitution "would seem to indicate that the framers did not contemplate that the Governors should participate with the Legislatures in the approval of Amendments to the Constitution." He then cites with approval a statement of a previous Governor of Massachusetts to the effect that a Governor's signature is unnecessary to the action of the Legislature in the ratification of an amendment to the Constitution of the United States. (at 3) He also cites Mason, *The Veto Power*, in trying to explain veto power—

A resolution to amend the Constitution must already have received a two-thirds vote of each branch of the Legislature. Such a resolution is therefore beyond the reach of the veto and consequently beyond the necessity for the Presidential approval. (at 7)

In other words, because any Congressional resolution vetoed by the President requires a two-thirds vote to overcome that veto, the requirement of a two-thirds vote in the case of a Congressional resolution to amend the United States Constitution is considered evidence that a Presidential veto would be of no effect and, in that regard, and that regard only, relieves the President of any duty relative to such a resolution. But, the Solicitor denied that the same situation existed in the States—

... the same reasoning does not apply in the case of the Governor of a State because the United States Constitution does not require that the resolution of the State Legislature approving the amendment to the Constitution must receive the required number of votes to pass a bill over the Governor's veto. (at 7)

The Solicitor, still arguing against the necessity for a State Governor's approval of a ratification resolution, then goes on to say—

... the Constitution of the United States does not require two-thirds vote of the Legislature to a resolution amending the Constitution. If there is any conflict between the State and the United States Constitutions the former must yield. (at 9)

There is no provision in any State Constitution relative to the vote on a State resolution in ratification of an amendment to the Constitution of the United States. Under the Solicitor's reasoning, however, the provision in the United States Constitution providing for a two-thirds vote in the Congress in passage of a resolution to amend

the United States Constitution would then also apply to the States, so that, in the passage of a State resolution on ratification, the Governor's veto would, in like manner to the veto of the President, be made of none effect. The State Legislatures must, indeed, yield to the United States Constitution in this matter of a two-thirds vote.

The Solicitor then goes on to say—

... the argument might be advanced that the State Constitution requires the approval of the Governor of the laws of the State only and that neither the resolution passed by the Legislature approving the amendment to the Constitution of the United States nor the amendment itself can be said to be a State law, and, therefore, the requirement of the Governor's signature is not necessary.

Unfortunately, for the Solicitor's contention, in most of the States which claimed ratification of the Sixteenth Amendment, the resolutions or bills which were passed, supposedly signifying the act of ratification, made their official appearances in the published session laws journals of each of those States. They were intended to be State laws and the proof is in these official State publications.

Additionally, the great majority of the legislative acts in supposed ratification of the proposed Sixteenth Amendment were joint resolutions of the State Legislatures. A few were concurrent resolutions, some were considered joint and concurrent resolutions and some were bills. The terms bills and joint resolutions are interchangeable. Even the Solicitor uses the terms interchangeably in his memorandum of April 20th, 1911 (at 8, 12, 13; see also *How Our Laws Are Made*, at 7). Under virtually every State Constitution, legislation which is to become law must be presented to the Governor for approval. Concurrent resolutions, generally, are not accorded that treatment, but, if such resolutions are treated as bills then the proper procedures apply. Thus, in that the great majority of the State Legislatures chose to attempt to ratify the proposed Sixteenth Amendment via the vehicle of either the joint resolution or the bill and to pass those resolutions into law, those legislators evidenced an intention that their Governor have veto power over their acts. Again, the proof of this is in the publishing of these acts in the session laws of the State. They intended to pass a State law, they advanced legislation which must be passed like a State law and they published that legislation as a State law. The Governor's signature did have significance. If he signed, he approved. If he did not sign, then the following three scenarios are possible—

1. he vetoed the bill or joint resolution
2. he did not sign the bill or joint resolution and let it pass through a lapse of time as provided in all State Constitutions
3. he was not presented the bill or joint resolution in violation of the State Constitution

The signature of the Governor, thus, has important implications. He is, after all, the chief executive of his State and is finally liable for all the legislative errors made in his State. As the buck stops at the President's desk at the national level, so does the buck stop at the Governor's desk at the State level. It is his Secretary of State who is charged with the responsibility of the sanctity of the original documents of legislation, and, who ordinarily should make a final check of the ratification resolution with the certified copy of the Congressional Joint Resolution in hand.

The Solicitor makes clear, however, that his argument against the necessity of a Governor's signature on the ratification action is a facade. From his memorandum of

April 20th, he states relative to the failure of the Governor of the State of Washington to sign that State's ratification action and to the possibility that the Legislature failed to present the resolution to the Governor—

If it can be said that the resolution has never been presented to the Governor but the certified copy only, the resolution itself being on file in the office of the Secretary of State, it would still be useless to request at this date the Governor's signature because the Legislature commenced its session January 9th, and as it could not remain in session more than 60 days must have adjourned not later than March 9th, (Washington Constitution 1889, Article II, Section 12: Annotated Statutes of Washington, Section 6921). Therefore more than ten days having expired since the adjournment of the Legislature the Governor's signature at this time could give the resolution no added validity.

The above discussion assumes of course that the Governor has not attempted to veto the resolution, and it does not appear that he has. If he has then of course it would be useless to ask him for his signature.

In conclusion it should be observed that the constitutions of all the states which give the Governor the veto power also provide a means by which an act of the Legislature shall become a law if the Governor fails to exercise his veto power. By this provision the many resolutions of state legislatures approving amendments to the constitution which were not signed by the Governor would perhaps be considered valid the same as in the case explained above.

In other words, the Solicitor admits to the possibility that a Governor's signature was required but that, what the heck, the Washington Legislature was adjourned and it wouldn't be of any use to try to obtain that signature anyway. If the Governor had attempted to veto the resolution, well, same story. The Solicitor concludes his comments on why no one should bother to check whether the Washington resolution was ever presented to the Governor for his signature with a reference to all the State Constitutions which provide for passage of legislation if the Governor merely fails to veto. This universal provision, according to the Solicitor, makes it all right if the Legislature failed to present the resolution to the Governor. Note that the Solicitor must have had a copy of the Constitution of the State of Washington handy. He must have also been able to read that Article III, Section 12 of that Constitution required the Legislature to present the ratification resolution to the Governor. Nevertheless, the Solicitor, in a bald-faced deceit, counseled a knowing disregard for the truth and a disdain for seeking any further when serious doubts as to the propriety of ratification action at the State level surfaced. If the Washington Constitution required a presentation of the legislation to the Governor and it was not, it would go without saying that his signature would, after such a violation, give "no added validity" to the resolution. The resolution would be a nullity.

The signatures of the Governors highlight another problem having to do with signatures, or the lack of them. The Governor of the State of Wyoming sent a telegram to Philander Knox claiming that the Wyoming Legislature had ratified the "income tax amendment." Whereupon, the Secretary of State immediately sent a telegram back to the Governor requiring that he furnish a certified copy of the action. The copy of the resolution furnished was a fraudulent document signed only by the Secretary of State of the State of Wyoming. (see narrative for the details) There is no archival original document showing the signatures on that resolution and since the copy sent to

Washington, D. C. is false on its face, there is no reason to suppose that one ever existed. Had the copy sent to Washington been completely certified by the presiding officers of the Wyoming Legislature and by the Governor, there would have been no question. It certainly would have been no inconvenience to sign two sets of documents instead of one. We are, after all, talking about a momentous occasion, the modification of the Supreme Law of the land. A similar situation occurred in California.

In this case, as in every case, the Solicitor chose the lower standard in this most solemn and meaningful of legislation that can be passed. All manner of unsigned documents were accepted. New Mexico is a notable exception in which the copy of the Legislature's action sent to Washington, D. C. is completely certified on the face of the document. For the so-called certification of two States, the original is not referenced and, therefore, under the rule of best evidence, such a copy is not admissible as evidence. Furthermore, in contrast to the States of Wyoming and California, wherein each Knox insisted that a certified copy of the ratification action was required, Minnesota was allowed to slide by without submitting a certified copy of their Legislature's action.

The preceding tale of woe, detailed in the succeeding pages, highlights the necessity that the highest standards, not the lowest, be used in the ratification of a proposed amendment to the Supreme Law of the land.

## *The 17<sup>th</sup> Amendment Scam*

- A. Now you are probably like most people and have never read or paid any attention to the 17<sup>th</sup> Amendment.
1. Well, why not? It is a wonderfully developed, intricate piece of word smithing, deceptively and artfully constructed, behind the scene, slap in the face to the American Citizens.
  2. We just bet that those who worked to develop and push the 17<sup>th</sup> Amendment through to passage got a big laugh out of it as they were paid for their evil deed.
- B. As some of you know the United States senators in the Original Constitution were voted upon by the State Legislators to protect State rights in the congress.
1. If their Senators failed in their duties they could be recalled back to the state red the riot act or replaced by a majority vote of the State legislators.
  2. The States created the Federal Government. This setup of the Senators representing their States Rights and issues, was a very important element in controlling their creation.
  3. This control factor helped the States keep the Federal Government from “getting too big for its britches.”
- C. As some people say, “All good things eventually come to an end” and this is what happened with the passage of the 17<sup>th</sup> Amendment. The state legislators had real authority over the Federal government. OR DID THEY?
- D. The Federal Reserve Act of Dec. 23, 1913 was intended to over ride the Constitution of the United States, through the 16<sup>th</sup> and 17<sup>th</sup> Amendments.
- E. Now the 16<sup>th</sup> Amendment to the United States Constitution did nothing without its counterpart, the 17<sup>th</sup> Amendment. WHY?
1. The 17<sup>th</sup> Amendment: The Senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. When vacancies happen in the representation of any State in the

senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. This Amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part other Constitution. (See Exhibit A, 4 of 5 from the sixty-eight Congress, First Session, Senate Document No. 154, The Constitution of the United States of America, As Amended to December 1, 1924).

2. Did you read anywhere in the 17<sup>th</sup> Amendment that repealed Article 1, Section 3, Clause 1, of the Constitution?

F. Read article 1, section 3, Clause 1, of the Constitution (Exhibit B): The Senate of the United States shall be composed of two Senators from each state, chosen by the Legislature thereof, for six years; and each senator shall have one vote.

1. The 17<sup>th</sup> Amendment stands as a nullity.
2. The Citizens of the Several States did not create the Federal Constitution to protect their substantive rights.
3. State Citizen could not claim any protection from the Federal Constitution unless they are a citizen within a Federal Territory.
4. What the slick little schemers did was to use the 17<sup>th</sup> Amendment to create a presumption that if you were a voter you would be presumed to have voted for a Federal Representative and therefore you are a constituent.
5. Your Federal Representative has your power of Attorney to act in your behalf.
6. Anything the Federal Representative agrees to or their predecessors set forth by an Act, you are responsible for.
7. If the Federal Constitution was a National Constitution and applied to all citizens within the several states then why have State Constitutions?
  - a. Why have State Legislatures?
  - b. Why have a State Judiciary?
  - c. Why have County Officials?

G. The Constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of the individual states.

1. Each state established a Constitution for itself, and in that Constitution, provided such limitations and restrictions on the powers of its particular government, as its judgment dictated.
2. The people of the United States framed such a government for the United States as they supposed best adapted to their situation and best calculated to promote their interests.
3. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms are naturally, and we think, necessary, applicable to the government created by the instrument.
4. They are limitations of power granted in the instrument itself; not of distinct governments, framed by different persons and for different purposes.

H. As you can witness for yourself the 17<sup>th</sup> Amendment never changed the Original Constitution of 1787.

1. What was the real deception behind the passage of the 17<sup>th</sup> Amendment as well as the 16<sup>th</sup> Amendment?
2. Do you think repealing the 17<sup>th</sup> Amendment and returning the selection of Senators back to the Legislators of the States would have a major effect in not only state government but also Federal government?
3. As we have seen in this past election, for the senate race you could chose between Twiddle Dee or Twiddle Dumb.
  - a. As long as those behind the scene who pull strings of power get to put up and support both candidates, do you think they really care who gets elected as long as the electie does their bidding?
  - b. As long as the electives make sure the nice, big, fat, juicy government contract are let out to the right companies the financiers could care less as to which party Dee or Dumb represent.
  - c. They also have enough power to destroy any third party.
  - d. We will have the same one party system, "third party".

- e. The people are told that their vote counts when, in fact, all you can do is to vote for the “lesser of the two evils.”
- I. Put the selection of the Federal Senator back into the hands of the State legislators where it belongs so that state rights are once again protected and your vote actually counts for something.

The seventeenth amendment reads as follows;

## Amendment XVII

*The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.*

- A. Today, and for many years, much has been written about the damage this amendment has caused to our Republican form of government, when it took Suffrage from the State and gave it to the People.
- B. Among the concerns expressed by all about the damage caused by the 17th it is clear that the best understood harm is the fact that within the lawmaking body of Congress the form of government has been altered from a Republican form to a Democratic form. What is not so universally understood is that;
  - 1. There was no standing for this amendment at the federal level as Article V, last clause, mandated the entire matter to the States and prohibited it to the Federal government: "that no state, without its consent, shall be deprived of its equal suffrage in the Senate."
  - 2. By this wording in Article V each State, individually, had sole discretion over this matter within its own borders and it was excluded to the Federal Government by the 10th Amendment.
    - a. That many States were intimidated and coerced into ratifying this amendment, at a time when this country was experiencing convulsions arising out of the civil war reconstruction, by threat of contending with a Constitutional Convention.
- C. It was recognized by most that a Constitutional Convention would very likely severely alter that document to the detriment of all.
  - 1. The Federal Government, under its Supremacy Clause had a duty to strike down any attempt to alter the Republican form pursuant to Article 4 Section 4 that says in pertinent part; "**Section 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion;**" and as such had a duty to protect to each State the Republican form and to

protect each State from the invasion of other States regarding their Sovereign status which the Fed failed to do.

2. Pursuant to Article V last clause, (as quoted above) the words "NO STATE" and "WITHOUT ITS CONSENT" altered the amendment ratification guidelines of Article V to force a full, 100%, ratification (rather than the usual 3/4's) of any amendment concerning this matter of State Sovereignty. Only 36 ratified the 17th. Utah rejected outright.

- D. The 17th Amendment can not have been lawfully ratified.
- E. The real harm that has resulted from the acquiescence to the 17th, by the States, is it destroys the ability of the State to micro manage the affairs of the Federal Government on behalf of its people. Where once a State could impact Bills before congress, it saw to be inappropriate, by quickly mandating senators vote in a specific way or calling them home in an effort to prevent a quorum, after the 17th the State no longer had authority to manage Senators who now were answerable only to the people whom could not effectively manage the actions of Senators except once every 6 years. The total difference was **MANAGE TODAY AND EVERY DAY** as opposed to **MANAGE ONCE EVERY 6 YEARS**.
- F. This whole idea was sold to the American people as an action that was beneficial for them in the form of a direct say in the election. But what the people got in a direct vote was more than countered by their loss of manageability of the Fed by their State watchdog and the loss of teeth the 10th amendment suffered as a result with respect to the Sovereignty of the States.
- G. In light of the foregoing 4 imperfections, under the Supreme Law of the Land and under the law of contracts the 17th Amendment is ripe for repudiation. This amendment is void on its face and can have no effect in law. The subsequent acquiescence of the Federal Government and the State Governments to the 17th can not make what is VOID, rather than avoidable, lawful.
- H. The States need to take back their representation and restore the integrity of Congress. In so doing the State can block Bills that are unconstitutional by regaining control of their Senators. No longer would Senators have a 6-year "kingship". The states will once again regain control regarding their interests by protecting the constitutionality of all Bills that pass Congress.

- I. The same tight nit group of European and American Bankers all combined their efforts into getting the:
  1. Federal Rules of Equity 1912
  2. 16<sup>th</sup> Amendment
  3. 17<sup>th</sup> Amendment
  4. Federal Reserve Act 23 December 1913
  5. Passed and put into full force and effect before the American people had time to assemble opposition to their measures.
  6. Then when people started to speak out these same Bankers used their front man Woodrow Wilson who ran on the promise that he would not send American boys to fight on foreign soil “to push through their legislation.”
  7. When Wilson was going around the country making this claim they were already American men dying on foreign soil.
- J. Those same group of bankers then proceeded to do what they had done and gotten away with for years.
  1. Start a war and fund both sides.
  2. They are experts at controlling those in power with their purse strings
  3. Using WWI “The war to end all wars” as a smoke screen and with all the media directed toward reporting on the war their evil deeds went unnoticed by most of the people.
  4. Ask, What are the armaments?”
    - a. Who is providing the money?
    - b. Where is the money going?
    - c. What armaments have been bought with the money?
    - d. Who supplied those armaments?
    - e. How were those armaments shipped?
    - f. Where were they shipped?

- g. Why is this money being put into this area of the world?
- K. We helped put a Clermont County, Ohio Judge in jail by the name of Robert Linder who stole over a million dollars from disabled children's trust funds.
1. During and after the trial a number of press people wanted to interview us and to each of them we asked?
    - a. Are you a true news reporter who knows how to dig up a story? They basically said yes.
    - b. Then where is your story about what happened to the over one million dollars that Robert Linder stole? Their answer was always "what do you mean?"
    - c. We would reply "you mean to tell me that you are a qualified news reporter who can research a story and you haven't even taken the time to find out what happened to one million dollars?"
    - d. They would ask us if we knew what happened to the money and we would tell them that it was their job to find out where the money went.
    - e. When you can tell me exactly where the money went, then and only then will I give you an interview.
    - f. Not one reporter dared to expose what happened to the money as if it was a taboo subject matter not allowed to be revealed.
  2. Always trace the money. That is what the IRS and FBI do. See number 197, "FINANCIAL INVESTIGATIONS " A Financial Approach To Detecting And Resolving Crimes.

## **The Worlds Most Exclusive Club**

- A. Three issues are in the forefront of American political debate:
  - 1. Campaign finance reform;
  - 2. Reducing the size of the federal government;
  - 3. Devolving power to the states and to the people.
- B. The original framers of the Constitution were smart enough to have figured out a way to meet all three of these objectives.
  - 1. The 17th Amendment to the Constitution, changed the way senators were elected, thus negating much of the brilliance which created a fair balance of powers between the federal and state branches of government developed by the original framers.
- C. Originally, the United States senators were elected -- two per state -- by their state legislatures; the 17th Amendment transferred their election to statewide at large elections.
  - 1. This reduced the power of the states, and created another legislative body having many of the characteristics of the House of Representatives.
- D. Repealing the 17th Amendment to the Constitution would have immediate benefits:
  - 1. It would eliminate the need for the huge Senate campaigns we have today.
  - 2. Would make the role of state legislators far more important than it is today.
  - 3. Reduce the power and size of the federal government.
- E. The long-term effects of this change have resulted in unintended consequences.
  - 1. The shift of political power from state legislatures to the electorate resulted in an increase in power by the House, which has sole authority to initiate all federal revenue legislation.

- F. With the ratification of the 17th Amendment, the Senate no longer represented the interests of the states, but rather those of their electorates.
  - 1. Voters became less concerned about the qualifications of the members of their state legislatures.
  - 2. Electing federal senators who would respond directly to their views became a major objective of the voters and their special interest groups.
  - 3. We can identify a number of current and former senators who would have had little if any change of being even nominated let alone being elected by the state legislature.
- G. Each senator must raise a minimum of \$20,000 per day during his or her six-year term of office to wage a competitive campaign for re-election for membership in what has been called "the world's most exclusive club."
- H. With the restoration of this part of the Constitution to its original design, states would once again become a more equal partner with the federal government.
  - 1. Governors would be transformed from begging Cabinet-level federal bureaucrats for money into effective executives.
- I. Each citizen is far closer to his or her state's elected representatives than to Washington, politically and geographically.
- J. Senators elected by state legislatures would be more responsive to their state's needs.
  - 1. As a result, U.S. senators would be better insulated from the almost daily pressures of voters' shifting interests, and, freed from constant fund -- raising chores, far better able to focus on the Nation's long -- term objectives.
  - 2. The Senate's constitutional role of being the nation's watch dog over the piping hot legislative broth drafted by the House is allowed to cool will be restored.
  - 3. Would a state legislature re-elect a senator to term after term, especially with term limits for state legislators?
- K. Return the Senate to the states by repealing the 17th Amendment, liked they repealed the 18th (Prohibition).
- L. Start campaign finance reform by repealing the 17<sup>th</sup> Amendment and restore state rights.

## *A Nation in Hock*

A. The following information comes from the book “The Most Secret Science” by Col. Archibald Roberts from Fort Collins, Colorado.

1. Col. Roberts wrote this book in 1984. He also published a short newsletter for a number of years.
  - a. In other words he has many years of experience in this area and one of the first people we found years ago who has reliable information in this area.
2. We are going to take you through just a few pages out of his book concerning the Federal Reserve Bank Act of 1913.
3. Instead of using A, B, C, etc. like we usually do we are going to use numbers, which will match the pages in the book starting on page 51 to page 64.

B. The following numbers are coordinated with the enclosed section from the book “The most Secret Science”

1. Read Thomas Edison’s famous quote several times to get the full grist of what he is expounding about. “Both are promises to pay, but the one fattens the usurer

and the other helps the people.” WHO ARE YOU SUPPORTING THE  
USURER OR THE PEOPLE?

2. This report was given on 7 March 1983 by Archibald Roberts concerning the repeal of the Federal Reserve Act of 1913 to the Idaho Senate Affairs Committee.
3. Here is a statement that many people have never heard before, “the State is superior to its creature” and “all political power flows from the people.” The trouble is that most people have been too dumb down in this simple understanding of their substantive rights and the power they actually possess.
4. Yes, Federal Reserve notes are created out of the air. So why do they need to have an income tax when they can print and waste all the reserve notes they want to?
5. Read number 133 on our literature list about America being actually bankrupt.
6. Read Article 1, section 8 of the constitution and what amendment did away with the Congress control of our money supply. If congress got its nose out of state right issues and start performing the way it was supposed to, then they would have the time to control the money supply and not the Federal Reserve Bank.

7. This means private manipulation of our economy. We still have yet to get any of these incorporation papers of any of these twelve member banks. If you have any of these incorporation papers let us know.
8. “These funds are expended by the Federal Reserve System without an accounting to the Congress.” Now here is one of the keys we feel of trying to ring in is to give the General Accounting Office authority to do a accounting of the Federal Reserve Bank itself and the twelve member banks after all they are using the money, that is the credit of the government of Untied States. In 1993 Congress gave authority to the GAO to Audit the IRS and their records were so bad that the GAO had to give up. The GAO still cannot fully audit the IRS records. Read number 130 on our literature list concerning the 2001-2002 Audit of the IRS by the GAO. We would sure like to read the first Audit of the Federal Reserve Bank, now that could be very interesting. So why doesn’t Congress mandate the GAO audit the FRB? Could it be that they would be out on the street picking up pop cans or selling pencils on a street corner if they ever did anything to upset the FRB.
9. The Fed uses your tax money to make and break government at will. We are not just talking about IRS taxes but also many other type of taxes are also deposited into the Fed including Social Security taxes with no GAO accounting of these taxes.

10. How can anybody or group run around the country claiming to be a sovereign citizen. They have good intentions but its like they are sitting on the shore of the Atlantic Ocean watching the waves, waiting for the sun to come up over the ocean. What is wrong with that picture? We meet people all the time who think they are a sovereign citizen because they filled a few papers in a courthouse. We just try and to walk softly around them so we don't burst their bubble. But the new catch phrase has gone from sovereign citizen to "capturing their strawman" or "incorporating their name." There are actually people who believe that the Strawman or incorporation their name is going to do something for them. From what we have seen neither one of these will keep you out of jail.
11. Those who run the media make sure these issues are never brought to the forefront. We subscribed to the Wall Street Journal for several years and we don't remember any article that exposed or even mentioned the real rulers of Wall Street. With trillions going through the FRB's fingers no one ask where is the money going and why is there no accounting of those collected funds?
12. Garrison admits that Paul Warburg from Germany who went on to marry Jacob Schiff's daughter to which Jacob as the richest Jew in the United States at the time, was acting upon the orders of Alfred Rothchild of London. Jacob and Paul bragged about writing the Federal Reserve Act in Yiddish.

13. Here we want to get into revealing who exactly put up the funds to start the Federal Reserve Bank in America. In Europe it is called, "The Central Bank." The way we remember these banks is that we put them in order like this:

- a. Goldman, Sachs Bank of New York.
- b. Isreal Moses Seif Banks of Italy
- c. Kuhn, Loeb Bank of New York
- d. Lazard Brothers Banks of Paris
- e. Lehman Brothers Bank of New York
- f. Rockfellers, Chase Manhattan Bank of New York
- g. Rothchild Bank of Londen and Berlin
- h. Warburg Bank of Hamburg and Amsterdam.

Now a word of warning when you start revealing these names to others or asking specific questions about these banking families you may all of a sudden be called anti-Semitic by the media as their way of trying to shut you up. When you start laying out the fact of who is pulling the purse strings behind the scene the media never rebuts the facts just tries to smear you.

14. Besides these eight banking families there are also 300 more people in on that financial rapping of the American People. If you have the Articles of Incorporation of the Federal Reserve Bank of 1913 please send us a copy.

15. President Andrew Jackson stood up against the setting up of a Central Bank in America and was almost murdered over it. Abraham Lincoln was murdered by

John Wilks Both who it has been proved was a agent of the Central Bankers of Europe and actually escaped to Italy, shot Lincoln because he chose to print United States notes instead of borrowing those funds from European Central Bankers. America operated from 1787 until 1913 without having a formal Central Bank. Now we have an Internationally owed Central Bank, who not only controls our money supply but also pulls the strings in other areas. The American BAR (British Accreted Registry) Association with all the 54 state Bar Associations and all the Country Bar Association have but one duty and that is to protect their bread and butter. You guessed it the Federal Reserve Bank and all their member banks.

16. Here is the court case “Lewis vs. United States” where the Ninth Circuit Stated that the Federal Reserve is a private banking monopoly.
17. Monetary Control Act of 1980, which of course all of you have read gave the FED control of all U.S. depository institutions. The acting president Jimmy Carter a product of Rockfellers Chase Manhattan Bank and a bastard son of old man Joe Kennedy did what JFK referred to do. Yes, Jimmy turned over our entire economic system to the FED and appointed a board of directors who were all ex-Rockfeller employees from New York instead of from each of the twelve regions as was set forth in the FRB Act itself. With a board of directors made up of all New York Yes Men to David Rockefeller; The entire West, Midwest, and South had no say what-so-ever as to what the Eastern establishment banking

cortel did. Chase Bank made Billions in profit from Jimmy Carter's decision, which were actually the decisions of David Rockefeller. When Billy Carter and his two sisters started to talk too much about Jimmy's real past history, they were killed by using the same old cancer trick. Samatha wrote a little book exposing just a few items of Jimmy and her mothers past and she was killed and her book destroyed so it would never make New York's top ten list for non-fiction. When Jimmy's mother said the wrong things to the press, they packed her bags and sent her to India and stuck her in a sanctuary with Mother Teresa and we never heard from her again. Jimmy was nothing more then a Rockefeller Yes Boy with the head wizard of the Rockfellers standing behind him, Henry Kissinger. Henry has been telling every American President what to do from Dwight David Eisenhower to George W. Bush, Jr. All David Rockefeller could say is "Thank you Jimmy."

18. The Monetary Control Act gave the green light to greatly expand into all economic areas without having to give an accounting of enterprises. They are also able to create a boom or bust economy in any area of America they wish. Certain insiders get to partake in this local boom or after a bust they come in and buy up the local business and property to get ready for the boom. Let's not forget all the tax abatements they get from the local government while the older local business get creamed with higher taxes. We have seen it in our county happen as you probably happen in yours also.

19. The biggest trick of the FED that even David Copperfield can't perform is that the FED can "create money out of thin air." If you try and create money out of thin air it is called counterfeiting. When the FED does it, it is called a Federal Reserve note. The Chase Manhattan Bank guidelines have accomplished the centralization of all economic entities under control of the FED. We know that you must really feel loved to know just how much control those bankers in Europe maintain over you. Don't forget that every check you write is cleared by the FRB with both sides of your check being scanned so that many people in law enforcement and IRS employees have instant access to your checks 24 hours a day, 7 days a week.

20. Now we get to the nitty gritty of it all concerning the Monetary Control Act allowed the FED to take over control of the debts of foreign countries secured by the ability of the American taxpayers to pay up. If you don't pay they send swarms of agents of a foreign principle to come after you. They know that they have the BAR Association under their control, which includes the Judges. They know that they have the media under their control. They know that they have control over the Grand jury by putting ringers on it to make sure they get an indictment against anyone they wish. They know they have control over public opinion because most people are so fearful of these powerbrokers even though many hard working people bring home a little over 50 percent of their pay check. They know they have control over all major corporations. They know they have control over all International Labor Unions. They know they have control over

all lending institutions. Even with all this control millions of Americans are standing up against them and flipping them off with little more than the sheer self-determination. Like those men who marched with General Washington on Christmas Eve to surprise the British Hessian Troops at Trenton, New Jersey, leaving their bloody footprints in the snow. Or like those men who stood with Andrew Jackson at the Battle of New Orleans. Yes, there are those American Men and Women with backbone who realize something is vastly wrong and in their earnest zeal fall victim to various traps that the Government sets out there. Or they get taken in by used car salesmen who can take “SOS” and make it sound like a seven course meal and get you to pay big bucks that in reality is only worth a few cents. We see the results of this hype everyday as people call us and come to see us deeply in trouble from doing something that sounded good at the time. If it sounds too good to be true, then be very careful. Many people want to know why we don’t do the power of Attorney form. The answer is that if someone doesn’t want to learn to take some control over their own life then we can’t help them or if they don’t want to help themselves how are we going to be able to help them. This is one reason we have put out there 12 issues of the “VIP Dispatch” is so that you can help yourself and then help others.

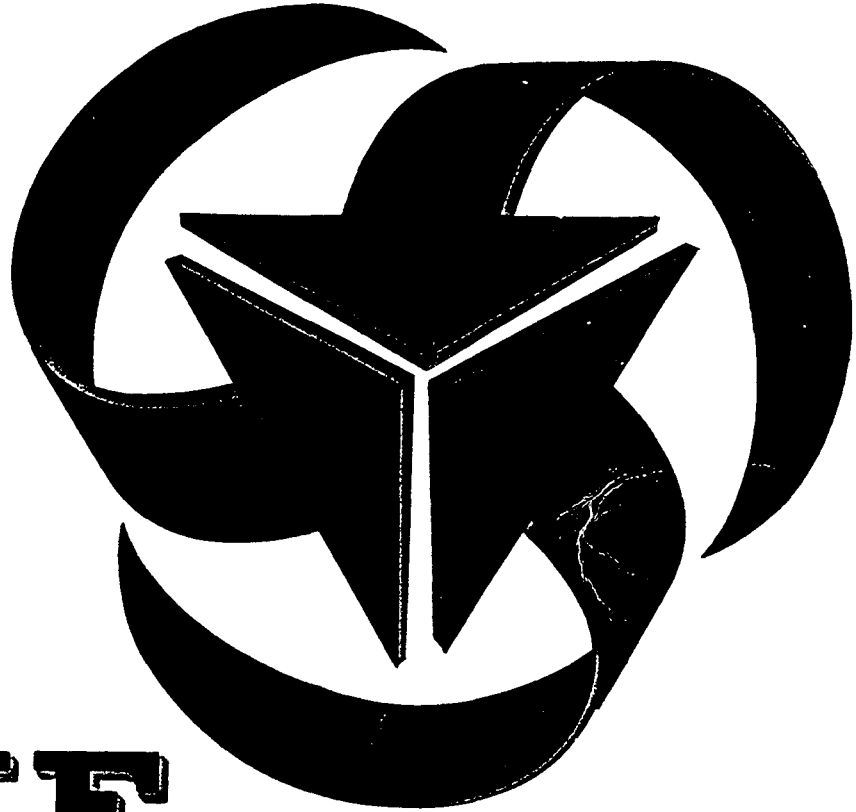
21. Fact sheet on the Monetary Control Act, Public Laws 96-221. We see where the Federal Reserve now has blanket authority to purchase the debt of any sovereign debtor and that debt is secured by the American Taxpayer. Now do you just see why there cannot be an accounting of the FED? We should demand the same

should we say rights. But, most Americans fail to exercise those rights and have chosen to support the Rothchild Feudalistic system instead. It's just like Judge Weber said in the Summons Dispatch, if everyone claimed the Fifth Amendment on the 1040, it's over. It is the American people's choice, they can support honest government or dishonest government and continue to support the FED.

22. Lets take a look at how changing just one phrase does in all the private lending institutions. After all they have some of the best minds doing this to us that money can buy.

23. This is just the list from 1981 through 1983. What is it today? Who is supplying the funds to the FED to stick their nose in another country's business?

**NEW BOOK**  
A 'solution' to the  
Federal Reserve 'problem'.



# **THE MOST SECRET SCIENCE**

The most secret knowledge, a science which outdates history, is the science of control over people, governments and civilizations. The foundation of this ultimate discipline is the control of wealth.

**Archibald E. Roberts, Lt. Col., AUS, ret.**

## FOUR

*"If the Nation can issue a dollar bond it can issue a dollar bill. The element that makes the bond good makes the bill good also. The difference between the bond and the bill is that the bond lets the money broker collect twice the amount of the bond and an additional 20%. Whereas the currency, the honest sort provided by the Constitution, pays nobody but those who contribute in some useful way. It is absurd to say our Country can issue bonds and cannot issue currency. Both are promises to pay, but the one fattens the usurer and the other helps the People."* ①

THOMAS EDISON

## A NATION IN HOCK IDAHO TESTIMONY REVEALS FEDERAL RESERVE HAS LIEN AGAINST ALL U.S. PROPERTY

Trillion dollar national debt, money borrowed by the Federal government from the Federal Reserve System, a private banking cartel, is a lien against all property in the United States, both public and private, constitutionalist tells panel investigating cause for bankrupt society.

Solution is citizen participation in State demand for repeal of Federal Reserve Act, restoring to Congress power to 'borrow money on credit of the United States,' and returning control of economy to the people, speaker says.

citizens, HJM #3 was adopted 46 to 22 by the House of Representatives on 4 February.

Senate hearings of 7 March resulted in passage by voice vote on 14 March, propelling Idaho into ranks of states challenging the constitutionality of the Federal Reserve Act.

State legislative action on the Federal Reserve demonstrates a national movement of enormous potential for reversing decline of the American civilization.

Following is a transcription from a live tape recording of address by Col. Roberts, and questions on the issue by Senate Committee members.

② On 7 March 1983 Archibald Roberts, Director, Committee to Restore the Constitution, appeared before the Idaho Senate State Affairs Committee, Honorable Walter H. Yarbrough, Chairman, to testify in support of House Joint Memorial #3, calling for repeal of the Federal Reserve Act of 1913.

Introduced by Representative Frank Findlay in response to demand by thousands of irate Idaho

Mr. Chairman and members of the Senate State Affairs Committee, my name is Archibald Roberts. I am a resident of Fort Collins, Colorado, and the Director of the Committee to Restore the Constitution. The Committee is a non-profit corporation. We are a political research and public information organization. The thrust of the

Committee to Restore the Constitution. Mr. Chairman and members, is to encourage support of the Articles of the Constitution within the borders of each State. The reason for that, of course, is that the State is the principal under the Constitution having created the Federal government by the first three articles of the Constitution. Since we are dealing with Principal and Agent, it is clearly the responsibility of the respective States, as Principals, to correct any excesses of their Federal agencies in Washington, D.C. And so, in the case of the Federal Reserve Act, which we will show later in this presentation to be unconstitutional, it will be our purpose to support the resolution now before this Committee, that is House Joint Resolution No. 3, calling for repeal of the Federal Reserve Act of 1913.

During the next few minutes, Mr. Chairman, I would like to present to the Committee the origins of the national economic crisis. This, of course is at the heart of any consideration for corrective action. We will also reveal what we consider to be the proper solution for these excesses by Federal agencies, namely repeal of the Federal Reserve Act of 1913.

- ③ Because the State is superior to its creature, it is obviously the constitutional responsibility of elected state officials, representing their constituencies, to take whatever action is necessary to enforce the articles of the Constitution within the borders of the State of Idaho. Of course, all political power flows from the people. It is the responsibility of the individual citizen, therefore, to bring to the attention of elected officials violations of the Constitution, or abridgements thereof, which threaten any of the freedoms of persons or property guaranteed to the people by the Constitution.

Now the issue of economic crisis.

I believe that the magnitude of this problem. Mr. Chairman, was revealed by an Associated Press story out of Washington dated the 24th of June, 1982. The Treasury financial report of this date stated that the Federal debt was \$1,070,241,000,000. The Associated Press story stated that Congress' limitation on the national debt is the reason the Senate had raised the ceiling to accommodate an anticipated budget deficit in excess of \$100,000,000,000.

Mr. Chairman, we know now that since that date the deficit has been raised substantially.

These are very grave conditions with a national debt of over one trillion dollars and an estimated deficit of 170 billion. Mr. Marvin Stone, Mr. Chairman, the editor of *U.S. News and World Report*, declared on the 28th of June, 1982, that today's interest on the national debt is over \$100 billion annually, based on the trillion dollar national debt. \$100 billion interest paid on the national debt. The significance here of course, is that the so-called trillion dollar debt is money borrowed by the Federal government from the Federal Reserve which is, as we will show, a private banking establishment. Therefore, the interest of \$100 billion paid on the national debt is actually paid to the private banking cartel called the Federal Reserve, and its Class A stockholders.

I think that Americans, and particularly the people of Idaho should know to whom this trillion dollars is owed, and who collects the \$100 billion dollar interest payment which we have identified. And finally, are America's taxpayers actually victims of a gigantic hoax. If the later is the case, then we of course are dealing with a criminal conspiracy.

A clue to these questions is found in a United Press International release which stated, and I quote, "Panel to Decide U.S. Monetary Course." Panel meaning the Federal Reserve Panel. This is a *Rocky Mountain News* article Mr. Chairman, and it revealed that the Federal Reserve Open Market Committee is the policy making body of the Federal Reserve System. Therefore, this Committee sets the course of the U.S. economy. It sets the interest rates on all money loaned by the banks and trickles down to the other lending agencies. It also, of course, determines the amount of Federal Reserve notes in circulation, which are not based on anything of value but are created out of thin air. It determines the stock market action, whether it will be up or down, and other factors which have a direct bearing on whether Americans and the citizens of Idaho will live in a bankrupt or a prosperous society. We are now living in a bankrupt society directly due to the manipulation of credit and the volume of currency put into circulation by the Federal Reserve System.

I think it would be prudent to follow this lead which we have uncovered to determine how it affects individuals involved in the lawmaking process, and of course, their constituents living in the State of Idaho.

Mr. Chairman and members of this Committee, I testified on the Federal Reserve System before the Wisconsin State Affairs Committee in Madison, Wisconsin on 30 March 1971. The title of my address was "The Secret Government of Monetary Power." This address was placed in the Congressional Record on the 19th of April, 1971, under the title "The Most Secret Science." Extracts of the Madison speech have a direct bearing on today's economic ills and explain how a secret government of monetary power did seize control of the Federal government in 1913. Since that time, Americans have existed at the whim of those who control the economy through the Federal Reserve System.

⑥ Before we examine this particular part of the presentation Mr. Chairman, it would be well to agree on the authority, the Law, affecting the economic situation in the United States. Mr. Chairman, the Constitution is very specific about control of the economy and the fiscal process of the United States. Article 1, section 8, directs that the Congress is authorized to borrow money on the credit of the United States, and to coin money and regulate the value thereof. Federal Agents, Mr. Chairman, are prohibited from modifying the Constitution or to transfer these vast powers to a private banking cartel. There is no authority in the Constitution permitting such usurpation of power. Later in this presentation, Mr. Chairman, we'll show how the State of Arizona, acting on this authority, that is the quoted authority of the Constitution, memorialized the President and Congress to rescind the Federal Reserve Act, as the resolution before this Committee proposes to do.

⑦ The Federal Reserve, as we have pointed out previously, is not a government agency. It is a private banking cartel. This is the crux of the issue. I think it might be pertinent therefore, Mr. Chairman, to examine the authority which the Federal Reserve itself declares established its legal status. This authority is quoted in a statement submitted to Congressman Wright Patman, who was then Banking and Currency Board Chairman, by the Board of Governors of the Federal Reserve System. This statement was made the 14th of April, 1952, and is as applicable today as it was then. I quote, "The twelve Federal Reserve Banks of the Federal Reserve Board are corporations set up by Federal law to operate for public purposes and are placed under government supervision." The Board further advised Mr. Patman, and again

I quote, "The Board of Governors was created by Congress and is a part of the government of the United States. Its members," they said assuringly, "are appointed by the President with the advice and consent of the Senate and it," that is the Fed, "has been held by the Attorney General to be a government establishment."

Mr. Patman retorted to these rather impressive claims and exploded the myth that the Federal Reserve acts with legality as a public servant. Mr. Patman stated, "There is no free market that can cope with a national debt of \$272 billion dollars. (This was in 1952. We are now well over one trillion dollars in debt as a result of the manipulation of the Federal Reserve) with 85 billion of it to be refunded within one year. The free market," he said, "means private manipulation of private credit."

As we have pointed out, Mr. Chairman, private manipulation of public credit is the purpose and objective of the Federal Reserve. I invite your attention again, Mr. Chairman and members, to Article 1 section 8 of the Constitution which declares that only the Congress can "borrow money on the credit of the United States." But in fact, as Mr. Patman pointed out, the objective of the private Federal System is to borrow money on the public credit of the United States in violation of prohibitions of the Constitution.

Then Congressman Patman revealed the contradiction in this Federal Reserve claim of government agency status, and explained how the Fed generates illegitimate profits for its members. I quote, "The Open Market Committee of the Federal Reserve System is composed of seven members of the Board of Governors and five members who are presidents of Federal Reserve banks, and who are directed by private commercial banking interests. The Open Market Committee has the power to obtain, and does obtain, the printed money of the United States (Federal Reserve Notes) (free) from the Bureau of Engraving and Printing. The Fed exchanges these printed notes," the Federal Reserve notes, "which are not, of course, interest bearing, for government obligations which are interest bearing."

This is how interest is generated on the Federal debt, the one trillion dollar Federal debt; \$100 billion interest. And then Mr. Patman explained, "The interest bearing obligations are retained by the 12 Federal Reserve banks and the interest

collected annually on these government obligations goes to the funds of the 12 Federal Reserve banks."

- ⑧ Then Mr. Patman exploded the myth that the Federal Reserve System is an instrumentality of the Federal government. "These funds," that is interest paid on the national debt to the Federal Reserve banks, "these funds are expended by the Federal Reserve System without an accounting to the Congress. In fact, there has never been an independent audit of any of the 12 Federal Reserve banks or by the Federal Reserve Board that has been made available to the Congress, where members of the Congress would have an opportunity to inspect it. The General Accounting Office," Mr. Patman pointed out, "does not have jurisdiction over the Federal Reserve. For 40 years," (that was in 1952), "for 40 years the System while freely using the money, that is the credit of the government of the United States, has not made a proper accounting."

An even more damning indictment of the Federal Reserve System was made by the late Lewis T. McFadden, Chairman of the Banking and Currency Committee, United States Congress.

- ⑨ Mr. McFadden stated, "Every effort has been made by the Fed to conceal its power, but the truth is the Fed has usurped the government and it controls everything here (in Congress) and it controls all of our foreign relations. It makes and breaks governments at will."

- ⑩ Mr. Chairman, it is obvious that when the power to control money is transferred from the people to a private banking monopoly, as it is now proven the case in America, that the sovereignty of the people is surrendered too. Control of wealth confers upon those who control it final decision in the domestic and international affairs of nations.

- ⑪ When an invisible government of monetary power usurps the coin of the realm, the people are disfranchised and real political authority is transferred into the hands of a financial aristocracy. Mr. Chairman, I believe that an invisible government of monetary power will continue to control the American destiny and the lives of the people until informed citizens dismantle the Federal Reserve System.

As I suggested at the beginning of this presentation, Mr. Chairman and members, we do have good news. Returning America to fiscal sanity and political responsibility has already begun. We believe that the first State to introduce

legislation challenging the constitutionality of the Federal Reserve Act is Arizona. The 21st of January, 1982 is perhaps the most significant date of this century. On this date members of the Arizona State Legislature, in both the House and Senate, memorialized the President and Congress to enact such legislation as is necessary to repeal the Federal Reserve Act. The Arizona resolution is identical to the proposal now before this Committee.

I quote from a statement made by Representative D. Lee Jones, principal sponsor of the Arizona resolution. "We are determined to oust the Federal Reserve System out and away from our national pocketbook."

Asserting that only the Congress has the power to borrow money on the credit of the United States, and to coin money and regulate the value thereof, Arizona lawmakers, by a booming majority, affirmed that Congress is without authority to delegate these powers to private banking interests.

Again I quote the Arizona resolution. "The United States," they warned, "is facing in the current decade an economic debacle of massive proportions due in large measure to a continuing erosion of our national currency and the resulting high interest rates caused by policies of the Federal Reserve Board."

Mr. Chairman, quick to follow the Arizona lead, the following States also introduced companion resolutions: Washington State, Utah, Nebraska, Alabama, Indiana, North Carolina, South Carolina, Pennsylvania and Montana. All challenging the constitutionality of the Federal Reserve Act. Since that time we have had additional states join this most important movement. The latest of these being the state of Arkansas, where I testified before the Arkansas State Affairs Committee on the 15th of February and endorsed their resolution to rescind the Federal Reserve Act.

Without quoting any of the points of the Arkansas action I merely point out that it is the same resolution as is before this Committee.

Mr. Chairman, I believe that in this very brief presentation we have pointed out three important factors for consideration by this panel. First, the trillion dollar national debt is not owed to ourselves as government handouts would have you believe. It is owed to a private banking

monopoly, the Federal Reserve System. Therefore, Mr. Chairman, the national debt is a lien against all property in the United States both public and private. Two, interest on the national debt, which is over \$100 billion for this year, \$115 billion as a matter of fact, is paid to the Class A stockholders of the Federal Reserve System, a private banking monopoly. Three, the Federal Reserve Open Market Committee, that is the policy making body of the Federal Reserve System, determines interest rates, sets the volume of Federal Reserve notes in circulation, controls the stockmarket and rules on other public economic factors which determine whether Americans will live in a prosperous or a bankrupt society. We have also found, Mr. Chairman, that the Federal Reserve System, which is the source of our economic crisis, exists outside the Law; that is, in violation of prohibitions of the Constitution. Being in violation of the Constitution, Mr. Chairman, it must be put down. I believe, Mr. Chairman, that, the issue is clearly before us. Survival is not a spectator sport but requires the attention and consideration of all concerned Americans. This is the reason why I have been invited by your constituency to appear and present some of the facts behind the Federal Reserve System for your consideration.

Mr. Chairman, I invite questions if it is your pleasure.

Chairman Yarbrough: Thank you, Colonel. Is there a question?

Q: Mr. Chairman and Colonel Roberts, I was reading your *Bulletin Committee to Restore the Constitution* on the second page it refers to a court case, *John L. Lewis v. the United States of America*. Where the U.S. Court of Appeals held that the Reserve banks are independent, privately owned and locally controlled corporations. That being the case and considering the considerable damage that is being cited as being done to the citizens of this great State, wouldn't it be possible within our laws to have our own Attorney General file suit against them for reparation of some of the damages done to the citizens?

ROBERTS: Mr. Chairman, members, sir: Indeed this is one of the options available to members of this body, and we certainly would encourage such an investigation inasmuch as the Court has, in fact, found that the Federal Reserve is a private corporation, and therefore operates for the profit of its members, its member banks and the stockholders of these banks.

Q: Mr. Chairman, Colonel Roberts, then if I understand you correctly, you would view the urging of this legislative body to reintroduce perhaps a concurrent resolution that would ask the Attorney General of the State of Idaho to file suit in the appropriate court against the Federal Reserve System, or the Reserve banks, perhaps I should differentiate there, so that we might indeed recover damages for what we suffer.

ROBERTS: Mr. Chairman, members, sir. This is, of course, a later option in our opinion. The reason we believe it a later option is, number one, that it is our responsibility, first, to clarify the Law. Well, the Law is the Constitution, therefore, we must, in our opinion, go to the Congress with petitions from the various states demanding repeal of the Federal Reserve Act to clarify the Law. Once this action is under consideration, it is very feasible to then bring such action. However, in the case of the State of Washington, Mr. Chairman, sir, the action was, as you suggested, taken by one of the senators (Senator Jack Metcalf) in the State of Washington. However, the Attorney General of the State of Washington recommended withholding action on this case until such time as additional States entered into a supporting movement. So this is really a first step, in our opinion, to present, first, the clear cut statement of the State of Idaho that there is violation of the Constitution. Then when we have a sufficient number of States, and we already have 16 involved, so when we have a sufficient number of States to support such action as bringing a legal case, then we are obviously in a much better position. Thank you very much.

Q: Mr. Chairman, Just one more. Colonel Roberts, I have one case before the Supreme Court now I am in no hurry to start another one. You spoke about the size of the deficit, are you able to recall those, or do you have in print the various deficits for different years?

ROBERTS: No, I don't have that list before me, but certainly we could find it. The deficits are obviously mounting in proportion to the increased money borrowed by the government from the Federal Reserve System. So it is a variable of an ever increasing size, Mr. Chairman.

Chairman Yarbrough: Any other questions?

Q: Mr. Chairman, Colonel Roberts, would you be providing stockholding members of the Federal Reserve System by name?

ROBERTS: I think first, Mr. Chairman, it would

be helpful to identify the origins of the Federal Reserve System itself. Very briefly, without going into a lot of historical background, we can quote (12) Colonel Ely Garrison who was a friend and financial advisor to President Theodore Roosevelt and President Woodrow Wilson, who was President at the time the Federal Reserve Act was passed. In his autobiographical book which is entitled, *Roosevelt, Wilson and the Federal Reserve Act*, Garrison wrote, and I quote, "Mr. Paul Warburg was the man who got the Federal Reserve Act together after the Aldrich plan aroused such nationwide resentment and opposition. The master mind of both plans," declared Garrison, "was Alfred Rothschild of London," end of quote.

Now to identify the real owners of the Federal Reserve which is your question sir, . . . Mr. Chairman, I would like to quote from sources from Switzerland and Saudi Arabia who were queried on the real owners of the Federal Reserve. Mr. Chairman and sir, we do not mean the managers of the twelve Federal Reserve banks who merely run the banks for the owners, the real owners. Nor do we mean the members of the Federal Reserve Board who merely make decisions in line and in consonance with the directions they receive from the real owners of the Federal Reserve. We certainly don't mean those who sit on the Open Market Committee of the Federal Reserve which we mentioned earlier in this presentation. We mean the real owners of the Federal Reserve. Mr. Chairman, this has been the best kept secret of this century. And it is the best kept secret because of a proviso on passage of the Federal Reserve Act. It was agreed that no information would be released on the Class A stockholders of the Federal Reserve. But, a Mr. R.E. McMaster, publisher of a newsletter, *The Reaper*, asked his Swiss and Saudi Arabian contacts which banks hold controlling interest in the Federal Reserve System. This was the answer received, and I quote, "Owner number one, (13) Rothschild Banks of London and Berlin; Owner number two, Lazard Brothers Banks of Paris; Owner number three, Israel Moses Seif Banks of Italy; Owner number four, Warburg Bank of Hamburg and Amsterdam; Owner number five, Lehman Brothers Bank of New York; Owner number six, Kuhn, Loeb Bank of New York; Owner number seven, Chase Manhattan Bank of New York." Mr. Chairman, it is the Chase Manhattan Bank which controls all of the other

eleven Federal Reserve Banks. Finally, "Owner number eight, Goldman, Sachs Bank of New York."

Mr. Chairman, sir, there are approximately (14) three hundred people, all known to each other and sometimes related to one another, who hold stock or shares in the Federal Reserve System. They comprise an interlocking, international banking cartel of wealth beyond comprehension.

Q: You mentioned Class A stockholders. Now who would they be? The same bank members?

ROBERTS: These are the three hundred, sir, Mr. Chairman. These are the same three hundred that I mentioned at the end of this presentation who are Class A stockholders. We are in the process, of course, of seeking to identify these by name and address, but you can understand the difficulty of such investigative process. In fact, we are still in the process of locating the Articles of Incorporation of the Federal Reserve at the time it was passed in 1913. Again, we are obviously confronted by a massive wall of silence. So it is a difficult task. But nonetheless, we have made some breaches in their defense.

Q: What are the names of those eight members. I didn't get a chance to write them down.

ROBERTS: Mr. Chairman, sir, the listed names of the banks which own the Federal Reserve in the United States are in the copy of my presentation left with your secretary.

Q: Mr. Chairman, sir, supposing we had enough states to ratify this proposition and we stalled and curtailed the Federal Reserve Board. Do we have a plan where we could continue business as usual?

ROBERTS: Mr. Chairman, the question, of course is a very explicit one and that is that it really asks are we able to continue operating the economy without the Federal Reserve. I would point out, Mr. Chairman, sir, that the United States of America operated until 1913 without the (15) service of the Federal Reserve through the existing agencies of government which still exist and function today. But the real control has been usurped from these agencies, authorized under the Constitution, and their power has been limited to merely approving what decisions are made by the owners of the Federal Reserve. So to answer your question, of course we'd continue the economy, but without paying the horrendous interest rates to the owners of the Federal Reserve. I would

point out further, Mr. Chairman, that it would be our objective to repudiate the one trillion dollar national debt because it is not owed to us, it is owed to the Federal Reserve System. Since the Federal Reserve System, Mr. Chairman, is a criminal conspiracy, the ill-gotten gains, this trillion dollar debt, a lien against all private property in the United States, obviously is a criminal act against the people of the United States.

Chairman Yarbrough: Any further questions? If not Colonel. I believe there has always been a question involved in a lot of minds whether or not the Federal Reserve Board is a government agency or a private agency. Has there not been a recent court case to that effect.

ROBERTS: Mr. Chairman and members, the March 1983 *CRC Bulletin* produces in its entirety the Court decision to which you refer. This is, (16) *Lewis v. the United States*, Court Case number 80-5905, United States Court of Appeals, Ninth Circuit Court, San Francisco, 19th of April, 1982. The entire text is reprinted so that there would be no question as to the finding, the ruling of the Court. The Court specifically stated that the Federal Reserve is a private banking monopoly.

Chairman Yarbrough: One further question along these same lines. Has this been appealed to the Supreme Court?

ROBERTS: Mr. Chairman, members, we do not have any record of appeal. If there is to be an appeal, and possibly there will be, then we'll bring that out later. I think the finding speaks for itself, and this is really the issue we want to bring out.

(17) With your indulgence, Mr. Chairman, I would like to add one more thing to the evidence before this body, and that is the Monetary Control Act of 1980 which is, of course, an authority passed by the Congress allegedly placing all economic organizations under control of the Federal Reserve System. First, Mr. Chairman, it brings all U.S. depository institutions under the authority of the Federal Reserve System which is, as we have pointed out, an international banking cartel. Two, it expands the definition of collateral for Federal Reserve credit and Federal Reserve notes in circulation. This means that any asset the Fed can purchase on the open market can be used as an asset against such borrowing. The cartel thus, as I have pointed out, has a lien against all property in the United States, because all of the banking

institutions and lending institutions under the Federal Reserve today use their collateral as authority to create money out of thin air. This, then, is the means by which the internationalists have placed their control over all real estate of the United States, and, of course, all individuals who own private property of any kind.

(18) For example, the Feds can now purchase such collateral as FHA and VA backed mortgages or corporate debt obligations. Also, the Fed can now bail out Chrysler, as it did, and any other corporation, by buying all of the commercial paper of that corporation. Therefore, the Fed controls the American economy and American industry through this technique. Also, the Fed can bail out the Chase Manhattan Bank, City Bank, or any other bank with the acceptance of federally backed mortgages from such banks. That is, irresponsible bank loans, foreign and domestic, as we have seen, through the activity of the Federal Reserve and the International Monetary Fund. They are able to bail out bankrupt foreign governments, placing the burden of repayment for those bad loans upon the backs of the American taxpayer.

Chairman Yarbrough: One further question. I think history teaches us when most every government went on paper money, off of a gold standard or silver standard, got in trouble. And knowing politicians pretty well, if we eliminated the Federal Reserve and gave that authority to Congress of the United States, unless we did go on a gold standard or have something behind the money to back it up, do you suppose we, in a short time, we'd be in worse shape than we are in now?

ROBERTS: Mr. Chairman, of course, we are speaking about violations of the Law, and therefore, a criminal conspiracy. So it is not an option of whether or not we will continue with the Federal Reserve. It is a matter of whether we are to enforce the Constitution. The Constitution is not a constitution of convenience, it is not what people may want to make it from day to day. It is very specific and, as we quoted in the early part of this presentation, Article I, section 8 of the Constitution is very clear on the responsibility of Congress to control fiscal activity of the United States through the apparatus established by the Congress. Therefore, the action of returning control of the economy to the American people through the Congress, as is proper under the Constitution, is a requirement. Either that, or we abolish the Constitution. Now I think it is clear

that once we are in a position to control our own destiny by controlling the economy through the existing agencies now available, voiding and rescinding the Federal Reserve Act, that we go back to the same system which gave us the most powerful and most prosperous nation in the world, the United States of America. America is a free economy and became a free economy because of the Revolutionary War, which was not a war merely against the tax on tea imports, but rather it was a war against Thread Needle Street, the British debit money system imposed upon the colonists in violation of their free will. That was the real reason for the Revolutionary War.

Q: Could you give us a little broader base in particular on the Monetary Deregulation Act of 1980?

(19)

ROBERTS: Mr. Chairman, sir, the Monetary Control Act of 1980 is available in your reference library, I am sure. Its purpose was to bring together under the authority, alleged authority, of the Federal Reserve System, all lending agencies of the United States, as well as the banks which must operate in conformity with Chase Manhattan Bank guidelines. This Act, in fact, was responsible for a very powerful, silent revolution in the economy, and in the banking world of the United States. It did prepare and accomplished the consolidation or centralization of all economic factors in the United States under control of the Federal Reserve itself. The Federal Reserve, therefore, controls not only the twelve Federal Reserve Banks, but also all of the lending institutions in the United States. As we mentioned earlier, the mortgages held by these lending agencies are part and parcel of the credit controls upon which the Federal Reserve now exercises its alleged authority to create money out of thin air. It is a real lien against all private property in the United States, as well as Federal property. I might add.

Chairman Yarbrough: Any other questions? If not, I have one more. You say we can't get the stockholders in the Federal Reserve. Now if it is a Federal institution, as we have been lead to believe over these years, under the Freedom of Information Act, which was passed at a later date, should not that make all information of stockholders and such available to any person in the United States who wanted it?

ROBERTS: Mr. Chairman, that is precisely what

we are doing. Several months ago I presented a request to several Congressmen in Washington quoting the Freedom of Information Act and asking, number one, for a copy of the Articles of Incorporation of the Federal Reserve System. The Articles of Incorporation obviously would have to list the owners at that point. It would not necessarily, however, have to list the foreign owners. So we are working in both directions. That is, we want to secure a copy of the Articles of Incorporation to identify the domestic owners, but at the same time we are seeking further expansion of the identification of the owners of these eight banks, and the three hundred stockholders who actually own the Federal Reserve System in the United States. So, yes, we are working in this direction. As a matter of fact, it would be my assumption, sir, that the State of Idaho, in its highest sovereign capacity, would have a higher authority to bring pressure upon your representatives in Congress than does the Committee to Restore the Constitution. This would be an excellent avenue of investigation.

Chairman Yarbrough: Any further questions?

Q: What about bank deposits insured by a Federal agency?

ROBERTS: Mr. Chairman, sir. Since all banks are controlled or owned by the Federal Reserve System obviously it would be very risky to permit any independent agency of government to be without supervision of the Federal Reserve, because then the entire System would be at risk. So obviously all of these agencies, including the insurance procedure which you noted are part of the Fed control mechanism which we have outlined here today.

Chairman Yarbrough: I have a question. I understand the big banks are taking money to Mexico, Brazil, and all the developing nations. Are they responsible in case of default, or is the United States government?

ROBERTS: Mr. Chairman, under the provisions of the Monetary Control Act, as we pointed out, all of the foreign debts granted by the various banks are all based upon the ability of the American taxpayer to pay. All of these debts, under this alleged authority, are subject to monetization. That is, the tremendous Mexican debt, which you pointed out, can be monetized and declaring that it now is a responsibility of the

(20)

Federal government to collect. Therefore, the taxpayers become subject to paying not only the interest on these horrendous debts, but also the principal. This is one of the aspects of the Control Act of 1980 which is so ominous. The International Monetary Fund is exercising that alleged authority to place the burden of repayment, not on the resources of the host

company, Mexico, in this case, but on the backs of the American taxpayers.

Chairman Yarbrough: Thank you. Any further questions? If not, Colonel, we thank you very much.

ROBERTS: Thank you, sir, it's an honor.

## **STATE OF IDAHO**

### **MEMORIAL TO REPEAL FEDERAL RESERVE ACT**

**LEGISLATURE OF THE STATE OF IDAHO  
FORTY-SEVENTH LEGISLATURE  
FIRST REGULAR SESSION—1983**

**IN THE HOUSE OF REPRESENTATIVES  
HOUSE JOINT MEMORIAL NO. 3  
BY STATE AFFAIRS COMMITTEE**

#### **A JOINT MEMORIAL**

To the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States in Congress assembled, and to the Congressional Delegation representing the State of Idaho in the Congress of the United States.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Forty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Constitution of the United States vests in the Congress of the United States the supreme power "to coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;" and

WHEREAS, Congress passed the Federal Reserve Act in 1913 and thereby abdicated its duty to fix a constant lawful value for United States money; and

WHEREAS, the national debt in 1913 was less than two billion dollars while the national debt in 1983 exceeds one trillion dollars; and

WHEREAS, the people of Idaho are suffering from the effects of high unemployment and the recession, which has been caused principally by high interest rates; and

WHEREAS, the control of interest rates by the Board of Governors of the Federal Reserve Board has led the Nation down a course toward economic calamity; and

WHEREAS, section 19, of the Federal Reserve Act specifically precludes the State of Idaho from effectively legislating or enacting any lawful ceiling for interest rates charged by the Federal Reserve, thereby immunizing banks and bankers from any threat of civil or criminal liability for interest rates charged; and

WHEREAS, the United States Government owns no stock in the Federal Reserve System, and the Federal Reserve, as such, is not a government agency, and is, in fact, a monopoly entirely independent of U.S. Government control absent direct legislative action by the Congress.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the United States Congress enact legislation providing for the immediate repeal of the Federal Reserve Act and place back in the Congress the power to regulate the value of United States money.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States in Congress assembled and the congressional delegation representing the State of Idaho in the Congress of the United States.

## FACT SHEET ON THE MONETARY CONTROL ACT, PUBLIC LAW 96-221, Prepared by Dr. Ron Paul, Member of Congress, 23 March 1983

On March 31, 1980 President Carter signed the Depository Institutions Deregulation and Monetary Control Act, Public Law 96-221. The Law consists of nine titles, most of which are unobjectionable. But the first title is not, yet it is the first title that went largely unexamined — and even unnoticed — when the House and the Senate debated the final version of the Act. That title provides that:

1. *The Federal Reserve is given control over all depository institutions*, not just its own members. Credit unions, savings and loans, savings banks, and nonmember commercial banks are chafing under the burdens imposed by the Monetary Control Act. The Federal Reserve's direct control over financial institutions expanded from coverage of about 3000 institutions to about 14,000.

2. *Reserve requirements are to be lowered over several years*. This means that banks will be able to create more money out of thin air, aided and abetted by the Federal Reserve. Also, the Federal Reserve can now lower reserve requirements to zero.

3. *The Federal Reserve can print unlimited quantities of Federal Reserve notes* and store them in their vaults. All collateral requirements for "vault cash" were abolished. Collateral is required only when such notes are actually issued by the Federal Reserve banks.

4. *The Federal Reserve can issue more paper money because it can now use virtually any of its assets as collateral for circulating notes*. Such assets include debts issued by sewer commissions, municipalities, and irrigation districts, for example.

5. *The Federal Reserve can monetize foreign debt* by buying "obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof."

6. *The Federal Reserve can further inflate by using this foreign debt as collateral for issuing Federal Reserve notes*. In fact the Fed has done this on at least 139 occasions, from April 1981 to January 1983, as you will see from the tables at the end of this paper.

Because of the vast inflationary and bailout potential of section 105(b) (2) of Title 1 of Public Law 96-221, I have introduced a bill, H.R. 876, to repeal that section.

Under that section, the Federal Reserve is given blanket authority to purchase the debt of *any* sovereign debtor. There is no language, either in the Act itself or in its scant legislative history, that restricts the number of governments from which the Federal Reserve can purchase debt. (21)

Further, there is no restrictive language in the Act itself or in its virtually non-existent legislative history that restricts the Federal Reserve in what it may use to purchase the debt of foreign governments. The Federal Reserve has always maintained that (1) it would never purchase the debt of Third World nations and (2) that it would purchase debt only with the currencies of countries which it already holds as a result of its foreign exchange operations. Such a position is irrelevant: The Federal Reserve may have the best of intentions, but intentions and legal authority are two quite different things. It is the granting of this power that must be rescinded, and if the Federal Reserve really does have good intentions, it ought to support H.R. 876, for the bill would simply make the law conform to the Fed's good intentions.

The House Subcommittee on Domestic Monetary Policy is circulating a memorandum on the Monetary Control Act (MCA) that is seriously misleading.

It says, for example, that "... section 105(b) (2) ... allows the Federal Reserve to purchase short term securities of a foreign government." The statement is true, but misleading. The MCA *does* allow the Fed to purchase short-term securities, *and also medium and long-term securities. The, actual language of section 105(b) (2) permits the Federal Reserve to buy and sell, at home or abroad, "obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof."*

*The MCA says nothing about short-term or long-term securities. The Fed is simply empowered to purchase all and any obligations of a foreign*

government or agency without regard to their maturities. The Subcommittee's statement is incomplete on several counts: (1) *All maturities, not merely short-term securities, are involved;* (2) *agencies of foreign governments, as well as the governments themselves, are involved;* (3) *obligations guaranteed by foreign governments or their agencies are involved.* While the Fed has repeatedly rolled over the short-term securities it has purchased, the purchase of long-term securities would signal an actual attempt to use section 105(b) as a device to bailout both foreign governments and overextended U.S. banks.

Second, the Subcommittee memorandum says that section 105(b) (2) was "Inserted during the House-Senate Conference with unanimous consent upon the motion of Chairman Proxmire . . ." But the Senator's office has repeatedly denied that the provision was inserted on the Senator's motion. In fact, according to the Senator's staff, it was the House Republican members of the Conference Committee who offered the motion on behalf of the Federal Reserve. The House Committee, I was astounded to learn, has no records of the Conference proceedings.

Third, the memorandum states that ". . . the controversy over this section has been derived from great misunderstanding and mischievous (sic) intent." I do not believe that I have misunderstood the provision — it is really quite clear — and my only intent is to limit the broad power conferred on the Fed by this section of the law.

Fourth, the memorandum reads: "Contrary to some beliefs, this provision was not put in by Federal Reserve Chairman Volcker since only Representatives and Senators can be conferees." Whose beliefs are these? Chairman Volcker *did* request this provision in his testimony before the Senate Banking Committee in September 1979, and, as noted above, the Representatives who allegedly offered the motion at the Conference Committee were acting on behalf of the Federal Reserve.

Fifth, and most important, the memorandum shifts the debate: "There is no intention to permit the United States Government, through the actions of its Federal Reserve System, to subsidize any country, any central bank, or buy the debt of any financially troubled nation."

The central issue is not one of intent or intentions, despite the memorandum's interest in these things. The matter is one of authority conferred by Congress in the Act itself, and that authority is unlimited. Nowhere does the Act say that subsidies to any country or bank are illegal. It does say that the Fed may purchase the debt of any country, or any agency of any country, with any acceptable medium of exchange. The *entire* "legislative history" of this provision is as follows:

. . . the Federal Reserve Act already permits us to hold foreign bank deposits and bills of exchange; it would be helpful to us operationally if short-term foreign government securities could be added to our authorized holdings — an omission at the time of the original Federal Reserve Act when such securities were not widely available. (Paul Volcker, September 26, 1979, Testimony before the Senate Banking Committee.)

This paragraph is the first mention of allowing the Fed to use foreign government assets as collateral, and only 19 words of the paragraph refer to the Fed's ability to purchase foreign government securities. There were no questions from the Senators on the issue, and the provision requested by Chairman Volcker *was not added to the Senate bill*. Neither did it appear in the House bill; it was added to the Conference Report, and the House had to adopt a special rule for consideration of the Conference Report, since the Report contained new material and the conferees exceeded their authority.

The next mention of the provision allowing the Fed to purchase the securities of foreign governments and use them as collateral for Federal Reserve notes occurred on March 27, 1980. In his explanation of the Conference Report, Senator Proxmire said:

It (the Monetary Control Act) also authorizes the Federal Reserve to purchase and sell obligations issued by foreign governments.

Under existing statutory authority, the Federal Reserve, in the course of its normal activities in the foreign exchange markets from time to time acquires balances in foreign currencies. Under present arrangements there is no convenient way in

which foreign currency balances held by the Fed can be invested to earn interest.

The Monetary Control Act would amend section 14 of the Federal Reserve Act to provide a vehicle whereby such foreign currency holdings could be invested in obligations of foreign governments and thereby earn interest. This authority would be used only to purchase such obligations with foreign currencies balances acquired by the Federal Reserve in the normal course of business.

(By this statement, the Congress was led to believe that this provision was needed so that the Fed could conveniently earn interest on its foreign exchange holdings. But the Fed could then, and now is, earning interest on these holdings by depositing them in interest-bearing bank accounts. The excuse given for this provision - to earn interest - is misleading. The Fed did and does earn interest on the foreign currencies it holds without buying foreign debt.)

There is no mention of section 105(b) (2) in the Conference Report on H.R. 4986.

Those three paragraphs are the entire "legislative history" of this provision. Nothing appears in any House document; no testimony was taken on the provision; and no mention of the provision was made during the House debate on the Conference Report. It is this scant "legislative history" that, we are told, overrides the explicit language of the Act itself. But intentions are not law, and the intentions of the legislature are useful only when the law is ambiguous. Unfortunately, there is nothing ambiguous about section 105(b) (2) of the Monetary Control Act.

On June 25, 1981 Chairman Volcker testified before the House Banking Committee:

Rep. Paul: "I am concerned about the Fed's *legal* ability to do it (use foreign debt as collateral)."

Chrm. Volcker: "I think we can use it as collateral, that is correct as many other assets we can use as collateral."

Rep. Paul: "A Brazilian bond or a Polish bond, you could use this as collateral?"

Chrm. Volcker: "We only do this when we acquire a balance in the ordinary course of our foreign exchange operations. We don't have any foreign exchange operations with Brazil, so the issue does not arise in that case, and we would not use the authority to just go out and buy."

Rep. Paul: "I understand, *you* would not use it. I am still back to the long-term legal concern whether you could or could not if you decided to."

Chrm. Volcker: "I guess in connection with the legal concern there's my recollection that *there is nothing in that provision that would theoretically stop it* except the legislative history which is quite clear. Whether there is any other authority in the Federal Reserve Act that would authorize us to simply buy securities of foreign countries at random or whatever, and I'm not quite sure under which general authority that approach could come, but *that provision itself does not constrain us.*" (Emphasis added.)

The law is clear, and the legislative history is legally irrelevant. The question is not what the present Governors of the Fed *intend* to do, but what they and future Governors are *empowered* to do. We might not always have such trustworthy men at the Fed as we have now.

Finally, the memorandum states that "The legislation nowhere makes Fed membership mandatory." That is true, but incomplete. What the MCA does is make Fed membership superfluous, for it amends the original Federal Reserve Act by striking out the phrase "member bank" each place it appears therein and inserting in lieu there "depository institution." 22

In conclusion, the memorandum offers no evidence to contradict the statement that the

Monetary Control Act of 1980 empowered the Federal Reserve to purchase the obligations of foreign governments, or obligations fully guaranteed by foreign governments, and use those

obligations as collateral for Federal Reserve notes. As a matter of fact, the Fed has done so on at least 139 different occasions. Below is a list provided by the Federal Reserve:

23

# FOREIGN GOVERNMENT OBLIGATIONS PURCHASED BY FEDERAL RESERVE BANKS AND USED AS COLLATERAL TO ISSUE FEDERAL RESERVE NOTES (1981-1983)

(Federal Reserve Bank Principal identified by asterisks)

April 21, 1981	\$ 11.6 million	April 24, 1981	\$ 38.4 million
April 28, 1981	\$ 17.1 million	May 5, 1981	\$ 18.0 million
May 7, 1981	\$ 36.6 million	May 12, 1981	\$ 64.3 million
May 13, 1981	\$ 96.7 million	May 27, 1981	\$ 9.3 million
June 9, 1981	\$ 44.8 million	June 10, 1981	\$109.0 million
June 23, 1981	\$ 1.0 million	June 30, 1981	\$ 27.0 million
July 1, 1981	\$ 18.1 million	July 10, 1981	\$ 48.8 million
July 13, 1981	\$ 49.0 million	July 14, 1981	\$ 76.4 million
October* 5, 1981	\$ 8.0 million	October* 6, 1981	\$106.0 million
October 7, 1981	\$ 7.0 million	October* 7, 1981	\$196.0 million
November 17, 1981	\$ 51.0 million	November 18, 1981	\$ 45.0 million
November 24, 1981	\$ 20.0 million	November 27, 1981	\$ 31.0 million
November 30, 1981	\$ 57.0 million	December 1, 1981	\$ 82.0 million
December 2, 1981	\$ 64.0 million	December 3, 1981	\$ 28.0 million
December 4, 1981	\$ 36.0 million	December 7, 1981	\$ 31.0 million
December 8, 1981	\$ 5.0 million	December 9, 1981	\$ 55.0 million
December 15, 1981	\$ 8.0 million	December 16, 1981	\$ 45.0 million
December 18, 1981	\$ 15.0 million	December 21, 1981	\$104.0 million
December 22, 1981	\$ 71.0 million	December 23, 1981	\$106.0 million
December 24, 1981	\$102.0 million	December 28, 1981	\$121.0 million
December 29, 1981	\$ 73.0 million	December 30, 1981	\$ 22.0 million
January 6, 1982	\$ 88.0 million	January 13, 1982	\$ 31.0 million
January 19, 1982	\$ 8.0 million	March* 4, 1982	\$125.0 million
March* 5, 1982	\$ 86.0 million	March 8, 1982	\$ 9.0 million
March* 8, 1982	\$188.0 million	March 9, 1982	\$ 77.0 million
March* 9, 1982	\$216.0 million	March 10, 1982	\$ 90.0 million
March* 10, 1982	\$235.0 million	March* 31, 1982	\$ 64.0 million
April* 6, 1982	\$246.0 million	April** 6, 1982	\$ 76.0 million
April 7, 1982	\$ 93.0 million	April* 7, 1982	\$239.0 million
April** 7, 1982	\$183.0 million	April** 12, 1982	\$ 31.0 million
April 13, 1982	\$ 25.0 million	April* 13, 1982	\$ 42.0 million
April 14, 1982	\$ 27.0 million	April* 14, 1982	\$ 1.0 million
April** 14, 1982	\$ 51.0 million	June 30, 1982	\$ 39.0 million
July 6, 1982	\$ 43.0 million	July 7, 1982	\$ 81.0 million
July* 7, 1982	\$ 27.0 million	July 8, 1982	\$ 7.0 million
September** 15, 1982	\$ 17.0 million	September** 29, 1982	\$ 11.0 million
October** 6, 1982	\$121.0 million	October 8, 1982	\$ 40.0 million
October 11, 1982	\$ 40.0 million	October 12, 1982	\$ 52.0 million
October 13, 1982	\$ 69.0 million	October 14, 1982	\$ 39.0 million
October 20, 1982	\$ 50.0 million	October 21, 1982	\$ 10.0 million
October 28, 1982	\$ 18.0 million	October 29, 1982	\$ 14.0 million

\*Richmond Federal Reserve Bank

\*\*Kansas City Federal Reserve Bank

\*\*\*Philadelphia Federal Reserve Bank

**FOREIGN GOVERNMENT OBLIGATIONS PURCHASED BY FEDERAL RESERVE BANKS  
AND USED AS COLLATERAL TO ISSUE FEDERAL RESERVE NOTES (1981-1983)**  
(Federal Reserve Bank Principal identified by asterisks)

November** 1, 1982	\$ 30.0 million	November 2, 1982	\$ 25.0 million
November 3, 1982	\$ 66.0 million	November 4, 1982	\$ 38.0 million
November 5, 1982	\$ 91.0 million	November 8, 1982	\$ 42.0 million
November 9, 1982	\$ 75.0 million	November 9, 1982	\$ 15.0 million
November** 10, 1982	\$ 60.0 million	November 10, 1982	\$ 18.0 million
November** 11, 1982	\$ 60.0 million	November 11, 1982	\$ 18.0 million
November**, 15, 1982	\$ 47.0 million	November 15, 1982	\$ 25.0 million
November** 16, 1982	\$ 2.0 million	November** 16, 1982	\$ 5.0 million
November** 18, 1982	\$ 51.0 million	November** 19, 1982	\$ 17.0 million
November** 23, 1982	\$ 23.0 million	November** 24, 1982	\$107.0 million
November** 25, 1982	\$107.0 million	November** 26, 1982	\$ 82.0 million
November** 29, 1982	\$ 3.0 million	December** 1, 1982	\$ 89.0 million
December** 2, 1982	\$ 82.0 million	December** 3, 1982	\$ 13.0 million
December** 6, 1982	\$ 75.0 million	December** 7, 1982	\$213.0 million
December** 8, 1982	\$191.0 million	December** 8, 1982	\$ 30.0 million
December** 9, 1982	\$108.0 million	December** 10, 1982	\$ 14.0 million
December** 13, 1982	\$ 77.0 million	December** 14, 1982	\$ 45.0 million
December** 15, 1982	\$ 10.0 million	December** 16, 1982	\$ 66.0 million
December** 17, 1982	\$ 44.0 million	December** 21, 1982	\$ 85.0 million
December** 22, 1982	\$153.0 million	December*** 22, 1982	\$ 21.0 million
December** 23, 1982	\$133.0 million	December** 24, 1982	\$134.0 million
December** 27, 1982	\$ 87.0 million	December** 28, 1982	\$187.0 million
December*** 28, 1982	\$ 36.0 million	December** 29, 1982	\$205.0 million
December*** 29, 1982	\$ 57.0 million	December** 30, 1982	\$143.0 million
December*** 30, 1982	\$ 12.0 million	December** 31, 1982	\$107.0 million
January** 3, 1983	\$ 74.0 million	January** 5, 1983	\$ 4.0 million
January** 6, 1983	\$ 49.0 million	January** 7, 1983	\$ 96.0 million
January** 10, 1983	\$ 57.0 million	January** 11, 1983	\$ 61.0 million
January** 12, 1983	\$ 46.0 million		

\*Richmond Federal Reserve Bank

\*\*Kansas City Federal Reserve Bank

\*\*\*Philadelphia Federal Reserve Bank

## *John L. Lewis Vs. United States*

- A. This is a Ninth Circuit Court of Appeals Case (680 f2d 1239) 1982 revealing that the Federal Reserve Banks are not Federal instrumentalities.
1. These banks are independent, privately owned and locally controlled corporations.
  2. Banks are listed neither as “wholly owned” government corporations nor as “mixed ownership” corporations.
  3. Federal Reserve Bank receives no appropriated funds from congress and the banks are empowered to sue and be sued in their own names.
  4. The Federal Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation.
  5. Tests for determining whether an entity is Federal instrumentality for purposes of protection from state or local action or taxation is very broad whether entity performs important governmental function.
- B. We have people tell us and believe that the FED is a government agency and after we show them this case and other items, we simply ask what else do you believe to be true, which in fact is not true.
1. It’s like those people who believe that there is a law requiring everyone to have a Social Security Number.
    - a. Show me the law and implementing regulation that makes having a social security number mandatory.
- C. Most Americans are so busy with their day-to-day activities they swallow hook line and sinker whatever the official government position is.
- D. How about auditing the Federal Reserve Bank?
1. At least have Congress turn the GAO loose on the Fed and lets find out where all the money the Fed takes in goes.

equipment has served to give Burroughs a "lock-in" advantage over all other competitors. Therefore, Sperry argues although the City will be seeking new bids for its computer facilities when the settlement agreement expires in November 1982, no other computer company will be able to successfully bid against Burroughs.

This court is aware that the "incumbent" will always have a slight advantage over its competitors but in the present situation Burroughs' advantage may be unfair. For example, at oral argument the City stated that there may not be sufficient time between now and November 1982 for any company but Burroughs to install data processing equipment. Additionally, if the City does not require all bidders to provide a state of the art data base, Burroughs will not have the additional cost of conversion that its competitors will suffer.

We remand this case to the district court for a review of the City's forthcoming bid specifications to determine whether there is an unfair advantage given to Burroughs, above the built-in advantage Burroughs has by reason of being the "incumbent."

Affirmed and remanded with additional instructions to the district court to review the City's bid specifications.



John L. LEWIS, Plaintiff/Appellant,

v.

UNITED STATES of America,  
Defendant/Appellee.

No. 80-5905.

United States Court of Appeals,  
Ninth Circuit.

Submitted March 2, 1982.

Decided April 19, 1982.

As Amended June 24, 1982.

Plaintiff, who was injured by vehicle owned and operated by a federal reserve

bank, brought action alleging jurisdiction under the Federal Tort Claims Act. The United States District Court for the Central District of California, David W. Williams, J., dismissed holding that federal reserve bank was not a federal agency within meaning of Act and that the court therefore lacked subject-matter jurisdiction. Appeal was taken. The Court of Appeals, Poole, Circuit Judge, held that federal reserve banks are not federal instrumentalities for purposes of the Act, but are independent privately owned and locally controlled corporations.

Affirmed.

### 1. United States ⇐78(4)

There are no sharp criteria for determining whether an entity is a federal agency within meaning of the Federal Tort Claims Act, but critical factor is existence of federal government control over "detailed physical performance" and "day to day operation" of an entity. 28 U.S.C.A. §§ 1346(b), 2671 et seq.

### 2. United States ⇐78(4)

Federal reserve banks are not federal instrumentalities for purposes of a Federal Tort Claims Act, but are independent, privately owned and locally controlled corporations in light of fact that direct supervision and control of each bank is exercised by board of directors, federal reserve banks, though heavily regulated, are locally controlled by their member banks, banks are listed neither as "wholly owned" government corporations nor as "mixed ownership" corporations; federal reserve banks receive no appropriated funds from Congress and the banks are empowered to sue and be sued in their own names. 28 U.S.C.A. §§ 1346(b), 2671 et seq.; Federal Reserve Act, §§ 4, 10(a, b), 13, 13a, 13b, 14, 14(a-g), 16, 12 U.S.C.A. §§ 301, 341-360; 12 U.S.C.A. § 361; Government Corporation Control Act, §§ 101, 201, 31 U.S.C.A. §§ 846, 856.

### 3. United States ⇐78(4)

Under the Federal Tort Claims Act, federal liability is narrowly based on tradi-

tional agency principles and does not necessarily lie when a tortfeasor simply works for an entity, like the Reserve Bank, which performs important activities for the government. 28 U.S.C.A. §§ 1346(b), 2671 et seq.

#### 4. Taxation ⇐6

The Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation.

#### 5. States ⇐4.15

##### Taxation ⇐6

Tests for determining whether an entity is federal instrumentality for purposes of protection from state or local action or taxation, is very broad: whether entity performs important governmental function.

Lafayette L. Blair, Compton, Cal., for plaintiff/appellant.

James R. Sullivan, Asst. U. S. Atty., Los Angeles, Cal., argued, for defendant/appellee; Andrea Sheridan Ordin, U. S. Atty., Los Angeles, Cal., on brief.

Appeal from the United States District Court for the Central District of California.

Before POOLE and BOOCHEVER, Circuit Judges, and SOLOMON, District Judge.\*

POOLE, Circuit Judge:

On July 27, 1979, appellant John Lewis was injured by a vehicle owned and operated by the Los Angeles branch of the Federal Reserve Bank of San Francisco. Lewis brought this action in district court alleging jurisdiction under the Federal Tort Claims Act (the Act), 28 U.S.C. § 1346(b). The United States moved to dismiss for lack of subject matter jurisdiction. The district court dismissed, holding that the Federal Reserve Bank is not a federal agency within the meaning of the Act and that the court therefore lacked subject matter jurisdiction. We affirm.

\* The Honorable Gus J. Solomon, Senior District Judge for the District of Oregon, sitting by

In enacting the Federal Tort Claims Act, Congress provided a limited waiver of the sovereign immunity of the United States for certain torts of federal employees. *United States v. Orleans*, 425 U.S. 807, 813, 96 S.Ct. 1971, 1975, 48 L.Ed.2d 390 (1976). Specifically, the Act creates liability for injuries "caused by the negligent or wrongful act or omission" of an employee of any federal agency acting within the scope of his office or employment. 28 U.S.C. §§ 1346(b), 2671. "Federal agency" is defined as:

the executive departments, the military departments, independent establishments of the United States, and corporations acting primarily as instrumentalities of the United States, but does not include any contractors with the United States.

28 U.S.C. § 2671. The liability of the United States for the negligence of a Federal Reserve Bank employee depends, therefore, on whether the Bank is a federal agency under § 2671.

[1,2] There are no sharp criteria for determining whether an entity is a federal agency within the meaning of the Act, but the critical factor is the existence of federal government control over the "detailed physical performance" and "day to day operation" of that entity. *United States v. Orleans*, 425 U.S. 807, 814, 96 S.Ct. 1971, 1975, 48 L.Ed.2d 390 (1976), *Logue v. United States*, 412 U.S. 521, 528, 93 S.Ct. 2215, 2219, 37 L.Ed.2d 121 (1973). Other factors courts have considered include whether the entity is an independent corporation, *Pearl v. United States*, 230 F.2d 243 (10th Cir. 1956), *Freeling v. Federal Deposit Insurance Corporation*, 221 F.Supp. 955 (W.D. Okla.1962), *aff'd per curiam*, 326 F.2d 971 (10th Cir. 1963), whether the government is involved in the entity's finances. *Goddard v. District of Columbia Redevelopment Land Agency*, 287 F.2d 343, 345 (D.C.Cir. 1961), *cert. denied*, 366 U.S. 910, 81 S.Ct. 1085, 6 L.Ed.2d 235 (1961), *Freeling v. Federal Deposit Insurance Corporation*, 221

designation.

F.Supp. 955, and whether the mission of the entity furthers the policy of the United States, *Goddard v. District of Columbia Redevelopment Land Agency*, 287 F.2d at 345. Examining the organization and function of the Federal Reserve Banks, and applying the relevant factors, we conclude that the Reserve Banks are not federal instrumentalities for purposes of the FTCA, but are independent, privately owned and locally controlled corporations.

Each Federal Reserve Bank is a separate corporation owned by commercial banks in its region. The stockholding commercial banks elect two thirds of each Bank's nine member board of directors. The remaining three directors are appointed by the Federal Reserve Board. The Federal Reserve Board regulates the Reserve Banks, but direct supervision and control of each Bank is exercised by its board of directors. 12 U.S.C. § 301. The directors enact by-laws regulating the manner of conducting general Bank business, 12 U.S.C. § 341, and appoint officers to implement and supervise daily Bank activities. These activities include collecting and clearing checks, making advances to private and commercial entities, holding reserves for member banks, discounting the notes of member banks, and buying and selling securities on the open market. See 12 U.S.C. §§ 341-361.

Each Bank is statutorily empowered to conduct these activities without day to day direction from the federal government. Thus, for example, the interest rates on advances to member banks, individuals, partnerships, and corporations are set by each Reserve Bank and their decisions regarding the purchase and sale of securities are likewise independently made.

It is evident from the legislative history of the Federal Reserve Act that Congress did not intend to give the federal government direction over the daily operation of the Reserve Banks:

It is proposed that the Government shall retain sufficient power over the reserve banks to enable it to exercise a direct authority when necessary to do so, but that it shall in no way attempt to carry

on through its own mechanism the routine operations and banking which require detailed knowledge of local and individual credit and which determine the funds of the community in any given instance. In other words, the reserve-bank plan retains to the Government power over the exercise of the broader banking functions, while it leaves to individuals and privately owned institutions the actual direction of routine.

H.R. Report No. 69, 63 Cong. 1st Sess. 18-19 (1913).

The fact that the Federal Reserve Board regulates the Reserve Banks does not make them federal agencies under the Act. In *United States v. Orleans*, 425 U.S. 807, 96 S.Ct. 1971, 48 L.Ed.2d 390 (1976), the Supreme Court held that a community action agency was not a federal agency or instrumentality for purposes of the Act, even though the agency was organized under federal regulations and heavily funded by the federal government. Because the agency's day to day operation was not supervised by the federal government, but by local officials, the Court refused to extend federal tort liability for the negligence of the agency's employees. Similarly, the Federal Reserve Banks, though heavily regulated, are locally controlled by their member banks. Unlike typical federal agencies, each bank is empowered to hire and fire employees at will. Bank employees do not participate in the Civil Service Retirement System. They are covered by worker's compensation insurance, purchased by the Bank, rather than the Federal Employees Compensation Act. Employees traveling on Bank business are not subject to federal travel regulations and do not receive government employee discounts on lodging and services.

The Banks are listed neither as "wholly owned" government corporations under 31 U.S.C. § 846 nor as "mixed ownership" corporations under 31 U.S.C. § 856, a factor considered in *Pearl v. United States*, 230 F.2d 243 (10th Cir. 1956), which held that the Civil Air Patrol is not a federal agency under the Act. Closely resembling the sta-

tus of the Federal Reserve Bank, the Civil Air Patrol is a non-profit, federally chartered corporation organized to serve the public welfare. But because Congress' control over the Civil Air Patrol is limited and the corporation is not designated as a wholly owned or mixed ownership government corporation under 31 U.S.C. §§ 846 and 856, the court concluded that the corporation is a non-governmental, independent entity, not covered under the Act.

Additionally, Reserve Banks, as privately owned entities, receive no appropriated funds from Congress. *Cf. Goddard v. District of Columbia Redevelopment Land Agency*, 287 F.2d 343, 345 (D.C.Cir.1961), *cert. denied*, 366 U.S. 910, 81 S.Ct. 1085, 6 L.Ed.2d 235 (1961) (court held land redevelopment agency was federal agency for purposes of the Act in large part because agency received direct appropriated funds from Congress.)

Finally, the Banks are empowered to sue and be sued in their own name. 12 U.S.C. § 341. They carry their own liability insurance and typically process and handle their own claims. In the past, the Banks have defended against tort claims directly, through private counsel, not government attorneys, *e.g., Banco De Espana v. Federal Reserve Bank of New York*, 114 F.2d 438 (2d Cir. 1940); *Huntington Towers v. Franklin National Bank*, 559 F.2d 863 (2d Cir. 1977); *Bollow v. Federal Reserve Bank of San Francisco*, 650 F.2d 1093 (9th Cir. 1981), and they have never been required to settle tort claims under the administrative procedure of 28 U.S.C. § 2672. The waiver of sovereign immunity contained in the Act would therefore appear to be inapposite to the Banks who have not historically claimed or received general immunity from judicial process.

[3] The Reserve Banks have properly been held to be federal instrumentalities for some purposes. In *United States v. Hollingshead*, 672 F.2d 751 (9th Cir. 1982), this court held that a Federal Reserve Bank employee who was responsible for recommending expenditure of federal funds was a "public official" under the Federal Bri-

bery Statute. That statute broadly defines public official to include any person acting "for or on behalf of the Government." S. Rep. No. 2213, 87th Cong., 2nd Sess. (1962), reprinted in [1962] U.S. Code Cong. & Ad. News 3852, 3856. See 18 U.S.C. § 201(a). The test for determining status as a public official turns on whether there is "substantial federal involvement" in the defendant's activities. *United States v. Hollingshead*, 672 F.2d at 754. In contrast, under the FTCA, federal liability is narrowly based on traditional agency principles and does not necessarily lie when the tortfeasor simply works for an entity, like the Reserve Banks, which perform important activities for the government.

[4, 5] The Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation. *Federal Reserve Bank of Boston v. Commissioner of Corporations & Taxation*, 499 F.2d 60 (1st Cir. 1974), *after remand*, 520 F.2d 221 (1st Cir. 1975); *Federal Reserve Bank of Minneapolis v. Register of Deeds*, 288 Mich. 120, 284 N.W. 667 (1939). The test for determining whether an entity is a federal instrumentality for purposes of protection from state or local action or taxation, however, is very broad: whether the entity performs an important governmental function. *Federal Land Bank v. Bismarck Lumber Co.*, 314 U.S. 95, 102, 62 S.Ct. 1, 5, 86 L.Ed. 65 (1941); *Rust v. Johnson*, 597 F.2d 174, 178 (9th Cir. 1979), *cert. denied*, 444 U.S. 964, 100 S.Ct. 450, 62 L.Ed.2d 376 (1979). The Reserve Banks, which further the nation's fiscal policy, clearly perform an important governmental function.

Performance of an important governmental function, however, is but a single factor and not determinative in tort claims actions. *Federal Reserve Bank of St. Louis v. Metrocentre Improvement District*, 657 F.2d 183, 185 n.2 (8th Cir. 1981), *Cf. Pearl v. United States*, 230 F.2d 243 (10th Cir. 1956). State taxation has traditionally been viewed as a greater obstacle to an entity's ability to perform federal functions than exposure to judicial process; therefore tax immunity is liberally applied. *Federal*

Cite as 680 F.2d 1243 (1982)

*Land Bank v. Priddy*, 294 U.S. 229, 235, 55 S.Ct. 705, 708, 79 L.Ed. 1408 (1955). Federal tort liability, however, is based on traditional agency principles and thus depends upon the principal's ability to control the actions of his agent, and not simply upon whether the entity performs an important governmental function. See *United States v. Orleans*, 425 U.S. 807, 815, 96 S.Ct. 1971, 1976, 48 L.Ed.2d 390 (1976), *United States v. Logue*, 412 U.S. 521, 527-28, 93 S.Ct. 2215, 2219, 37 L.Ed.2d 121 (1973).

*Brinks Inc. v. Board of Governors of the Federal Reserve System*, 466 F.Supp. 116 (D.D.C.1979), held that a Federal Reserve Bank is a federal instrumentality for purposes of the Service Contract Act, 41 U.S.C. § 351. Citing *Federal Reserve Bank of Boston* and *Federal Reserve Bank of Minneapolis*, the court applied the "important governmental function" test and concluded that the term "Federal Government" in the Service Contract Act must be "liberally construed to effectuate the Act's humanitarian purposes of providing minimum wage and fringe benefit protection to individuals performing contracts with the federal government." *Id.* 288 Mich. at 120, 284 N.W.2d 667.

Such a liberal construction of the term "federal agency" for purposes of the Act is unwarranted. Unlike in *Brinks*, plaintiffs are not without a forum in which to seek a remedy, for they may bring an appropriate state tort claim directly against the Bank; and if successful, their prospects of recovery are bright since the institutions are both highly solvent and amply insured.

For these reasons we hold that the Reserve Banks are not federal agencies for purposes of the Federal Tort Claims Act and we affirm the judgment of the district court.

AFFIRMED.



**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff-Appellant,**

v.

**LOCKHEED MISSILES & SPACE COMPANY, INC., Defendant-Appellee.**

No. 81-4542.

United States Court of Appeals,  
Ninth Circuit.

Argued and Submitted May 13, 1982.

Decided July 6, 1982.

Rehearing and Rehearing En Banc  
Denied Sept. 27, 1982.

The Equal Employment Opportunity Commission charged employer with violating Title VII as amended by the Pregnancy Discrimination Act. The United States District Court for the Northern District of California, William W. Schwarzer, J., entered summary judgment in favor of employer, and EEOC appealed. The Court of Appeals, Merrill, Circuit Judge, held that: (1) under basic principles of Title VII, exclusion of pregnancy-related medical expenses of spouses of male employees was not gender-based discrimination in violation of Title VII, and (2) the Pregnancy Discrimination Act of 1978 did not change those principles.

Affirmed.

Eugene A. Wright, Circuit Judge, filed a specially concurring opinion.

**I. Civil Rights ¶9.14**

Pregnancy Discrimination Act's amendment of Title VII, which as read in conjunction with the Act now provides that it shall be an unlawful employment practice for an employer to discriminate against any individual with respect to compensation because of such individual's "pregnancy, childbirth or related medical conditions" does not apply to male employees but, rather, is expressly limited to women employees. Civil Rights Act of 1964, §§ 701(k), 703(a), (a)(1, 2), 42 U.S.C.A. §§ 2000e(k), 2000e-2(a), (a)(1, 2).

## **Federal Reserve Bank Exhibits**

- A. Exhibit A, Title 12, Chapter 3, subchapter IX, Section 341-General Enumeration of Powers of the FED.
  - 1. This section lists their powers.
- B. Exhibit B, Chart I, Tracing the ties of the ownership of the Fed and their shares of stock.
- C. Exhibit C, 1 of 3, SC private Letter Ruling #90-1.
- D. Exhibit D, Title 31, CFR 328.5 Forms of Endorsement.
- E. Exhibit E, 31 USC Sec. 321 (d) (1) (2), General Authority of the Secretary.
- F. Exhibit F, 1 or 4, Complete text of 31 USC Sec. 321.

**Sec. 341. - General enumeration of powers**

Upon the filing of the organization certificate with the Comptroller of the Currency a Federal reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power - First. To adopt and use a corporate seal.

Second. To have succession after February 25, 1927, until dissolved by Act of Congress or until forfeiture of franchise for violation of law. Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this chapter, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years; and all other executive officers and all employees of the bank shall be directly responsible to him. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this chapter and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this chapter.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Secretary of the Treasury circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

But no Federal reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this chapter

**Exhibit A**

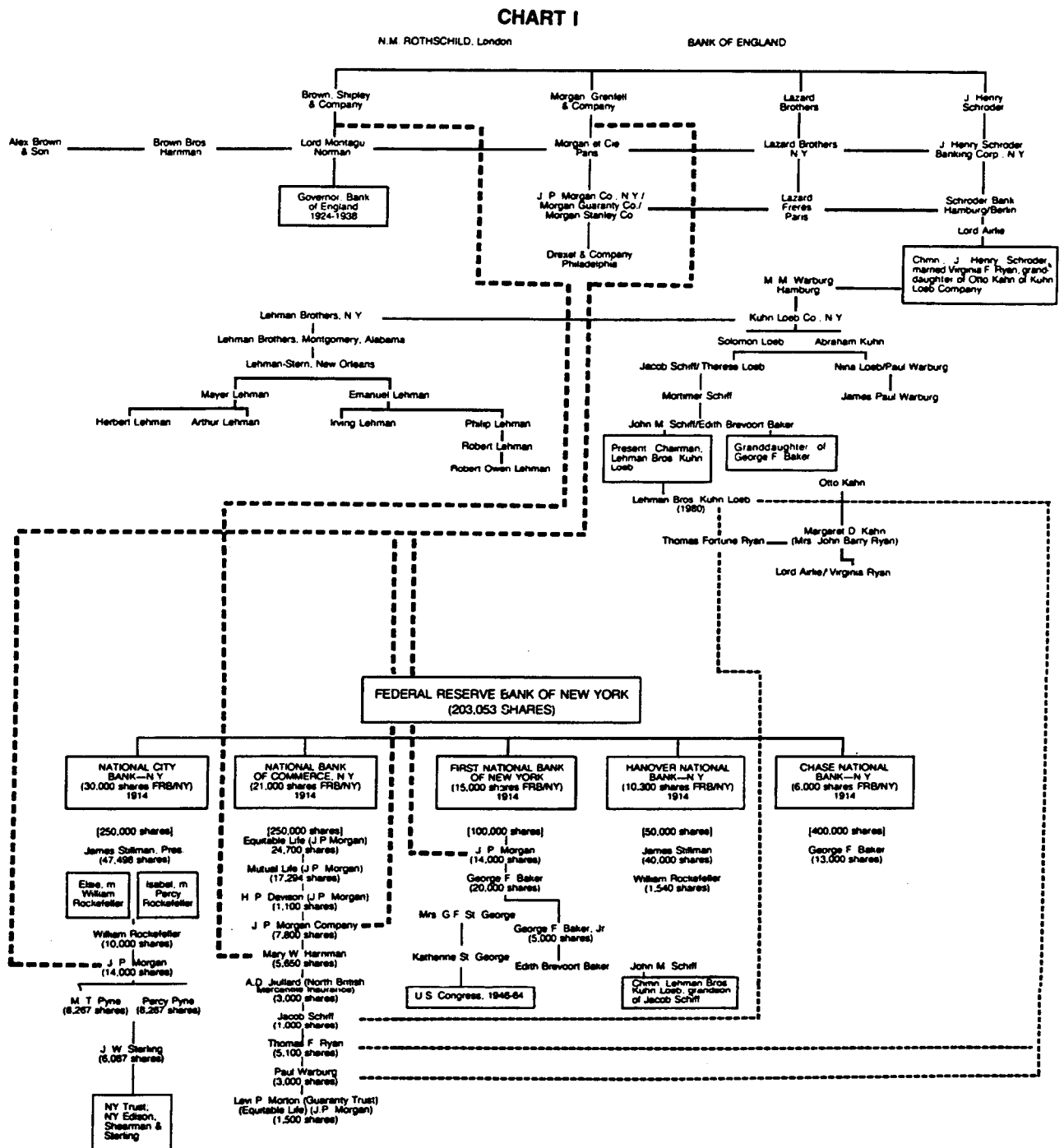


CHART I reveals the linear connection between the Rothschilds and the Bank of England, and the London banking houses which ultimately control the Federal Reserve Banks through their stockholdings of bank stock and their subsidiary firms in New York. The two principal Rothschild representatives in New York, J. P. Morgan Col, and Kuhn, Loeb Co. were the firms which set up the Jekyll Island Conference at which the Federal Reserve Act was drafted, who directed the subsequent successful campaign to have the plan enacted into law by Congress, and who purchased the controlling amounts of stock in the Federal Reserve Bank of New York in 1914. These firms had their principal officers appointed to the Federal Reserve Board of Governors and the Federal Advisory Council in 1914.

In 1914 a few families (blood and business related) owning controlling stock in existing banks (such as in New York City) caused those banks to purchase controlling shares in the Federal Reserve regional banks.

From "Secrets of the Federal Reserve", by Eustace Mullins. \$10.00, softcover, 198 pgs. Bankers Research Institute, P.O. Box 1105, Staunton, VA 24401.

**Exhibit B**

SC PRIVATE LETTER RULING #90-1

TO: Federal Reserve Bank of Richmond  
Columbia Office  
Columbia, S.C. 29210

SUBJECT: Federal Reserve Bank  
(Sales and Use)

REFERENCE: S.C. Code Ann. Section 12-35-510 (1976)  
S.C. Code Ann. Section 12-35-810 (1976)  
S.C. Code Ann. Section 12-35-550(1) (1976)  
S.C. Code Ann. Section 12-35-550(42) (1976)

AUTHORITY: S.C. Code Section 12-3-170 (1976)

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request. Private Letter Rulings have no precedential value and are not intended for general distribution.

Question:

Are sales to, or purchases by, the Columbia Office of the Federal Reserve Bank of Richmond exempt from sales and use tax, pursuant to Code Sections 12-35-550(1) and 12-35-550(42)?

Facts:

The Federal Reserve Bank and its district banks were created under 12 U.S.C.A. Section 226. The district banks in turn established satellite offices, one of which is located in Columbia.

Section 531 of Title 12 of the United States Code reads:

Federal reserve banks, including the capital stock and surplus therein and the income derived therefrom shall be exempt from Federal, State, and local taxation, except taxes upon real estate.

Code Section 12-35-510 imposes "upon every person engaged or continuing within this State in the business of selling at retail any tangible personal property...[a sales tax in] an amount equal to [five] percent of the gross proceeds of sales of the business".

Code Section 12-35-810 imposes the use tax "on the storage, use or other consumption in this State of tangible personal property purchased at retail for storage, use or other consumption in this State, at the rate of [five] percent of the sales price of such property".

South Carolina Code Section 12-35-550, paragraphs (1) and (42), and 12-35-820(2) specifically exempt from the sales and use tax:

- (1) The gross proceeds of the sale of tangible personal property or the gross receipts of any business which the State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Exhibit C / 1083

- (42) The gross proceeds of the sale of tangible personal property to the federal government, including gross proceeds subject to the tax under Sections 12-35-1140 and 12-35-1150.

Discussion:

The issue is whether federal reserve banks are instrumentalities of the federal government.

In *Federal Reserve Bank of St. Louis v. Metrocentre Improvement District #1*, 657 F.2d 183 (8th Cir. 1981), aff'd, 455 U.S. 995 (1981), the United States Court of Appeals, Eighth Circuit, stated that the test for determining whether an entity is a federal instrumentality is whether it performs an "important governmental function". The court held:

In light of the important governmental functions performed by the federal reserve banks and the United States Supreme Court's willingness to hold that financial institutions performing even fewer governmental functions are federal instrumentalities, we hold that the federal reserve banks are instrumentalities of the federal government. Our holding is consistent with other circuits that have faced this question. *Federal Reserve Bank v. City of Memphis*, 515 F.Supp. 63 (W.D. Tenn., 1979), aff'd 649 F.2d 462 (6th Cir. 1981); *Federal Reserve Bank v. Kalin*, 77 F.2d 50, 51 (4th Cir. 1935); *Raichle v. Federal Reserve Bank*, 34 F.2d 910, 916 (2d Cir. 1929).

Furthermore, in *Lewis v. United States*, 680 F.2d 1239 (Ninth Circuit, 1982) the Ninth Circuit Court of Appeals held:

The Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation. *Federal Reserve Bank of Boston v. Commissioner of Corporations & Taxation*, 499 F.2d 60 (1st Cir. 1974), after remand, 520 F.2d 221 (1st Cir. 1975); *Federal Reserve Bank of Minneapolis v. Register of Deeds*, 288

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Mich. 120, 284 N.W. 667 (1939). The test for determining whether an entity is a federal instrumentality for purposes of protection from state or local action or taxation, however, is very broad: whether the entity performs an important governmental function. *Federal Land Bank v. Bismarck Lumber Co.*, 314 U.S. 95, 102, 62 S.Ct. 1, 5, 86 L.Ed. 65 (1941); *Rust v. Johnson*, 597 F.2d 174, 78 (9th Cir. 1979), cert. denied, 444 U.S. 964, 100 S.Ct. 450, 62 L.Ed. 2d 376 (1979). The Reserve Banks, which further the nation's fiscal policy, clearly perform an important governmental function.

Performance of an important governmental function, however, is but a single factor and not determinative in

tort claims actions. Federal Reserve Bank of St. Louis v. Metrocentre Improvement District, 657 F.2d 183, 185 n.2(8th Cir. 1981), Cf. Pearl v. United States, 230 F.2d 243 (10th Cir. 1956). State taxation has traditionally been viewed as a greater obstacle to an entity's ability to perform federal functions than exposure to judicial process; therefore tax immunity is liberally applied. Federal Land Bank v. Priddy, 294 U.S. 229, 235, 55 S.Ct. 705, 708, 79 L.Ed. 1408(1955)

In summary, Federal Reserve Banks are federal instrumentalities for the purpose of immunity from state taxation.

Conclusion:

Sales to, or purchases by, the Columbia Office of the Federal Reserve Bank of Richmond are exempt from sales and use tax, pursuant to Code Section 12-35-550(1) and (42).

SOUTH CAROLINA TAX COMMISSION

S. Hunter Howard, Jr., Chairman

A. Crawford Clarkson, Jr., Commissioner

T. R. McConnell, Commissioner

Columbia, South Carolina

January 10, 1990

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Exhibit C 3093

[Code of Federal Regulations]  
[Title 31, Volume 2]  
[Revised as of July 1, 2002]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 31CFR328.5]

[Page 221-222]

TITLE 31--MONEY AND FINANCE: TREASURY

CHAPTER II--FISCAL SERVICE, DEPARTMENT OF THE TREASURY

PART 328--RESTRICTIVE ENDORSEMENTS OF U.S. BEARER SECURITIES--Table of Contents

Sec. 328.5 Forms of endorsement.

(a) When presented by banks--(1) For payment or exchange. The endorsement placed on a bearer security presented for payment or exchange by a bank should be in the following form:

For presentation to the Federal Reserve Bank of -----,  
Fiscal Agent of

[[Page 222]]

the United States, for redemption or in exchange for securities of a new issue, in accordance with written instructions submitted by -----  
----- (Insert name of presenting bank)

(2) For redemption at par. The endorsement placed on a bearer security presented for redemption at par in payment of Federal estate taxes should be in the following form:

For presentation to the Federal Reserve Bank of -----, Fiscal Agent of the United States, for redemption at par in payment of Federal estate taxes, in accordance with written instructions submitted by -----  
----- (Insert name of presenting bank)

(b) For conversion to book-entry securities. The endorsement placed on a bearer security presented for conversion to a book-entry security shall be in the following form:

For presentation to the Federal Reserve Bank of -----,  
Fiscal Agent of the United States, for conversion to book-entry securities by ----- (Insert name of presenting bank)

(c) When presented by Service Center Directors or District Directors, Internal Revenue Service. The endorsement placed on a bearer security by a Service Center Director or a District Director, Internal Revenue Service, should be in the following form:

For presentation to the Federal Reserve Bank of -----; Fiscal Agent of the United States, for redemption, the proceeds to be credited to the account of the Service Center Director, Internal Revenue Service, at -----, for credit on the Federal ----- (Income, gifts, or other) taxes due from ----- (Name and address)

Exhibit D

31 U.S.C. Sec. 321. - General authority of the Secretary

(d)

(1) **The Secretary of the Treasury may accept**, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of **money** and the proceeds from sales of other property **received as gifts** or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) **For purposes of the Federal income, estate, and gift taxes**, property accepted under paragraph (1) **shall be considered as a gift or bequest to or for the use of the United States.**

**TRANSLATION:**

The Secretary may accept personal property (money) as gifts voluntarily donated, for the purposes of the federal income tax, and it shall be considered as a gift for the use of the government. Since you have no obligation pursuant to Public Law 591, August 16, 1954, you are in essence donating your hard earned money as a gift voluntarily. If it was mandatory, it wouldn't be called a gift, but more like an obligation. It cannot be an obligation, because it would be considered an unconstitutional collection of an excise tax upon you earnings.

The Secretary may accept real property (house, car, boat, airplane etc) from the proceeds of sales as gifts (through liens) for the purposes of the federal income tax, and it shall be considered as a gift for the use of the government.

Exhibit E

-EXPCITE-

TITLE 31 - MONEY AND FINANCE

SUBTITLE I - GENERAL

CHAPTER 3 - DEPARTMENT OF THE TREASURY

SUBCHAPTER II - ADMINISTRATIVE

-HEAD-

Sec. 321. General authority of the Secretary

-STATUTE-

(a) The Secretary of the Treasury shall -

(1) prepare plans for improving and managing receipts of the United States Government and managing the public debt;

(2) carry out services related to finances that the Secretary is required to perform;

(3) issue warrants for money drawn on the Treasury consistent with appropriations;

(4) mint coins, engrave and print currency and security documents, and refine and assay bullion, and may strike medals;

(5) prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the Government and individuals from fraud and loss, that apply to anyone who may -

(A) receive for the Government, Treasury notes, United States notes, or other Government securities; or

(B) be engaged or employed in preparing and issuing those notes or securities;

(6) collect receipts;

Exhibit F 1 of 4

(7) with a view to prosecuting persons, take steps to discover fraud and attempted fraud involving receipts and decide on ways to prevent and detect fraud; and

(8) maintain separate accounts of taxes received in each State, territory, and possession of the United States, and collection district, with each account listing -

(A) each kind of tax;

(B) the amount of each tax; and

(C) the money paid as pay and allowances to officers and employees of the Department collecting taxes in that State, territory, possession, or district.

(b) The Secretary may -

(1) prescribe regulations to carry out the duties and powers of the Secretary;

(2) delegate duties and powers of the Secretary to another officer or employee of the Department of the Treasury;

(3) transfer within the Department the records, property, officers, employees, and unexpended balances of appropriations, allocations, and amounts of the Department that the Secretary considers necessary to carry out a delegation made under clause (2) of this subsection;

(4) detail, in addition to details authorized under another law, not more than 6 officers and employees of the Department at any one time to enforce the laws related to the Department, except that of those 6 officers and employees not more than 4 officers and employees -

(A) paid from the appropriations for the collection of customs may be so detailed;

(B) paid from the appropriations for internal revenue may be so detailed; and

(C) paid from the appropriations for suppressing counterfeiting and other crimes may be so detailed;

Exhibit F 2 of 4

(5) authorize, at rates and under conditions prescribed by the Secretary, the private use of telephone lines controlled by the Department when the use does not interfere with Department business;

(6) buy arms and ammunition required by officers and employees of the Department in carrying out their duties and powers; and

(7) notwithstanding any other provision of law, fulfill any requirement to issue a report on the financial condition of any fund on the books of the Treasury by including the required information in a consolidated report, except that information with respect to a specific fund shall be separately reported if the Secretary determines that the consolidation of such information would result in an unwarranted delay in the availability of such information.

(c) Duties and powers of officers and employees of the Department are vested in the Secretary except duties and powers -

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Secretary;

(2) of the Comptroller of the Currency; and

(3) of the Director of the Office of Thrift Supervision;

(d) (1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift

or bequest to or for the use of the United States.

(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.

(e) Certain Reorganization Prohibited. - The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 880; Pub. L. 98-369, div. A, title IV, Sec. 445, July 18, 1984, 98 Stat. 816; Pub. L. 101-73, title III, Sec. 307(b), (d), Aug. 9, 1989, 103 Stat. 353; Pub. L. 104-66, title I, Sec. 1132(b), Dec. 21, 1995, 109 Stat. 725.)

-MISC1-

Historical and Revision Notes

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Revised Section

Source (U.S. Code)

Source (Statutes at

## How Your Local Bank Defrauds You

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When you deposit your paycheck or some cash into your local bank account, you probably assume that it will be there when you need it. That's why your account is called a '*demand deposit*' account because after you *deposit* it, you can *demand* it back. Your demand usually takes the form of a check or a debit card transaction.

Centuries ago, early bankers realized that not everyone asked for their deposits back at the same time. In fact, it was rare that demands for funds exceeded ten percent of the total on deposit. This amount of cash just sitting in the vault was a powerful temptation and bankers soon succumbed to it. They figured that they could take that ninety percent that never left the bank and loan it out and by charging interest on the loans could make a significant amount of money from other people's money. And, since most people do not even pretend to understand money and banking, this could be done without the depositor's knowledge. This fraud is known by the name *fractional reserve banking*.

This fraud worked most of the time but, occasionally, depositor's would lose faith in the bank for one reason or another and more than ten percent of the deposits would be demanded at the same time. But the bank didn't have the cash because it had been lent out. As soon as it became common knowledge that the bank could no longer honor demands for depositor's money, almost everyone wanted their money back. This is called a 'run' on the bank and almost always resulted in the failure of the bank and the loss of most of the depositor's money.

This situation resulted in demands by citizens for the government to do something. Now you would think that the government would just make it a crime to loan out depositor's money. But they didn't. *They actually made the process legal.* (Which makes me wonder if the government wasn't behind some of the bank runs in the first place.) Today, according to the Federal Reserve rules, it is legal for member banks (and almost all banks in the United States are now members of the Federal Reserve System) to loan out up to 80 percent of depositor's money *without the depositor's knowledge*. The Fed says this is ok now because the banks belong to the Federal Deposit Insurance Corporation which will pay the depositors of a failed bank. This works as long as only a few banks fail but a similar organization, the Federal Savings and Loan Insurance Corporation (FSLIC), was unable to pay off on all the savings and loans that failed and left the bailout to the taxpayers of the United States. It appears to me that your deposits in a US bank are still at risk.

Loaning out your money without your knowledge is bad enough but it gets worse. When the bank loans out your money, they don't usually give cash to the borrower. In almost all cases, they will issue a check. But let's examine where the money for the check comes from and what happens to it after it is issued.

When the bank grants a loan, they first get you to sign a mortgage agreement on some asset that you own. Then they issue the check. The accounting department now makes a bookkeeping entry that debits your mortgage agreement as an asset and credits cash. The bank now has reduced its available cash by the amount of your loan. But then you deposit the check into your account, either at that bank or at another bank in the system. Let's say it's the same bank. Now the accounting department makes

another entry that debits cash in the amount of your check and credits your demand deposit account with the same amount. Notice what has happened here. The bank's cash account has not changed but they now have additional funds on deposit which they can now loan 80 percent of. They have just increased the local money supply by the amount of your loan and at the same time created more money that they can loan out.

The above process can continue through several transactions until the increase in the money supply is too small for a practical loan amount. It has been calculated that a dollar deposited in a modern US bank can be turned into ten dollars through this process.

Also notice something else about this process. Here again the loan was used to create money but there is no process to create enough additional money to pay the interest on the loan. That means that even at the local and personal level we cannot all pay off our debts and eventually this will result in the bank owning most or all of the real assets in the local area.

And making this situation even worse is the fact that the Federal Reserve Notes that we are forced (by the government) to use as currency isn't even constitutional. The Constitution For the united States says that only gold or silver coin can be made legal tender for payment of debts. So we cannot even discharge our debts. On a personal level, we can transfer our debt to someone else but the total amount of debt remains the same and, in fact, continues to increase.

**6001, Books and Records**  
**FOIA Request**

- A. If the IRS has sent you a 2039 summons or they want to audit you, then you will want to send in this FOIA.
  - 1. If you have been filing and self-assessing yourself then the only time you might want to use this is if they want to do an audit of your account.
- B. By 6001, we mean under IRC 6001 and 26 CFR 1.6001.
- C. Exhibit A, 1 of 2, shows the 26, 6001 section and on the second half of the page is the Parallel Authorities for 26 USC 6001.
  - 1. Exhibit 2 of 2, is 26 CFR 1.6001-1 records and if you drop down and read the last line it says, “of any Internal Revenue Law,” not income tax law.

**TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART I > Sec. 6001.**

**Sec. 6001. - Notice or regulations requiring records, statements, and special returns**

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a)

**Parallel authorities for 26 USC 6001 (from CFR)**

*[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]*

- 26 CFR part 1
- 26 CFR part 31
- 26 CFR part 55
- 26 CFR part 156
- 27 CFR part 19
- 27 CFR part 53
- 27 CFR part 194
- 27 CFR part 250
- 27 CFR part 296

Exhibit A / of 2

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY  
(CONTINUED)

Procedure and Administration--Table of Contents

Sec. 1.6001-1 Records.

(a) In general. Except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

(b) Farmers and wage-earners. Individuals deriving gross income from the business of farming, and individuals whose gross income includes salaries, wages, or similar compensation for personal services rendered, are required with respect to such income to keep such records as will enable the district director to determine the correct amount of income subject to the tax. It is not necessary, however, that with respect to such income individuals keep the books of account or records required by paragraph (a) of this section. For rules with respect to the records to be kept in substantiation of traveling and other business expenses of employees, see Sec. 1.162-17.

(c) Exempt organizations. In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and Secs. 1.6033-1 through 1.6033-3.

(d) Notice by district director requiring returns statements, or the keeping of records. The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for tax under subtitle A of the Code, including qualified State individual income taxes, which are treated pursuant to section 6361(a) as if they were imposed by chapter 1 of subtitle A.

(e) Retention of records. The books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 7122, 36 FR 11025, June 8, 1971; T.D. 7577, 43 FR 59357, Dec. 20, 1978; T.D. 8308, 55 FR 35593, Aug. 31, 1990]

Exhibit A 2 of 2

## FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer

Internal Revenue Service

(your local IRS district address)

(your local IRS district address)

FROM: (your name or entity name)

addr1

addr2

Account # (SS# or EIN#)

Dear Disclosure Officer:

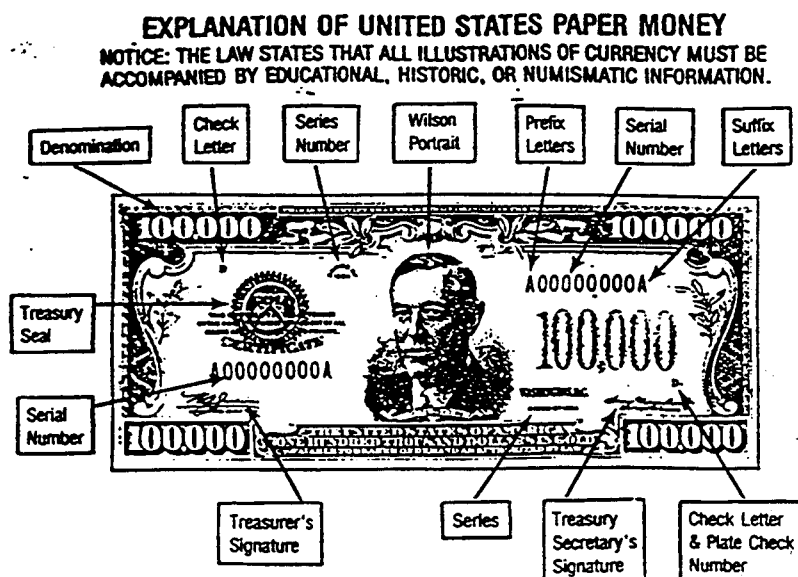
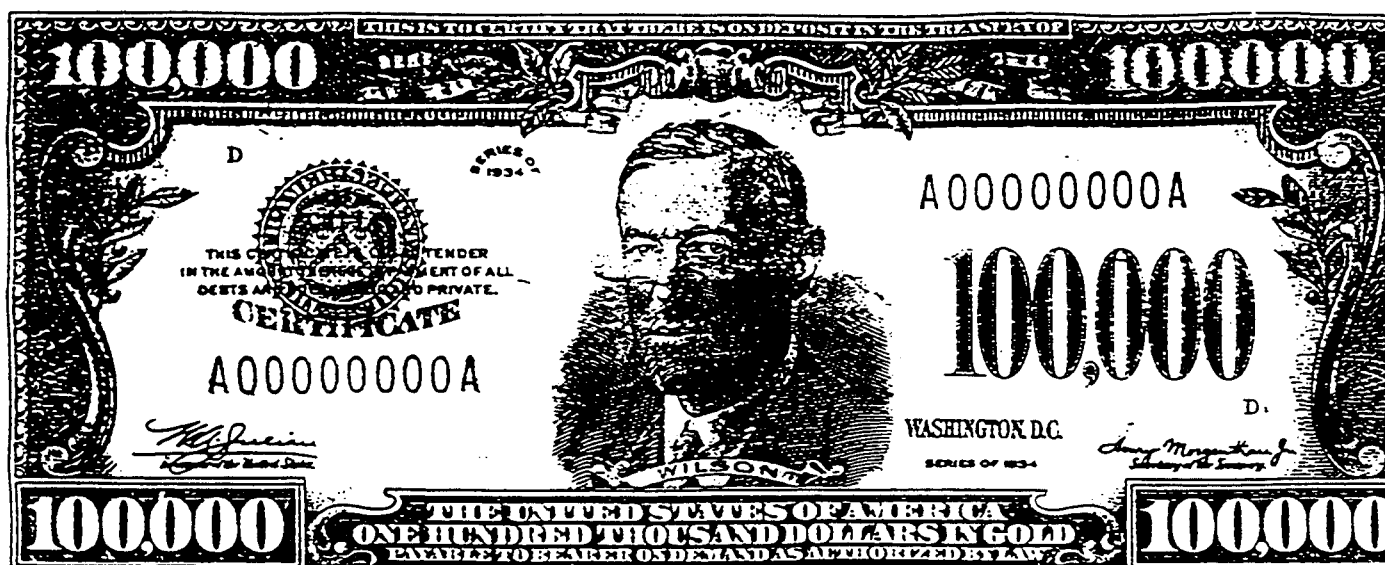
1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. Please send me a copy of the "6001 Notice" which pertains to the Requester.
5. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

**Dated:**

Respectfully,

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name, Qualified Requester



**THE FEDERAL RESERVE BANKS AND CODE LETTERS**  
 The Government has authorized the 12 Federal Reserve districts, in each of which a Federal Reserve Bank, to issue notes. Each district is designated by a number and the corresponding letter of the alphabet. The district numbers, the cities in which the 12 banks are located, and the code letters are:

1-Boston—A	5-Richmond—E	9-Minneapolis—I
2-New York—B	6-Atlanta—F	10-Kansas City—J
3-Philadelphia—C	7-Chicago—G	11-Dallas—K
4-Cleveland—D	8-St. Louis—H	12-San Francisco—L

**SILVER CERTIFICATE**  
 Silver Certificates were first authorized in 1878. These notes were issued against Silver Dollars held in the Treasury for their redemption. Later issues were backed by Silver Bullion, and the obligation to redeem them in Silver Dollars has been removed from the face of the notes since 1934.  
 One June 24, 1968 The Treasury ceased the redemption of Silver Certificates. They are now ordinary circulating notes.

**REFUNDING CERTIFICATES**  
 Refunding Certificates were issued under the Act of February 26, 1879. These notes were in tender to be more a form of Government Bond or Security, as they bore interest at the rate of 4% per year. The \$10.00 denominations made the note available to people of moderate means. In 1907 the interest was stopped. The redemption value today, with interest, is \$21.30.

**GOLD CERTIFICATES**  
 The first Gold Certificates issued for general circulation were the series of 1868. These notes were issued against Gold Coins held by the Treasurer for their redemption. The last issues were the small notes of 1928.

In 1933 all Gold Certificates were ordered to be returned to the Treasury for redemption. In 1964 these restrictions were lifted and collectors were permitted to hold them.

**TREASURY OR COIN NOTES**  
 Treasury Notes were authorized in 1890. They were known as Coin Notes, because they were redeemable in either Silver or Gold Coin. There were only two issues: 1890 and 1891.

The \$100,000 bill, with Woodrow Wilson's portrait on the front, was printed only for use in transactions between the Federal Reserve System and the Treasury Department.

