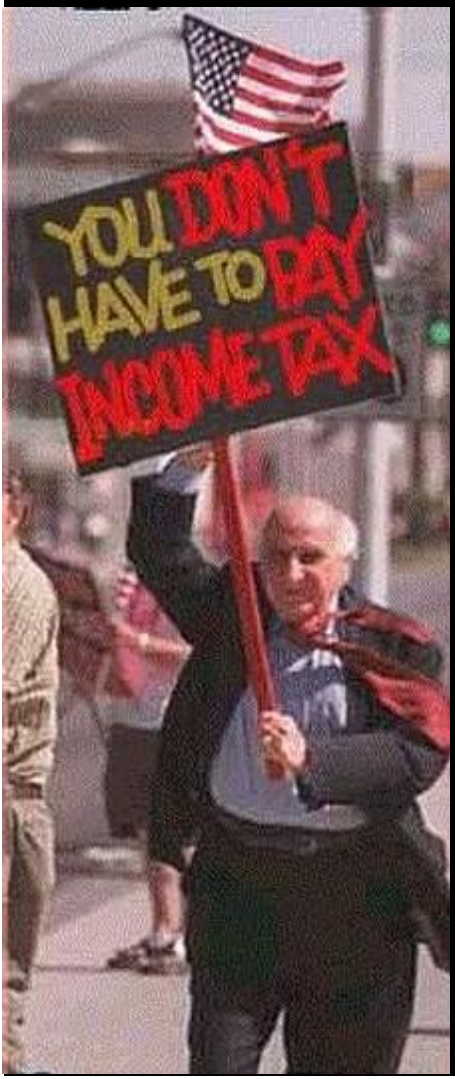
How Government SILENCED



IRWIN SCHIFF

by Jim Davies

"Back Cover"

For over thirty years, Irwin Schiff probed what may be the Federal Government's dirtiest little secret of all: that its primary source of revenue is raised not as a result of laws written by representatives elected by a supposedly sovereign People, but by lying and deception done by every one of its three branches. In so doing, he amassed more knowledge of the history and law of the US Income Tax than anyone else inside or outside of government.

Such knowledge is dangerous. Schiff devoted his life to spreading it far and wide, and that placed government in peril; its whole credibility, as well as its main supply of money, could have been destroyed. It was also dangerous to Schiff; for the first priority of any organization is to prolong its own survival. So as seen in Washington D.C., this irrepressible upstart had to be silenced.

After briefly reviewing what Schiff discovered and called "The Great Income Tax Hoax", author Jim Davies, who first met Schiff in 1984, here relates how that silencing was done. He then goes further, by suggesting how the US Income Tax may not, after all, be illegal and unconstitutional - but that if not, the wickedness of all three branches of government is *far greater* than previously perceived. He ends by proposing a radical solution - which has nothing to do with tax resistance that is almost bound to fail, nor with any violence, but with peaceful action that is virtually certain to succeed - within a single generation.

The large Appendix to this work consists of public-domain documents; legal motions and rulings filed in the 2005 case of US vs Schiff et al, that show the arguments used by both parties. The reader can judge for himself which were the more persuasive, and make use of any if needed.

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This book is dedicated to all the brave people, past and present, who have attempted to hold the US Government to the standard of its own income-tax laws, only to be imprisoned for their impertinence; and especially to the memory of those who were killed by agents of that government when they attempted to defend themselves.

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Preface

On October 16th 2015 Irwin Schiff, the most courageous and principled person I have been privileged to know, died. Until his last breath, he strove to return America to its Constitutional roots, and in so doing left us a priceless legacy of brilliant legal arguments, to use as need arises.

He died from natural causes, but was shackled to a bed in a government prison at Fort Worth, TX at age 87. He had been placed behind bars in 2005, for the impertinence of trying to hold government to its own published constraints, and would have been released, had he lived, in 2017.

Irwin's contention, as this book will show, is that the law requires nobody to pay income tax, the primary source of government funding not just at the Federal level but also at that of the States.

This book reviews the elegant logic of his reasoning, and attempts also to answer the question: "What now?" - what can be done now that he was imprisoned and now that he has died? Can government, now or ever, be constrained and caused to obey its own law?

Its conclusion is highly positive, but there are some surprises along the way.

Jim Davies
April, 2016.

1: Discovery

Irwin Schiff was a one-man dynamo of energy, tirelessly telling all who will listen that the primary system for funding government – the US "income tax" – is a fraud from top to bottom. As his death he was aged 87, but no image fits him better than that of the small boy in Hans Christian Andersen's timeless fable about the emperor's new clothes, visible only to the wise. Nobody wanted to be thought foolish, so all pretended it was a fine suit – except the boy, who didn't know or care except for what he could plainly observe: which was that His Imperial Majesty was as naked as the day that he was born.

If he was wrong and the income tax is truly written into law in the usual way, it would still be immensely damaging - consisting like all other taxes of theft, pure and simple; but while Irwin Schiff pointed out in The Biggest Con (1976) that the governments which taxes pay for have grown to a monstrous and destructive size, he focused primarily on the fact that this "tax" is enforced as if it were a normal, legalized tax but is in fact no such thing, and for very good reasons. Pressed for his view on what would happen if the pretense were scrapped, he has said that the Federal Government would no doubt replace it with something like a national sales or value added tax, but that voters would not stand for such a thing unless its rates were far lower than what would be needed (20-25%) to yield the same amount of revenue; that accordingly, the scrapping would properly slash the whole size and scope of government.

That can be debated; but Irwin Schiff's purpose since the late 1970s has been to expose the fraud of the income tax. As such he was reluctantly named in a New York Times article as its "nearest thing to an intellectual... in the illegal tax-protest movement" – even as it falsely placed that hyphen between the second pair of words, not the first. In fact his intellectual grasp of what passes for income tax law is a great deal more profound than anything the Times has ever published about the subject, and this book aims to show the fruits of his four decades of tax-law research.

Schiff began his career in Connecticut, having been raised there by parents of Jewish ancestry who had immigrated from a "shtetl" or small town in Galicia in South Eastern Poland, then part of the Austro-Hungarian Empire, in 1906 in search of "Goldenah Medinah" - the golden land – with millions of similar, penniless immigrants. He writes that according to his father, life in the shtetl was much as was portrayed in "Fiddler on the Roof" with plenty of dancing and singing. His father, a carpenter, left his father and three of his brothers behind and all members of those branches of the family were later murdered by the German government.

After earning a bachelor's degree at UConn Irwin obtained a CLU degree in 1958, and in 1960 began and operated a highly successful insurance brokerage in Hamden, CT for several years, earning enough to purchase a substantial home. There is no doubt that had he chosen to remain in that profession he would have retired with considerable wealth. He had however a keen sense of right and wrong and a passionate desire to maintain America as a country with no more than limited government, to the degree that

caused it to prosper for 150 years above all others, and by the 1970s he had seen that all was very far from well.

That concern was first expressed in The Biggest Con, and the book's radical contents are well summarized on its inside front cover, reproduced below.

On October 8, 1974, before a joint session of the Congress, President Ford called "inflation, our public enemy No. 1." Schiff's thesis is that since it's the Federal government that causes that inflation, it's the Federal government that is, in reality, "public enemy No. 1" — and blistering chapters add to this indictment.

With irrefutable evidence and driving logic, he accuses the Federal government of converting the American economy to national socialism and turning American workers into Federal peons. With facts and figures he shows how, when, and why the Federal government:

- Causes inflation
- Steals more from the public in a week than the Mafia does in a year
- Declared official bankruptcy three times since 1970
- Created the energy crisis
- Legislates unemployment, poverty and crime
- Fraudulently conceals the nation's $8 trillion public debt
- Unconstitutionally enforces a fraudulently acquired power to tax income, and
- Why Social Security is a gigantic fraud from which taxpayers can now legally "drop out"
- Why the Federal government is nothing but a profit making* business monopoly, and
- **Why he has paid no income taxes since 1973.**

* For those who run it.

It's a scathing indictment of government, well written, and with a broad scope, from the nature of money to the damage inflicted by unions, and the labor laws that enable them to function, on working people. Appendix B of the

book records his 1968 testimony before Congressional Committee on Banking and Currency, a brilliant and prescient exposé of paper money contrasted with gold, to which that body paid not the slightest attention. The testimony was offered before Richard Nixon broke the last link between the US dollar and gold, to warn Congress that unless the dollar price of gold were tripled, all US gold would be drained out of the country since it could still be bought for $35/oz and since the French, in particular, were busy doing so. The promise given by the US Government in 1944 to maintain the value of the dollar at $35 per gold ounce, so as to gain agreement to have it serve as the world's "reserve currency," allowed Americans to live beyond our means for over half a century. Schiff predicted then that paper, "fiat" money, whose value could be set by government at will regardless of the quantity of gold and silver backing it, if any, would become increasingly worthless. Since he spoke on Capitol Hill, the US dollar has lost 77% of its purchasing power - so he was right, and everyone else on that Hill was wrong. There are very few who have predicted so accurately, and none who have then been so deliberately ignored.

Having found that government in the mid-20th Century was far more destructive than that of a hundred years earlier, Schiff turned his attention to how the Feds are funded. He was therefore led to the two dominant taxes, those on "income" and for "social security." As a result he started refusing to co-operate with the IRS. He first realized that to file an income tax return cannot possibly be an action compelled by law, because its small-print "Disclosure" notice expressly confirms that all one writes on a 1040 Form can be used in evidence against the author by a wide

variety of government bodies; if mandatory, such would clearly violate the self-incrimination protection of the Fifth Amendment. So, he reasoned, filing must be a voluntary act. The IRS disagreed, but failed to resolve the contradiction. One result was Schiff's priceless ridiculing of "voluntary compliance" as an IRS oxymoron; "can anyone please explain how it differs from 'compulsory compliance'?"

These discoveries, which were enhanced with fresh ones every month, adding confirmation of his early findings, led him to publish his most widely-read book in 1982: How Anyone Can Stop Paying Income Tax. It was carried by major book distributors and sold a quarter of a million copies. It must have caused alarm and despondency around the Nation's capital – but the reading public loved it.

In the same year he also wrote The Social Security Swindle to complement it, aided by his experience in honest, commercial insurance, to show that this compulsory scheme is financially unsound and is comprised of and financed by what is actually an extra, unconstitutional income tax; and suggested ways to drop out so as to use the money saved to buy real sickness and retirement insurance with far greater value for the money.

In 1985 Schiff published his masterpiece, The Great Income Tax Hoax. It's a comprehensive, scholarly account of how and why Congress' earlier attempts to foist an income tax on Americans had failed, and why the 1909-13 attempt should have failed but did not. The Hoax is so well researched as readily to justify Schiff's realistic (if not

overly modest) claim to be the greatest living expert on the US Income Tax.

So in the 1980s Irwin Schiff was prolific – but still took time to run "UnTax Seminars" all over the country. He would present his latest findings on how legally to avoid paying the tax he had found to be non-legalized to groups of 50 to 200 at a time, among whom was quite often to be found an IRS observer. Those were never ridiculed; Schiff often invited the visitor to identify himself but never put him on the spot with a challenge he'd be unable to meet. His watchword was courtesy. The IRS did not reciprocate.

The seminars were memorable. After a presentation Schiff would take audience questions until none remained; and his books were available for sale. He had a constantly upbeat and amusing style, often introducing the session with a little performance of magic. For example he would take from someone a $20 bill, fold and re-fold it very small, and then unfold it again to reveal – a $1 bill! He explained that this is what government does to money. Yes, the $20 owner always got his property back – but I've watched him perform that trick from very close up, and can't tell how he does it. He's a very accomplished amateur magician.

Later, some of the seminars became *workshops* in which students would practice live role-playing in preparation for an anticipated IRS meeting, such as an audit or (later) a Collection Due Process Hearing (CDPH.) These could be a hoot. Some students were a little slow to get the point, so Schiff would drill them until word-perfect, himself playing the part of the IRS adversary – usually Frank N Stein or his colleague, Greb de Monay.

Although in The Biggest Con Schiff clearly stated he paid no income taxes, it was not until he was interviewed by the Hartford Courant newspaper in 1977 that this news began to attract attention. He told the reporter *off the record* that he filed "Fifth Amendment" returns and that the IRS had not bothered him, but it ended up in the newspaper anyway and that triggered invitations to appear on the Tom Snyder national TV show where he repeated it. Publicity like that was evidently something up with which the IRS was unable to put, so he was indicted in 1978 and tried in 1979 and convicted. He appealed and won – but again, such a result would have been fatal for the government's primary source of revenue so he was re-tried and re-convicted in 1980; and this time his appeal was denied *without any oral argument being allowed.* Clearly, a predetermined result. In 1981 he entered prison for the first time.

The charade was repeated later in the 1980s because he did not compromise his beliefs, his practice or his resolve to let the public know how it was being swindled; in order to keep him behind bars government prostituted its "justice" system all over the map. It was not to be the last time.

Having learned the very hard way that refusal to file a tax return may bring an illegal prosecution for not taking an act that the law does not and can not require, on emerging from prison in 1990 Irwin Schiff did not, as the government may have hoped, return to private life and rebuild an insurance business. Instead he designed a way to avoid the danger of similar prosecution, in the form of his famous "zero return." This was an IRS 1040 form with a zero on every line (except those indicating a refund was due) and with a

two-page attachment to explain in detail why that declaration of zero income was correct. The Attachment was used in subsequent years by thousands of students of his understanding of tax law and so was a fitting response to the suffering government had caused him.

In the same year he published his second most popular work, The Federal Mafia – which he had been writing in prison, so putting his enforced idleness to good use. In due course this work sold over 75,000 copies and introduced the strategy of using zero returns.

Naturally, not all 75,000 readers took the brave action of submitting such returns, but it's interesting to speculate how many eventually did; all were supported by Schiff's regular short-wave, interactive radio programs during the 1990s and by his extraordinarily detailed audiotape series that he sold to keep his students up to date on his latest legal discoveries and ideas for frustrating the IRS' illegal acts of intimidation when trying to deal with these zero returns. It's hard to guess how many of these audiotape series (numbered 1 through 7) were sold, but an average student may have spent a total of around $500 on all Schiff's materials – a drop in the bucket of the "tax" saving each would enjoy. To handle the work load and deal with hundreds of student questions a week, he established his "Freedom Books" firm in Las Vegas, just off the main "Strip" and adorned in due course with a large sign asking **"Why pay income tax when no law says you have to?" -** and hired a staff of helpers. When government agents raided the premises in 2003 (see Chapter 4) they claimed to have seized records of 3,000 customers; but that number does not compute with what it must have cost Schiff to

operate the firm. I think it likely that practicing students numbered five or six times that many (still only a minor fraction of the 75,000) but that most of their identities were lost to the government raiders.

It may be of interest to digress a moment to indicate what the seven audiotape series contained. They were so full of practical information that I must pick just a few examples.

One subject was how to prevent an employer withholding "income tax" from a paycheck, after the employee-student had filed a W-4 declaring himself "exempt" from it, as was of course the case if he wasn't liable for it. When the IRS noticed these W-4 filings, it would write the employer "instructing" him to ignore it and to withhold at the maximum rate; an arrogant action completely without legal authority. So Schiff's "Series 6" tape dealt with how to handle that difficulty, and eventually morphed into a special "W-4 Packet" to present the student with all he had found on the subject. The key was to ask the employer to reply to the IRS with a request to identify the statute that empowered the writer of the demand to send it, pending receipt of which he would honor his contractual obligations to his employee, from whom he had received a sworn statement of entitlement to zero deductions.

Another part of Series 6 offered extensive comment on how to use the new law arising from the devastating Senate hearings on IRS abuses in 1997. Those statutes were 26 USC 6330 and 6320, and expressly entitled the taxpayer to a hearing at a high IRS level before "collection" (seizure) action could commence. They specify that he is entitled to raise "any relevant issue" including his "underlying

liability" for the tax in dispute, and that the hearing officer must bring to it a certificate from the Treasury Secretary to confirm that "all aspects of the law" had been fulfilled up to the date of the hearing. Irwin Schiff predicted on the day these statutes were written that if the IRS were to obey them, it would not survive the year. Series 6 showed how to make the best use of them, and sure enough, within a short time it became impossible to obtain such hearings because the IRS did *not* obey those laws. Clearly, they were intended just to pretend that congresspersons were on the taxpayer's "side" – once their implication became clear (to render the income tax uncollectible) those allies were nowhere to be seen. One more, accurate Schiff prediction!

Another key item in the "Series" tapes was that of how to resist seizures and liens. Schiff had observed that IRS agents carry only *non-enforcement* ID cards when dealing with the income tax, in conformity with 26 USC 7608; so he taught how to handle a visit & grab situation, step by step. This must have been effective, for it's rare these days to hear of such an illegal expedition. However a second type of IRS property grab is that of bank accounts; they write to one's bank to "instruct" the manager to hand over the contents of one's account after 21 days, and cite 26 USC 6331(d) as if it gave them authority to so order. The fact is that part (d) is conditioned by part (a), which they always omit; and part (a) authorizes seizures of property only of those who are (i) liable for the tax and (ii) Federal employees who have (iii) been served a "Notice and Demand for Payment"! It is a classic, outrageous trick, of using parts of the law completely out of context. Schiff showed how to have the bank manager respectfully brush off the attempt.

In such ways as these, Schiff did not merely inform his clients of what the law said, he followed through with an excellent update service with abundant *practical* advice on how to deal with massive intimidation by what former Congressman Ron Paul (R-Texas) has called "the world's largest terrorist organization." Even during his 2005 trial, Schiff took time out to help students one-on-one.

As if he was not busy enough, in 1996 Irwin Schiff took a brief detour into politics. He had long supported the Libertarian Party of Connecticut, and ran that year for the Party's nomination for US President. He toured the country addressing local affiliates, often speaking opposite his main rival (and eventual winner) Harry Browne, the investment adviser. When the two were questioned about what they would do, if elected, about the income tax, Harry would say plainly that he would "abolish it" while Irwin would hand him a copy of the US Code, Title 26, asking him to identify the particular laws he would repeal, in order to do so. Harry smiled benignly, but never did answer that question! Irwin's answer was of course that he would fire everyone in the IRS and prosecute those who had extorted money from taxpayers under the pretense of collecting a legalized tax, whether in that organization or the Department of Justice. He predicted that even as a candidate in the 1996 Election, the publicity he could give to the income tax swindle would cause its immediate demise, whether he was elected or not. He enjoyed some of that TV publicity at the LP Nominating Convention, but didn't win.

Through 2003, the IRS had never had any Schiff students (known as "Zedheads" for the practice of filing zero) made

subject to prosecution; the evident reason was the difficulty of overcoming a defense that would take a jury through the Attachment to a zero return, syllable by syllable. Unhappily they decided in that year that their exposure to collapsing compliance made it time to take the risk. The story and outcome is related here in Chapters 4 thru 6, but the net of it was that the government judge prevented Schiff mounting any such defense, so the jury never got to examine his Attachments at all, and so he was convicted and savagely sentenced to over 13 years in prison.

So did government protect itself from the consequences of its own lies and pretenses; not with reason but with force, exactly as George Washington remarked was its nature. As I see it the great contribution Irwin Schiff has made is not just to foment a tax rebellion, but also to expose afresh that basic and repugnant nature of government. It is for all who reflect on the achievement of this very brave man to decide how to use that revelation, and the later chapters in this book offer suggestions, with rationale.

2: Schiff's Law

Thinkers who discovered something of profound interest, like Isaac Newton, Robert Boyle, C Northcote Parkinson *et al* give their names to a "law" that summarizes what they found. In science that is a poor use of the word, for it implies that human understanding of the subject is fixed for ever – and that's the antithesis of the scientific method, whose essence is to observe, hypothesize and test - and then repeat the process so as to form theories ever closer to the truth. For Irwin Schiff, I use the phrase to indicate what he *discovered* about US income tax law, not of course that he wrote his own. Those discoveries are disparaged and dismissed monotonously by government people and their allies in the media as mere "theories," but they never tell us exactly what, if anything, is wrong with them.

This chapter therefore presents what he has found the written law actually says about taxing what people earn; particularly on what it does *not* say, and *why* it doesn't say it. Perhaps the shortest summary is found on the back cover of his 1990 book The Federal Mafia, whose title refers to the three branches of government in Washington. He wrote there that there is…

1. No law requiring any to **file** income tax returns
2. No law requiring any to **pay** federal income tax
3. No law requiring employers to **withhold** it
4. No law requiring any to **keep records** for it
5. No law authorizing criminal **prosecutions** for it

6. No law authorizing the IRS to conduct **audits** for it
7. No law authorizing the IRS to **seize property** for it

IRS Response

These seven assertions were once presented to an IRS Agent and a Regional Counsel, with an offer that if for their part they would simply show why they are wrong – just identify the statutes that contradict them – their answers would be given the widest possible exposure among those inclined to believe what Schiff had written. Even faced with that golden opportunity to "correct" perceptions in a significant part of the illegal-tax protest movement, the IRS ladies *declined to refute a single one of them*. It is a fair inference that they did not because they could not; that their silence confirmed that the seven were undeniably true.

In recent years the IRS has also spent resources on web pages that scorn heterodox perceptions about income tax, sometimes characterizing them as their "dirty dozen." Irwin Schiff's understanding, and his zero return, feature on it prominently. If the seven assertions above could be refuted by citing the statutes he says are missing, it would be an easy task for the IRS to do so there. *But they have not.*

This is really very extraordinary! They obviously want people to believe that there exists a law to tax their earnings – so what could be easier, on a web site devoted to that purpose, than to display the laws in question? – adding such explanation as may be needed? But they don't. That omission is profoundly damning. Instead, they invite the visitor to read numerous court cases (by no means an easy task, for any layman) and say that many court decisions

have shown Schiff wrong and caused people to go to prison. It would be understandable if the IRS *first* cited the laws that refute the assertions and *then* warned readers not to risk relying on them, but the fact that they quote the horror stories *without* explaining the statutes is powerful evidence, again, that they simply do not exist. Some of those cases are shown and discussed further in Chapter 7 of this book, and what they clearly prove is therefore not that Schiff's seven assertions are mistaken, but that the government will do all in its power, *through its Judicial branch* as well as its Executive one (ie, the IRS) to dissuade citizens from using them; in other words, it will suppress heterodoxy by force alone. The parallels between this extraordinary policy and that of the Roman Church through its Inquisition are quite striking; in both cases, Authority tries to compel people to hold one particular belief, and reject others, not because of good reason but because that's the way Power has decreed.

Schiff's Seven Key Claims

Here is a short account of what Irwin Schiff has taught, over the years, about those seven astonishing claims - any one of which would, if true, invalidate an income tax or render it impossible to enforce. Then I will relate what explanation he gave for why these glaring omissions of law have not been repaired, and so complete this Chapter 2. The rest of this book will tell what happened to him in practice, when he attempted to get the judicial branch of government to acknowledge them - and finally, what can be done.

1: No law requires anyone to file income tax returns

The general requirement to file returns for any tax is published by the IRS in its "1040 Instruction Book" as established by 26 USC 6001, 6011 and 6012, which the IRS rightly summarizes by saying that anyone who is liable for any tax must file a return. Since nobody has found a statute making anyone liable for an income tax, this publication tells the public that nobody has to file one for it, in the same way that nobody who isn't made liable for a firearms tax is required to file a firearms tax return.

2: No law requires anyone to pay federal income tax

Schiff uses similar reasoning with regard to the alleged legal requirement to *pay* income tax. On its web site the IRS says this comes in 26 USC 1, which in fact contains no such thing; §1 simply *imposes* a tax on "taxable income", whose term "income" is nowhere defined. The site also names §6151, a statute in Subtitle F which relate to any federal tax in Subtitles A thru E, but not expressly to a particular tax. Its key phrase is:

> ...when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary, pay such tax...

Thus, §6151 does not state any such requirement at all, it merely says that if a *return* is required, *payment* is also due. Since #1 above shows no return is required for income tax, it follows that no payment is required either. IRS agents are therefore empowered not to *enforce* its collection, but just

to receive any payments offered; as Schiff says, they are like “monkeys with collection cups.”

3: No law requires employers to withhold it

26 USC 3402 (1) says “every employer making payment of wages shall deduct and withhold upon such wages a tax...“ but it's clear from §3402(n) that this does not apply when the wage earner has no “liability” as in #1 above:

> **(n) Employees incurring no income tax liability**
> Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary may prescribe) furnished to the employer by the employee certifying that the employee -
>
> **(1)** incurred no liability for income tax imposed under subtitle A for his preceding taxable year, and
> **(2)** anticipates that he will incur no liability for income tax imposed under subtitle A for his current taxable year.
> The Secretary shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f).

If the government had wanted to make withholding compulsory regardless of liability for the income tax, no such exception would appear.

4: No law requires any to keep records for it

This requirement is clearly stated in 26 USC 6001, again part of Subtitle F and applicable to any federal tax, rather than to the income tax by name; and it is again contingent entirely upon liability for a tax:-

> Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records...as the Secretary may from time to time prescribe.

Hence again: no liability, no requirement to keep records.

5: No law authorizes criminal prosecutions for it

§7602(d)(2)(a) says that:

> In general
> A Justice Department referral is in effect with respect to any person if -
> **(i)** the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws...

- however, as we'll see in #6 below, §7602 applies once again only to those who are *liable* for a tax and, being in Subtitle F, does not apply expressly to an income tax.

6: No law authorizes the IRS to conduct audits for it

Once again, the IRS is empowered to audit people only if they are liable for a tax, and again that power appears in Subtitle F, not in Subtitle A (income tax.) 26 USC 7602 is

where it can be read; subsection (a)(2) says the Secretary (of the Treasury, or his delegate) is authorized:

> To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry

Once more: absent liability, no audit is legally authorized.

7: No law authorizes the IRS to seize property for it

A favorite IRS trick is to request its victim's banker to freeze his account, and surrender its contents after 21 days if he has not satisfied the IRS. Accompanying the letter is a copy of 26 USC 6331 (d), which says:

> Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

Such third-party levies never include a copy of subsection (a) to which this refers, yet subsection (a) begins:

> If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax...

Once again, the contingency for this power is *liability*. If there is none, no such power is granted. Several other reasons why the IRS has no such power are shown in Chapter 7 of The Federal Mafia.

Why no correction is possible

Most notably in his The Great Income Tax Hoax (1985), Irwin Schiff explained why government is between a rock and a hard place – so that these great inadequacies of law cannot simply be fixed in some emergency session starting at 9 o'clock tomorrow. He showed there the history of Congress' attempts to collect taxes from individuals directly (during the Civil War, and again in 1894) and how they failed because *three times* in the US Constitution, the Feds are prohibited from collecting taxes directly unless the money is "apportioned" by population, in a similar way to the apportionment of congressional districts. Thus, if New Hampshire has one sixth of Massachusett's population, any direct tax the Federal Government extracts must yield six times more from MA than from NH, *regardless* of the relative prosperity of the two populations. This would be impossible to do in the case of earnings, because nobody knows what he earned in a year until after it is over; and politically very difficult anyway, for it would mean applying *rates* of tax that differed from State to State. This obstacle was deliberate: the State politicians who set up the

Federal Government by the Constitution in 1787 wanted to keep the government they were creating on a short leash.

So when Congress tried to impose a direct tax in 1894, the Supreme Court rightly declared the attempt to be unconstitutional, in what Schiff described as "a great decision" in *Pollock v Farmers Loan and Trust Co* (1896) on the grounds that it was unapportioned. Recent research (eg see *Union Electric Co v US*) confirms that *Pollock* is "still holding" – that it has never been reversed or repealed.

Thus foiled, Congress set about amending the Constitution so as to remove the apportionment prohibition, and Schiff's Hoax pointed out the astonishing level of confusion and misunderstanding in the 1909 Senate debates on how to word the proposed Amendment. In due course it became #16, and in 1913 Secretary of State Knox declared it ratified by the requisite three quarters of the States. Bill Benson's 1985 book The Law That Never Was shows that this was a deeply deceptive declaration; that in truth only *six* State legislatures actually ratified the wording as presented, with no alteration deliberate or accidental; but even so, as Schiff explained, it didn't really matter because the 16th Amendment made no difference. It says:

> 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.

On its face, that would appear to make an unapportioned, direct tax on incomes acceptable. However, it's flawed, for (a) it gives no definition of the ambiguous legal term

"income", and (b) it contains no language *expressly repealing* the three Constitutional requirements about apportionment. Accordingly, when in 1916 a landmark Supreme Court opinion was handed down about the new, 1913 income tax laws, it held that (i) the income tax was constitutional but (ii) Amendment 16 "gave Congress no new taxing power"! This was the oft-quoted *Brushaber v Union Pacific RR* decision and most of its wording may be complex so as to disguise and obscure that amazing conclusion – for Congress' whole intention, in proposing the Amendment, had indeed been to get new taxing power.

Perhaps the Court in *Brushaber* was reluctant to chastise Congress for poor wording and inadequate preparation, so instead of declaring the whole Amendment process to have been a waste of time, it said that the 16th had the "purpose" of "clarifying that the income tax is an *excise* tax" (ie, *not* a direct tax at all) and so was not in need of apportionment, and that such "income" must be "separated from its sources." That second item is explained by Irwin Schiff; he shows that although "income" was not defined there (and therefore *cannot ever be defined,* except by a new Amendment!) it is shown to be an entity separate from its sources; that an "income tax" is taxing income, not the *sources* of income. This is not possible to understand, if "income" is supposed to refer to wages and salaries of individuals – the way the alleged tax is enforced today. What "source" can a wage have? – how can it be "separated from its sources"? - a wage is a wage is a wage. It may or may not *be* a source itself, from which "income" can be somehow derived, but it obviously cannot *have* a source and so be "income" itself.

If however "income" in tax law is meant to refer to the profits of corporations, then that second item has a clear meaning; those profits will often have many sources, drawn from various business operations in several States; those taxes, said *Brushaber,* do not need to be apportioned since they are by nature excise or indirect taxes and not direct ones at all. That meaning was confirmed in numerous other Supreme Court cases, Schiff explained, and finally in its *Merchants' Loan & Trust Co v Smietanka* in 1921:

> There can be no doubt that the word ["income"] must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the Act of 1913. When to this we add that in *Eisner v Macomber*, supra, a case arising from the same Income Tax Act of 1916 which is here involved, the definition of "income" which was applied was adopted from *Stratton's Independence v Howbert*, supra, arising under the Corporation Excise Tax Act of 1909, with the addition that it should include "profit gained through the sale or conversion of capital assets", there would seem to be **no room to doubt that the word must be given the same meaning in all of the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act and that what that meaning is has now become definitely settled by decisions of this Court.** [Emphasis added.]

Schiff is adamant that this definition of "income" is sound (and that therefore it has nothing to do with personal earnings) and so it may have been; he did not address the objection that the power to amend the Constitution (by furnishing a definition of a legal term contained in its 16th Amendment) has not been delegated to the Judicial, any more than to Congress or the Executive Branch – because all three, in the elegant words of the Supreme Court in *Eisner v Macomber* regarding Congress, "cannot by any definition it may adopt conclude the matter, since it cannot

by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised."

That being so, one may wonder how the *Merchants'* court could validly offer any such definition since courts, too, derive from the Constitution their right to exist. Either way, however, it cannot refer to personal earnings because in the Court's *Merchants'* opinion it means corporate profit - while under that objection, its meaning is profoundly and permanently unknowable.

That is therefore a primary reason why Congress cannot fix the seven Schiff defects examined above; it is operating a non-tax as if it were a tax, even after the Supreme Court has clarified that it doesn't apply to individual earnings; if it were to enact corrections, they would each run the heavy risk of a constitutional challenge, at which time the matter would be virtually certain to come before a Supreme Court that would be obliged to refer to *Brushaber* and *Merchants'* and enquire why an illegal tax had been enforced since 1913 in defiance of its prohibition. A further reason would apply and be less technical; Congress would have to explain to an outraged public why it was "necessary" for the income tax to be enacted, when it had already removed during nine decades over fifty trillion of its (2009) dollars lawlessly, and explain whether refunds would be forthcoming, if not, why not, and if so, how. The two reasons together would no doubt place all three branches of government well beyond the ability of its spinmeisters to control; the danger of its outright collapse would be acute.

The 1954 Repeal

No overview of "Schiff's Law" would be complete without mention of the year 1954. The first (1913) Income Tax Act was current with only minor amendments through 1953, but in the year following there were major revisions, amounting to what Irwin Schiff calls a "Repeal," by which Congress brought the law into line with the Supreme Court rulings of the late 1910s as above.

Why the long delay? - four factors were at work, in addition to Congress' natural reluctance to admit that it made a major blunder:

- The rate of income tax was very low until 1942, and the threshold very high; hence, it taxed only those individuals who were very wealthy and then, very lightly. Since that set of people very often had extensive government contracts, they were not about to endanger those contracts for a minor cost that could be absorbed readily by adjusting prices.
- In the 1930s there was a prolonged Depression, which caused even fewer people to pay the tax.
- In 1942 when the rates were raised and the threshold lowered so that middle classes paid a lot of wage taxes, nobody complained because (i) they now had jobs! and (ii) it was thought patriotic to help pay for the cost of World War Two.
- Only when that temporary "Victory Tax" failed to get repealed as promised after the war did protest begin. Then it was less than a decade (very fast for the Congressional monolith) before the 1954 repeal.

What was done in 1954 was to *remove all the mandatory language* from the previous (1939) edition of Title 26, Subtitle A – the "income tax." No longer does it contain words like "required" or "must" or "prohibit" or "mandate" – the strongest is "shall", which looks to laymen like some kind of obligation but can often, according to Black's Law Dictionary, be understood to mean "may." From then, as Schiff sees it, the direct unapportioned tax on wages, which *Brushaber* had expressly prohibited, morphed into a voluntary contribution towards the expenses of government, thickly disguised as a tax. The disguise was applied by pretending that nothing had happened – that the 1954 revisions were only cosmetic. Such is government.

1939 Code

§22. Gross Income – (a) General Definition

"Gross Income" includes gains, profits and income derived from salaries, wages or compensation for personal service (including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing) of whatever kind and in whatever form paid, or from professions, vocations, trades, business, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use of, or interest in, such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit of gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after June 6th 1932, the compensation received as such shall be included in gross income; and all Acts fixing the compensation of such Presidents and judges are hereby amended accordingly. In the case of judges of courts of the United States who took office on or before June 6th 1932, the compensation received as such shall be included in gross income.

1954 Code

Sec. 61. Gross Income defined.
(a) General definition.
Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:
(1) Compensation for services, including fees, commissions, fringe benefits and similar items;
(2) Gross income derived from business;
(3) Gains derived from dealings in property;
(4) Interest;
(5) Rents;
(6) Royalties
(7) Dividends;
(8) Alimonies and separate maintenance programs;
(9) Annuities;
(10) Income from life insurance and endowment contracts;
(11) Pensions;
(12) Income from discharge of indebtedness;
(13) Distributive share of partnership gross income;
(14) Income in respect of a decedent;
(15) Income from an interest in an estate or trust.
(b) Cross References.
For items specifically included in gross income, see part II (Sec 71 and following). For items specifically excluded from gross income, see part III (sec 101 and following....

The most readily visible change was the revision to the old §22, turning it into the present §61. In each case some of the sources from which "income" can be derived are listed, but most significantly, three were taken out. §22 began the list with "salaries, wages, or compensation for personal service" but in §61 "salaries," "wages" and "personal" are removed altogether! Is it credible that those words would be taken out if personal earnings *are* taxable under the law? Instead, §61 begins its list of sources with "Compensation for services, including fees, commissions, fringe benefits and similar items" which can all, of course, be applied to a corporation to conform to the *Merchants' Loan* definition of "income" as "corporate profit." The only odd member of the list of sources is "pensions", but that oddity disappears when one reflects on the profits being made by such corporations as Prudential Insurance, derived from its large business of providing pension plans.

The 1954 Repeal provides an extra difficulty for those who think the government's income-tax problem might be fixed by new legislation. Not only would Congress have to explain why it was necessary after being enforced for over ninety years; not only would the Supreme Court scrutinize the process with the jaundiced eye of a body whose earlier prohibition had been flouted, but also both would have to find an explanation for how Congress deliberately removed the mandates that had survived in the law, yet how both Branches continued savagely to enforce a set of laws they knew perfectly well had just been neutered. Again, no spin manager could explain away malfeasance that outrageous.

3: Book-Banning

As related in Chapter 1, by the early 2000s the number of Schiff's students probably approached 20,000, each causing the IRS a major headache because he had a well-prepared response to every trick the Service pulled, and word was spreading fast that this was a way legally to avoid wasting large sums of money every year, with very little risk. Some were hoping further that the spread would become a kind of avalanche that would bring down government itself, as the public discovered it had been swindled for ninety years and reacted in disgust. To have come close to doing that is a single-handed achievement that very few have matched, and remains to Irwin Schiff's lasting credit.

His flagship book was The Federal Mafia and over 75,000 copies had been sold. He had broadcast not just on his own regular short-wave radio show but on some TV talk shows like Hannity & Colmes and had in 1996 made a run for US President with live C-SPAN coverage. Irwin Schiff's name was entering the mainstream, and was certainly well known in the office of the IRS Commissioner.

The IRS addressed their Schiff-shaped problem like any other government entity: not with reason, but by force.

The Justice Department, for the IRS, requested a temporary injunction to stop Schiff selling The Federal Mafia on March 19th 2003, the very day the government invaded Iraq. Of course, that could be just coincidence; or it could

be that the date was chosen so as to ensure the news of the attack on Schiff would be lost in the excitement of a military invasion. The federal gorilla was showing its muscle and beating its breasts in the Gulf, while back home in Las Vegas it was taking on one of its most formidable and tenacious opponents – not actually an enemy as such, but a biting and credible critic of its outrageous and allegedly illegal conduct; and it clearly wanted *that* battle not to receive too much publicity. No doubt it feared that Schiff's perceptions would gain wider circulation, and was perhaps just a little nervous about the possibility of defeat.

So, being unable to refute what Schiff had been teaching, they tried to silence him. A preliminary injunction was granted by Judge Lloyd D George on April 7th, to be confirmed later by a permanent version, which can be read here in Appendix 1. The temporary injunction put Irwin Schiff's "Freedom Books" virtually out of business, and followed a favorite trick of the Justice Department: first, cripple your target so he has no financial resources to fight back, then deliver a *coup de grace* – of which we'll see the sad tale in later chapters.

Books have been banned by authoritarian regimes ever since Gutenberg enabled them to be produced affordably in quantity. The most notorious was the Roman Catholic Church's *Index Librorum Prohibitorum,* a list of works judged too disruptive to the faith of all but special clergy; in recent years that has seen an echo in the Muslim sentence of death passed on Salman Rushdie for writing his Satanic Verses. In each case the supposed guardians of religious truth acted to preserve their monopoly on what their followers were allowed to think; all part of vast

programs of indoctrination. In the more enlightened, liberal "West", censorship has been applied to books judged by the ruling elite to be too erotic for the eyes of mere citizens, so some books like Lady Chatterley's Lover were banned for a few years during the 20th Century. It's hard to recall any work that has been prohibited in the 19th or 20th Century in America, however, that was neither religious nor arguably pornographic. All that changed in 2003 when Judge George prohibited Schiff's The Federal Mafia. It related facts the government dared not let voters see - as too inflammatory.

News of the banning excited the legal profession, notably a senior law student at the prestigious Seton Hall Law School in New Jersey. Shortly after the Preliminary Injunction was granted, Jacqueline K Hall wrote for its Law Review a scathing criticism of what Judge George had done, focusing mainly on his characterization of the Mafia as "commercial speech." The distinction between commercial and other kinds of communication is not found in the First Amendment, which declares simply that:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.

However in 1942 in the case of *Valentine v Chrestensen* the Supreme Court, ever willing to violate the Constitution it supposedly existed to protect if that suited government purposes, effectively amended and emasculated that prohibition by allowing that commercial communication

was not free; that governments could regulate it. This is clearly very bad law, but it's the precedent in practical operation today and Ms Hall was therefore correct to take it into account when commenting on the banning of Schiff's book, even though nobody ever proved that Schiff told in it a single lie and that its message was "commercial" only in the sense that he sold it.

Her conclusion was that Judge George was seriously biased when using the technicality that The Federal Mafia was being sold instead of being given away, as an excuse to throttle what was essentially valid, political speech which asserted (rightly or wrongly) that government is a bunch of crooks. Her full article can be purchased on-line from LexisNexis, whose publication of the article may form a notable tribute to a thorough piece of legal research.

Irwin Schiff's own response to the Justice Department's motion applying for the injunction can be read here in Appendix 2, which presents thirty one pages of close reasoning to show the outrage by which a "summary judgment" was granted in absolute violation of Rule 56 – ie, that summary judgment "should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." He shows "genuine issues as to material facts" by the bucketful and so that the summary judgment was given so as deliberately to refuse to address those issues and pretend they did not exist.

4: The Raid

By 2003 the illegal-tax avoidance method Irwin Schiff had designed and was supporting had gained good momentum, and clearly the government had to act. It could have

- Acknowledged he was right about the law, and taken steps to cancel or replace the income tax
- Answered the seven simple points or charges he had made (see Chapter 2) and so showed him mistaken
- Had him assassinated
- Risk prosecuting and imprisoning him again

They did not take the second option even though that was obviously the easiest, if such answers existed; therefore we can deduce they do not exist. They did not take the first option (though that would at least have been honest) since to acknowledge that trillions of dollars had been taken under false pretenses for nine decades would have been so politically embarrassing as to be probably fatal. They did not take the third option (though it would certainly have silenced him) because that would make him a martyr, and in any case would not prevent another spokesman taking up his work where he had had to leave it. That left the fourth.

The "risk" involved in conducting a high-profile trial was that the government might lose. During its course, members of the government team were overheard conversing: "You know, if we should lose this case, we'd all be out of a job!" They certainly got that right. It was a risk because the task

was to get Schiff (and his office manager Cindy Neun, and assistant Larry Cohen) convicted of breaking laws that do not exist; and it was risky because any charge of filing false tax returns meant allowing his Zero Returns into evidence, complete with the 2-page Attachment showing the law itself. The stakes were therefore very high; a loss would have been catastrophic for the government. The IRS and Department of Justice (DoJ) had to make certain the jury never heard about Schiff's Law.

Their first step was taken on February 11th 2003. At 8.00 am, about twenty IRS agents descended on Freedom Books' office in Vegas and spent the day carrying off computers and filing cabinets. They were armed, and equipped with a warrant signed by Judge Lawrence Leavitt that did not, as the Fourth Amendment requires, specify "particular things" to be found and taken. That is, it was a fishing expedition, to get any evidence against their target that might exist in his files – an outright and wholesale violation of the Amendment 5 guarantee against self-incrimination. With profound hypocrisy, Agent Holland read Irwin Schiff his "Miranda" rights when he arrived at his office; he immediately asked what was the point of such a warning when agents were stealing self-provided evidence before their very eyes.

The raid was illegal on at least two grounds: (1) the warrant was highly defective since it was applied for by IRS employees not authorized to apply for such warrants, and anyway it failed to name particular items to be searched for and removed (eg contraband of some sort which informers had testified might exist in the offices) and (2) the IRS

agents, in the course of duties concerning the income tax, were carrying firearms.

As to the first of these, Amendment 4 says the following:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and **particularly describing** the place to be searched, and the persons or **things to be seized.** [Emphasis added.]

That doesn't seem hard to understand, but evidently Judge Leavitt had not read it, or else he read it and ignored it.

As to the second, income tax law is all confined to Subtitle A of 26 USC, and section 7608 expressly reserves the right to carry firearms to those agents charged with the duty of enforcing *Subtitle E taxes only,* with those on liquor, tobacco and firearms, as can be easily seen from the copy of that statute on the following page. The Section has an unmistakably clear division into two parts: Subtitle E taxes, and those in other Subtitles. All enforcement activity with respect to income tax (Subtitle A) is expressly reserved to those IRS employees who are "criminal investigators of the Intelligence Division," rather than ordinary Revenue or Special Agents such as those who raided Freedom Books; and even *they* are not empowered to carry guns.

Accordingly, the February 11th raid was triply illegal and no evidence arising from it should have been allowed at

trial; but although Schiff entered motions to that effect, he was ignored. Judge Dawson allowed the lot.

Sec. 7608. Authority of internal revenue enforcement officers

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may -

(1) carry firearms;

(2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to internal revenue other than subtitle E

(1) Any criminal investigator of the Intelligence Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are -

(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

© to make seizures of property subject to forfeiture under the internal revenue laws.

5: Pre-Trial

Early in 2004 the US Department of Justice charged Irwin Schiff, Cindy Neun and Larry Cohen with tax evasion, conspiracy, attempt to evade and defeat a tax, filing false tax returns, and assisting others to do so, contrary to 18 USC 371, 26 USC 7201 and 7206.

Those choices seem curious. "Conspiracy" implies two or more persons making some kind of plan, but Schiff's firm, Freedom Books, was wholly-owned by Irwin Schiff; the other two were employees (supportive, no doubt – but still employees, not co-owners.) Therefore, conspiracy between equals is impossible on its face. As for 26 USC 7201 and 7206, both are in Subtitle F, titled "Administration," and refer to *all or any* of the numerous federal taxes described in Subtitles A though E; nothing specifically ties them to the income tax (Subtitle A) unless some section within that subtitle mandates or prohibits some act. No such section is named, so clearly this whole indictment is very suspect.

Schiff swung into action at once, and did what he does best of all: he wrote scathing, devastating legal pleadings or "motions" to dismiss the government's accusations "summarily", ie at once, so that there would be no trial. This is really the most interesting part of the whole contest, because the trial was little more than a performance, held to make it appear to the public as if justice was being done. It is here in the exchange of motions that the serious work of

arguing the law takes place. Here is where the reader can judge which side makes best sense, with the strongest case.

To help follow the pre-trial exchange, here's a list:

Title	Author	Date sent	Appx #
4 Motions to Dismiss	Schiff	4/1/2004	3-6
Consolidated Opposition	DoJ Team	10/8/2004	7
Reply to ConsOpp	Schiff	11/23/2004	8
Leavitt's Rprt & Recmdn	Leavitt	12/6/2004	9
Response to L R&R	Schiff	12/30/2004	10
Amended " "	Schiff	1/4/2005	11
Denial of all motions	Dawson	8/31/2005	12
Trial begins	Dawson	9/6/2005	

All ten documents are shown in the Appendix, so that the reader can study them in detail; below, I'll comment on some of their highlights.

The First Motion: Jurisdiction

Before anything else happens at trial, a court must have jurisdiction over the case, and that can not be just assumed. If it is challenged, that challenge must be answered before the trial can proceed. This principle was well established by the Supreme Court in Rhode Island v Massachusetts, 37 US 709; once the issue of jurisdiction is raised,

> "it must be considered and decided, before any court can move one step further"

and in McNutt v General Motors Acceptance, 56 S Ct 780, that court also held that if jurisdiction is challenged

> "by his adversary in any appropriate manner, he must support them by competent proof... the jurisdictional facts [must] be established or the case dismissed."

By "jurisdiction" is meant that if I break the speed limit in Vermont, the matter can not be handled by a State court in New York – and vice versa; that would be a matter of *geographic* jurisdiction. There is also a question of *subject matter* jurisdiction; if I am accused of murder, the case may not be heard by a traffic or family or civil court. Further, for a case to be heard in an Alabama State court, there must be a law about it *in Alabama;* the fact that a law about it may exist in Florida won't suffice. If there is no law at all against a certain act, such as failing to pay a Federal Kissing Tax (one of Schiff's favorite illustrations!) then no court at all can have jurisdiction.

So Irwin Schiff's first Motion to Dismiss, shown in Appendix 3 here, asks Judge Dawson to toss out the government's complaints on the grounds that his Federal District Court has no jurisdiction to hear a complaint regarding Title 26. His argument was that while by 26 USC 7402(f) Congress had bestowed jurisdiction for Title 26 matters to federal district courts in *civil* cases, it had not done so for *criminal* ones; while a decision in the Ninth Circuit (to which Dawson's court belonged) had stated in *Murphy v. Lanier,* 204F.3d 911 (2000) that:

> The failure to provide for Federal jurisdiction indicates that there is none.

For the government, DoJ lawyers Bogden, Schraibman and Schiess presented a "Consolidated Opposition" to Schiff's four motions and covered this item on and from its page 6 (see Appendix 7.) They replied that 18 USC 3231 gives federal district courts jurisdiction over "all offenses against

the laws of the United States" and claimed support from the 1984 case of *US v Przybyla* and from *US v Collins* (1990.)

Irwin Schiff's reply to the "ConsOpp" is in Appendix 8 and at its page 28 he responds to that assertion. The *Przybyla* case, he said, did not even address the failure of 26 USC 7402(f) to provide criminal jurisdiction while in *Collins* the issue had been the quite different one of whether federal district courts had jurisdiction over cases other than those in D.C. and the US possessions. Meanwhile, he said, the DoJ failure to deal with his central point about 7402(f) is fatal, for it does confer civil jurisdiction and "way back to Roman law, the express mention of one thing implies the exclusion of others; *Expressio unius est exclusio alterius."*

Schiff, Neun and Cohen were "arraigned" on April 14th 2004, so compelling them to enter a plea *17 months* before Judge Dawson entered his ruling about jurisdiction. This was a clear arrogation of power; until jurisdiction is clearly established no part or element of the trial should have taken place, and entering a plea is a key element in any trial. Other factors casting doubt on Dawson's jurisdiction appear in Schiff's three other Motions to Dismiss, as below, but regardless of the merits of any of them it is an outrage that the trial began without the jurisdictional challenge being answered and it suggests an unholy hurry to lock the defendants away regardless of even basically correct legal procedure.

The Second Motion: Liability

Irwin Schiff reasons here (see Appendix 4) that all charges be dismissed because "no statute makes defendants or

anyone else 'liable' for income taxes." He adds that this is another reason why Dawson's court has no jurisdiction. A good parallel would be the Federal Wagering Tax; 26 USC 4401, which Schiff quotes on its page 2. It imposes that tax and makes liable for payment "those engaged in the business of accepting wagers." So that tax is legalized properly, but *if you're not a bookie it doesn't apply to you.* So here, he reasons, unless the law makes a person "liable" for the income tax, he has no legal obligation to give it the time of day. Succeeding pages of his Motion to Dismiss for that reason show that in Title 26 there is no law that makes anyone liable and so he throws down the challenge: "…the United States will not be able to produce any such statute."

He was right: Bogden, Schraibman and Schiess of the DoJ pretended that there is such law but failed completely to produce one. Instead they argued in their Consolidated Opposition (Appendix 7, page 3 ff) that two of the lower-court cases Schiff quotes "do not support his argument" - but even if that were true, they still failed to produce a liability statute, exactly as Schiff predicted.

On page 1 of Schiff's "Reply" (Appendix 8) he attacks this moral bankruptcy of the DoJ lawyers: "Since the Government could not find any statute in the Internal Revenue Code (IRC) that makes anyone 'liable' for income taxes, its lawyers sought to fabricate and concoct a response in which they sought to fraudulently pretend that such a *statutory* 'liability' exists." He continues by calling for outright rejection of the whole Opposition motion, since that one fraud poisons the whole work – another point he makes (page 1) in Latin: *falsus in uno falsus in omnibus.* He also emphasizes that the IRS' Disclosure Notice, shown

in all copies of its "1040 Instruction" book each year, tells the public to "hunt" for a liability statute and that if one can not be found, it puts us on notice that we are *not* required to file or pay an income tax. Powerful reasoning!

The issue is, again, black and white, binary: either there is or is not a liability statute and the DoJ's failure to find one is (or should have been!) a fatal flaw. The absence of that statute would confirm on its own that there is no mandatory tax on individuals' earnings in the United States.

We'll see later that this liability issue may have been one that Judge Dawson told the DoJ to reconsider. Chapter 6 shows the result in his jury instructions; but the fact that at this stage the DoJ came up completely empty is highly significant. Since no statutory liability existed when their team wrote its ConsOpp, Dawson tried to "create" one!

The Third Motion: Congress' Power to Tax

If an alleged tax hasn't been authorized to the Congress by the Constitution, it doesn't legally exist; so the issue raised in this Motion to Dismiss, shown in Appendix 5, is whether the income tax is being enforced in a manner traceable to any of Congress' powers to tax – and Schiff cites *United States v. Hill*, 123 U.S. 681, 8 S. Ct.308, 31 L.Ed. 275 (1887) "The term 'revenue law' when used in connection with the jurisdiction of the courts of the United States, means …a law which is *directly traceable* to the power granted to Congress by 8, Art. I of the Constitution, 'to lay and collect taxes duties, imposts, and excises.'" So even if some law exists that underlies current enforcement of an unapportioned wage tax, he's saying, if that law isn't

"directly traceable" to the taxing powers the Constitution bestowed upon Congress, it would be void – and, for that extra reason, Dawson's court would have no jurisdiction.

There are, as both sides agree, two such powers:

Indirect or Excise taxes, if geographically uniform, and
Direct taxes, if apportioned by State populations.

There are no others. If a tax is imposed or enforced in some way that falls outside these two classes, it's not a valid tax and it cannot be "traced to Congress' power to tax."

So in this Motion, Schiff again quotes the *Brushaber* case extensively, to demonstrate that an unapportioned direct tax is not (despite superficial appearance) Constitutional. The decision holds that there cannot be a third class of taxes…

> "lying intermediate between these two great classes and embraced by neither" because "If acceded to, [it] would cause *one provision* of the Constitution *to destroy another*: that is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment into *irreconcilable conflict* with the general requirement that all direct taxes be apportioned."

As if that were not clear enough, the Motion quotes further from *Brushaber,* writing "the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the sources whence the income was derived" and shows the difference between taxing sources and taxing income derived from them. This Motion is probably the most erudite exposition of this vital and often obscurely worded decision extant, and readers are encouraged to study all of Appendix 5.

Certainly, it is not credible that a lawyer such as Judge Dawson could read his exposition and not understand that for nine decades, the "income tax" has been mis-applied, probably with deliberate and malicious intent. Certainly, if he had been the impartial judge he pretended to be, he would have ruled that he had no jurisdiction to hear the Schiff case, or would have dismissed it summarily.

Responding to this Motion, the DoJ team's Consolidated Opposition (Appendix 7) refers on its page 3 to a 1989 case called *In re Becraft*, 885 F2d 547. They quote its conclusion:

> "For over 75 years, the Supreme Court and lower Federal courts have both implicitly and explicitly recognized the Sixteenth Amendments authorization of a non-apportioned direct tax…"

They then at once refer to *Brushaber,* as if it supported that conclusion! – whereas, as we saw above, its contradiction of it was explicit and emphatic. *In re Becraft* probably reported the facts correctly (many lower courts have so held) but they as well as *Becraft* were all wrong, as the *Brushaber* ruling makes perfectly clear. It is amazing that the team should cite the same case, having evidently not even read what Schiff's Motion wrote about it and quoted from it. The inference is that these lawyers are a set of trained monkeys, able to reproduce propaganda but not apply the mind to unfamiliar reasoning. A sad reflection on the law schools they may have attended.

Schiff's Reply (Appendix 8, page 24) reminded the Court that he had already pointed out that "Apparently the 9th

Circuit was led into error because it was not supplied with the research furnished to this Court in this Memorandum; if it had, it would have obviously reached a different conclusion" and remarked that 'Thus the 9th Circuit's holding in *In re Becraft* would be tantamount to the Supreme Court having repeatedly stated in a decision that "the earth is round," and the 9th Circuit claiming that what it had stated in that decision was that "the earth is flat."' Delightful reading.

The Fourth Motion: Suppression of Evidence

Here in Appendix 6 can be seen Schiff's motion to dismiss all charges because all of the evidence was obtained illegally. As we saw in Chapter 4, the warrant was highly defective and those conducting the 2/11/2003 raid were all armed, contrary to the prohibition in 26 USC 7608, hence violating Schiff's rights under Amendments 1 and 4. It's quite common for other criminal cases to be dismissed on the grounds of an improper search, or a failure to give the accused a so-called "Miranda warning", so this argument is not out of the ordinary – except that it identifies much more government lawbreaking than most of those involve.

Having covered the details in Chapter 4 I'll not repeat them here; Appendix 6 is self-explanatory.

Curiously, the DoJ's "Consolidated Opposition" seems to make no mention of this powerful argument – and so, nor does Schiff's "Reply" to it. On the principle that if a contention is not disputed it is accepted or conceded, that would seem to make the 2003 raid on Freedom books a full and adequate reason why the consequent charges filed

against him, Neun and Cohen should be dismissed. One measure of Judge Dawson's honesty is that they were not.

Overall…

The whole of Schiff's "Reply" is a masterpiece that completely demolishes the DoJ motion and is typical of the brilliance Irwin Schiff brings to the subject. That anyone, let alone a judge who is presumed to be impartial, could find otherwise is powerful evidence of his prejudice. Had this exchange been made available to the trial jury along with a week to read it at leisure, I have no doubt about what verdict even those unprepared, lay persons would have reached – and then there would have been no need for a trial. But that's not the way the government let it work – even though all these documents are on the "public record."

Leavitt's Recommendations

So far the exchange of legal salvoes has reached November 2004; Schiff's Motions to Dismiss were answered with the DoJ's Consolidated Opposition, to which Schiff then sent his withering Reply. Now we come to December 6th 2004 and to advise "the court" (ie, Judge Dawson) what to do about them all a junior judge, Lawrence Leavitt, prepared his Report and Recommendations. Thus, this is the first sign of what the supposedly impartial player is thinking. Leavitt's "R&R" is shown in Appendix 9.

Its first paragraph shows the abysmal misunderstanding from which Magistrate Leavitt suffers: he says that Schiff is in essence challenging the income tax laws. He has never done any such thing; he has always said "the laws are fine"

but is vigorously challenging the *illegal implementation* of those laws, by the IRS and the whole "Federal Mafia." One must wonder how such an illiterate person made it through law school and got himself on the Federal Bench.

The whole document consists of three pages, which merely note that other courts have previously ruled against Irwin Schiff. He might just as well have used one sentence: "These Motions are silly." That seems to express the limit of Magistrate Leavitt's intellectual capability. The alternative to that barely credible explanation is more probable and much more ominous: that Mr Leavitt is adequately intelligent and literate, but vigorously biased; that he was as eager to proceed as was the Judge, Sir Samuel Starling, in the 1670 London trial of William Penn, when he urged that jury to "Hurry up and find him guilty."

Schiff's Responses to Leavitt

There are two: his "Response" (Appendix 10) and his "Amended Response" (Appendix 11.) The former was delivered December 30th 2004.

The reader can study all its 30 pages, but its highlight in my view is this exquisite summary of Congress' taxing powers:

> "The Constitution requires that if Congress wants to tax "income," it must do so in one of two ways. If it imposes the tax **directly** on specific sources of income, it must do so pursuant to the rule of "apportionment." If it imposes the tax on income, in which those sources **are not** *individually* and directly taxed, it can do so on the basis of an *excise tax,* subject only to the rule of "uniformity," and without being hampered by the limitations placed on its taxing powers by the rule of "apportionment." Those constitutional limitations on

> its taxing power were not altered or abolished by the 16th Amendment, as all of the Supreme Court decisions cited above confirm. However, Magistrate Judge Leavitt's "Report and Recommendation": (1) ignores these distinctions and; (2) ignores all of the Supreme Court decisions bearing on them."

Nobody ever put it better.

His second (amended) response of a few days later, shown in Appendix 11, re-emphasizes that Magistrate Leavitt knew very well the search warrant he issued was illegal:

> In lines 12 and 13 on page two of Magistrate Judge Leavitt's "Report"[1] he acknowledges that all of the authority that IRS special agents might have is derived from the provisions contained in "26 U.S.C. 7608(a)(1)-(4)."

Leavitt's bias is so heavy as to invalidate his entire recommendation. That his report was "approved and adopted" by Judge Dawson in his Denial gives us strong evidence that the Court itself knew what it was doing, but went ahead and did it anyway. That will influence what we ought to do about it, as discussed in Chapter 7.

Dawson's Denial

This was delivered to Irwin Schiff eight months later by fax on the Friday afternoon following its date of August 31st, 2005 – when the trial was due to start the following Tuesday morning (Monday being Labor Day.) The obvious and deliberate intent was to prevent him taking time to prepare any kind of motion in complaint or request of

1 The "report" referenced here is a *second* Leavitt Report, not shown in the Appendix.

reconsideration, and probably to demoralize the Defense. Its brevity, as can be seen in Appendix 12, is shocking.

His denial of Irwin Schiff's four Motions to Dismiss is a prime example of judicial chicanery. It re-hashes the usual flatulent recital of how Schiff has many times lost in other courts, but then adds a footnote, which is to me its most interesting part. There, it may be, we can glimpse a little of the mind of Authority at work on this question. He says:

> In order to find the Defendant's arguments valid one must make the following incredible assumptions: that beginning in 1916 and continuing into the 1920s the Supreme Court routinely ruled that the 16th Amendment, despite its clear language to the contrary, still required federal income taxes to be apportioned among the states, that despite these rulings the legislative, executive and judicial branches of the federal government have conspired to ignore these binding precedents and foisted upon millions of hapless individuals an unconstitutional income tax or over eighty years, that the conspiracy is so widespread that even members of the conspiracy (ie members of Congress, federal bureaucrats, judges etc) pay this allegedly unconstitutional income tax…

The first astonishing thing that strikes me here is that this learned judge hangs his case upon an absolute falsehood, ie that the Supreme Court ruled back around 1920 that the 16th Amendment did permit an unapportioned direct tax. As Schiff's Motions *in his hands at the very time he wrote* that show conclusively, the very opposite is the case:

> "If acceded to, [an unapportioned direct tax] would cause *one provision* of the Constitution *to destroy another*: that is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment into *irreconcilable conflict* with the general requirement that all direct taxes be apportioned." [*Brushaber v Union Pacific RR*]

In other words, in the half-decade named, what Dawson finds "incredible" is precisely what the Supreme Court *did* do, and he had the proof before him when he wrote his snide footnote. The Court expressly denied that the 16th Amendment had introduced any new class of tax, and defined "income" as corporate profit. It's not credible that Judge Dawson, being able to read, could fail to see that.

The second surprising thing I see is that Dawson finds it "incredible" that everyone benefiting from the tax should have "conspired" for over 80 years to keep it in place. Do you find that particularly incredible? True, even judges pay the tax – but 100% of their salaries are funded by what the IRS collects, and simple arithmetic shows that 50% of their salaries come from the income tax while they pay back only about 20% in the alleged tax. $5 in, $2 out; a net gain of $3. Or in Judge Dawson's case, about a net $45,000 p.a. Nothing too "incredible" about that kind of bargain!

Further than personal gain, however, all in the classes of people Dawson lists *believe in government.* Government, they think, is a good and necessary part of society, without which we would dissolve in chaos; and therefore it must be preserved intact regardless of cost. Whatever sustains or assists government is good, while whatever damages it is bad. That's the mindset of government people – and it's not all that unusual, in a work force; when I worked for large companies, I too had a loyalty to the enterprise and so did all of my colleagues. So when a big threat looms in the person of Irwin Schiff to say that two thirds of all revenues in the government industry are illegal and should cease forthwith, it's time for that loyalty to take effect. Despite

the judge's opinion, that doesn't take a "conspiracy", it just takes the common premise that government is good and must be protected from its adversaries. When a challenge arrives, the result is "cognitive dissonance;" like Mr Dawson, the loyal government employee can hardly believe that a clearly destructive threat should be leveled at something so beneficial, and expresses astonishment, avoiding the reasoning underlying the attack and pouring on it ridicule instead in a wild attempt to make it go away.

The third fascinating thing about Dawson's footnote in his reference to Ockham's razor. That principle holds that if two explanations for something are offered, absent a clear reason to do otherwise, the simplest, rather than the more complex one, is probably correct. Here, Dawson says:

> Applying the principle of Ockham's Razor, one could realize that the Federal Judiciary's silence for the past 80 years (and more importantly, its repeated rulings against Defendant and his followers) indicates that Defendant's arguments lack any legal merit…

The judge's error here is to identify as the "simplest" explanation of Schiff's repeated failures in government courts, that he is wrong and they are right. Just as valid, however, is the reasoning that he is right while they are all determined to call him wrong, not necessarily by a coordinated conspiracy but by an equal determination to do exactly what Dawson did: to shut him up.

Ockham's Razor is a fine and useful principle, but doesn't readily apply here. Indeed, had it been around in Copernicus' time, it might have been used by the holy inquisitors; "Which is more likely," they might have asked,

“that you and your wild ideas about heliocentricity are correct and all the learned scholars and theologians of the last 1,000 years are dead wrong, or the other way around?” Had Ockham's principle prevailed in that dispute, the Sun might still be circumnavigating the Earth. It’s not a matter of probability, it’s a matter of fact and observation and reason; and Dawson neither observed nor reasoned, and his motives are not hard to see.

The alternative of selecting jurors at random from (say) a universal address list would ensure the presence of some who don't register to vote, perhaps because they think the whole government system is a racket. Those, too, are “peers” of the defendant.

All this manifest bigotry, this blind prejudice against the Defendants by the chairman of proceedings and his adviser, was thus clearly revealed before the trial even began.

When it did begin, there was worse to follow.

6: Trial and Appeals

This chapter will show in detail how government judges enforce laws that do not exist.

Simply, they prevent the law being discussed at trial; in particular, they prevent mention of its *absence.* In that way, the jury never gets to hear what the law says or doesn't say – they only hear platitudes from His Honor, who assures them that the laws do exist, and that they must focus only on whether the defendant has broken them.

The jury principle goes back to thirteenth century England, when the autocratic King John was obliged by a union of his lieutenants (nobles, or peers) to surrender a degree of his power; he could still make any law he wished, but after 1215 a panel of those peers would judge whether the law was acceptable in the case of someone accused, and of course decide whether he had broken it. So it serves as a useful check on the sovereign power. Professional lawyers and government employees detest that check, and do all they can to turn juries into rubber stamps. Their first step is to select jurors only from lists of those who have already declared their belief in the political system that equipped government with power in the first place: *registered voters.*

American court trials are stage-managed affairs, just like the Soviet show-trials, with verdicts almost predetermined whenever government is a party at "risk." If the defendant wants to be represented, he must choose someone *licensed*

by the court who is an *officer of* the court; yet who charges his fee to the defendant; or if he prefers to represent himself, he will appear to the jury as an amateur competing with professionals just as in any other field of work or sport. As a licensed court officer, the defense attorney is restricted in what he may say; notably in this case he may not challenge what the judge declares be "settled law" such as the existence of the income tax. This is a gross absurdity that makes it virtually impossible to correct errors, and places far too much power in the hands of a supposedly impartial "judge", who is actually a hired hand of the government. In *US v Schiff et al,* that mattered very much.

Since any licensed attorney would have been barred from arguing his case, his way, Schiff elected to conduct his own defense, and Neun and Cohen concurred. He did it with his usual spirit and vigor, but as a polished courtroom performer there's no doubt: he came across as amateur. This was a serious handicap, court-imposed.

Even as his own attorney, Schiff was repeatedly punished (by being sentenced to days in prison) for disobeying Judge Dawson's instructions not to question witnesses about the law! At one point Dawson was even heard to say "I will not have the law in my courtroom!" – by which he meant that he alone would "instruct" the jury about what the law says. This arrogance stems from the 1803 case of *Marbury v Madison,* in which (as is shown more fully in Chapter 7) the Supreme Court plucked out of thin air the supposed right to "interpret" the Constitution – as if, as Irwin Schiff would often say, it was written in Chinese instead of plain English. Manifestly, if a judge can declare what is and is not the law, the establishment of Congress, and the

electoral process that populates it, is superfluous. But that is the way that American jurisprudence operates.

Parenthetically, the *Marbury* case fingers a fatal flaw in the whole theory of democratic rule. Note first that clearly, if there were no "check" or veto power upon laws a legislature may write, the system would be a dictatorship by whatever people make up that legislature – here, the Congress. If there is such a check, however, how is the wielder of that power to be limited in his power? "Who," in the memorable words of Johnny Cochrane in the Simpson trial, "shall police the police?" So the right of the Judicial Branch to over-rule the Legislative (or Executive) ones is not all bad – but it does mean that in order for it to determine whether a law violates the Constitution, it must have the power (as *Marbury* asserted) to decide what *any* given law means and doesn't mean. Hence, the dictatorship is operated not by an unchecked Congress, but by a checking Judiciary. The theory of democracy and "limited government," in other words, is fatally flawed. That is far-reaching, and is explored further in Chapter 7, but of course it was not front and center in the trial of *Schiff et al.*

Finally the format of any US trial must conform to the pattern of evidence drawn from witnesses by question and answer. This is a useful technique, but is not the only one; it is however the only one allowed. In this case, it was clumsy and confusing to the jury. Had it been a trial about *facts* (did the accused steal the car, was he seen to do so?) it's a fair way to arrive at the truth; when it's about what the law says, it is artificial and grotesque. Had the prosecution been allowed to make its case and then a single day had been allocated to Irwin Schiff to address the jury in

the manner of his one-day seminars, with his usual coherent and articulate teaching style, I have no doubt at all that the jury would have been convinced that no law taxes what Americans earn, and all defendants would have walked out free and the US income tax would have rapidly unwound and become unenforcible – and that the trial would have lasted less than a week, instead of six. But he was not; he had to try to deliver his theme by Q&A, and suffered repeated interruptions even to *that* task, by Judge as well as Prosecutor. The overall effect was a shambles, a travesty of a trial; and its sad outcome, almost inevitable.

There was grotesque interference even in the matter of witnesses for the defense. Irwin Schiff assembled half a dozen to come to Las Vegas and testify for him; there was an ex-IRS agent, ready to swear that his former employers had deceived him and hidden from him the facts of law; there was a retired FBI agent, ready to say that after spending his professional life fighting crime, he had found nothing illegal in what Schiff was teaching; and others who were ready to say his understanding of income tax law made excellent sense and had even been used to obtain IRS refunds of taxes. No such testimony was allowed!

After learning of that astonishing ruling by Judge Dawson, several headed for the airport – only to be called back when he changed his mind and allowed *character* testimony only, about Irwin Schiff. Although better than nothing, this was of course almost irrelevant; he's a fine upstanding person, but that says little about the accuracy of what he teaches about the law. At the time it seemed right to be thankful for small mercies, especially as the defense was allowed to put those witnesses on the stand while *interrupting* other

witnesses; as one of the court-appointed co-counsels noted, that was an almost unprecedented concession. However in retrospect, it wasn't as beneficial as was supposed at the time. It meant that witnesses got up and down like jacks in the box, with different streams of testimony reaching jurors out of sequence – it must have been very confusing. This too may well have been part of Dawson's design to make the defense appear inept.

The trial ground on, with highly professional courtroom performances by the government lawyers; one especially gave a most impressive PowerPoint presentation with key, tough questions for Schiff to answer at high speed – for example, a tailor's note was projected on screen, showing Schiff had ordered a custom suit. It was on credit, so one line asked for "Income" and there was written "over $100,000" and right beneath it, Schiff's signature. "Is that your signature, Mr Schiff?" "Yes, but that's about 'income' in the ordinary sense, not the Constitutional sense." It was left to him in later testimony to explain what that meant, in the face of objections not to discuss the law, and the effect on how jurors saw his case must have been devastating.

At trial's end Judge Dawson gave "instructions" to the jury, and they were riddled with lies. They are listed in a table shown on the following two pages; "JI#" is the Jury Instruction # as shown in the transcript of what he said. To my mind the second lie listed (JI# 19) is the most egregious for it absolutely contradicts what the law says about the most important factor of all: the meaning of "income." Dawson quotes 26 USC 61, a very important section, and deliberately *mis*quotes its simple wording. §61 does not

A Listing of Dawson's Lies

JI#	Lie	Fact
1	You must follow the law as I gave it to you whether you agree with it or not	That would make himself, the judge, the giver of law - contrary to Article 1 of the US Constitution, which delegates only to *Congress* the power to make law. It would also negate the entire purpose of juries, settled in 1215 at Runnymede, which was to *prevent* the legislature (then, King John) issuing laws not subject to review and approval in court.
19	Gross income is defined in Section 61 of the Internal Revenue Code to mean all income from whatever source derived and includes wages and salaries.	§61 actually says: "Gross income means all income from whatever source derived, including (but not limited to) the following items..." Stripped, Dawson said "gross income includes wages" whereas the law he said he was quoting says the "source" does the including. It's a matter of grammar; **Dawson changed the subject of the verb** "include" from "source" to "income". The implications are huge; in this lie is found the government's entire income-tax deception.
19	[Sections 1, 63, 61 and 6012], working together, make an individual liable for income taxes	Not one of the four even contains the word "liable." §6012 obliges some to "file" but only if "gross income" exceeds a threshold - and "income" is nowhere defined.
19	The IRS may assess taxes and may lawfully seize or levy property without court order in order to satisfy tax liabilities	No such power is found in Title 26 with respect to income tax
20	The actual task of collecting the taxes, however, has been delegated [by the Secretary] to local	Not in Title 26 with respect to income tax; the IRS is not even *mentioned* in Subtitle A

	IRS directors	
21	In the absence of a tax return, the Commissioner... is authorized to independently calculate the tax owed and to prepare a substitute return for the taxpayer	Not in Title 26 with respect to income tax; no such Code Section has been found
34	A certificate of assessments and payments [from the IRS] is "adequate evidence" of a tax liability	That would empower a government employee to create liability where the Law does not
42	All persons who earn gross income in excess of the minimum required under the law are "persons" or "taxpayers" required to file income tax returns and pay income tax under the Internal Revenue Laws	Since "gross income" is a term nowhere defined in the Internal Revenue Laws that is a statement on which it is impossible to take action. Additionally, the filing requirement arises from *liability* as well as a threshold; the former is missing and the latter cannot be determined
42	Gross income includes the following: (1) Compensation for services....	This is a repeat of the second lie tabulated above. §61 says that the *sources* of income, not income itself, include those items

provide a definition of the term – there is none – but it does, like Amendment 16 itself, tell us one thing about it: *income has sources.* It's something derived from other things, and in §61 some of those other things, those sources, are listed. Yet in that lie, Judge Dawson told the jury that "income" itself does the including (it doesn't; the sources do) and that wages and salaries are included, whereas §61 doesn't even mention either and Congress *expressly removed them* in 1954 to prevent exactly this kind of misunderstanding; and if it had, it would have listed them as sources, not as components.

A Jury Instruction is a pretty solemn matter; no other single element in a trial will more heavily influence a jury. Here, the exact opposite of what the law says is conveyed to the jury as if it were the law, by a man paid to help administer the law. Prison is barbaric and in a true justice system (one designed for restitution, not retribution) it would not exist; but if anyone ever deserved imprisonment, Kent Dawson is the one, for the wickedness he did that day.

So the jurors heard that few of the facts (things that were done by the defendants) were in dispute, and the only law they were allowed to hear was from the mouth of Judge Dawson, and he flat lied about what it said. It's not all surprising that they returned "guilty" verdicts on all the most important charges, nor that subsequently, Dawson sentenced Schiff to over 13 years in prison, Cindy Neun to over 5, and Larry Cohen to 3 (though his was later overturned and he never did any jail time before his untimely death in August, 2009.) After the 15% discount for good behavior, Cindy was released from prison in April 2010 and Irwin would have been released in 2017, if he had

not died two years earlier at age 87. It cannot have been other than Dawson's intention that he would die there or that when he emerged, he would have no vigor left to further endanger the government's evident flouting of its own revenue laws.

One of the first thing his captors did was to equip Irwin Schiff with a pair of boots the wrong size, as a result of which a toe became infected and had to be removed. There has been a second surgery since then, but still it hurts. When he insisted on a face-to-face hearing on the revisited "contempt" issue (see below) as is his right, they turned a journey needing a few days at most into a 10-week nightmare in 2008, shipping him from prison to prison like a Post Office parcel (FedEx could not have taken so long.) Even so, when he called by phone he was as upbeat and cheery as ever, as if the person he's calling was the one needing his spirits raised. He was a most remarkable human being.

The Appeals

The appeals were all rejected, yet are masterpieces in their own right.

As Anthony Alexander has well written, "Reasoning with a bureaucrat is like reasoning with a stone" and the same is proven by these Appeals with regard to judges in Circuit 9.

After conviction Irwin Schiff was locked up temporarily in a Las Vegas facility, one of the most disreputable outside the Third World, and then was moved around within the system of Federal prisons including Fort Dix, NJ until he

was placed in 2007 at Otisville, NY – a small and relatively friendly place within a day's journey of his family in Connecticut.

From Otisville he was removed without notice in April 2008 to Terre Haute, IN – much further from his family. He had turned 80 in February of that year and apparently it is BoP policy to keep such elderly prisoners near a medical facility, with which Terre Haute is equipped (along with an execution chamber, as Irwin wryly reported at the time.) In 2012 he was without notice shipped to Forth Worth, TX – without even having the chance to bid farewell to the many friends he had made in Indiana.

He wrote three appeals during his first four years behind bars, and with the outcome they are shown in Appendices 13 thru 15. The first was dated January 12th 2007 at a time (14 months after the trial ended) when he *still* had not been provided with its transcript. It eloquently reminded the Ninth Circuit that the government had completely failed to meet its burden of proving willfulness, nor that the law imposed a duty on him, nor that a tax deficiency could have existed for the years 1979-85, without which he could not possibly have been guilty on Count #17. He showed that Jury Instructions # 19, 20, 24 and 25 were all given contrary to law, and misled the jury about the meaning of "income." Finally he showed that the *Bishop* decision, regarding willfulness, had not been followed.

In February 2007 he submitted a Supplement, having then obtained the trial transcript, dealing with Judge Dawson's multiple suppressions of his attempt to defend himself, and introducing the powerful argument about Dawson's jury

instruction on liability that the Ninth Circuit had already ruled against unrelated Title 26 sections "working together" in the case of *Roat v C.I.R.*

He might indeed have been writing to a stone, for he later learned that none of this *pro se* material ever reached the eyes of the Ninth Circuit panel; they will review appeals only if underwritten by a lawyer, ie an Officer of the Court! Since all such Officers would risk disbarment if they pled that the law does not tax personal earnings, Schiff was trapped in a Catch-22. The good appeals he wrote himself were not accepted or read, while those written by the lawyers he was forced to hire were read, but were so feeble that they got nowhere near the core of the matter.

The key argument from *Roat v C.I.R.* was not even raised, for example, by Chicago Attorney Michael Nash – even though Schiff as his client expressly asked him to do so, and even though he was receiving a fee on Schiff's behalf. Afterwards Schiff wondered aloud whether Nash had after all been working for the government. In an important sense, he had; he's an "officer of the court." That's how in the government "justice" system, outcomes are predetermined.

Attorney Shelly Waxman, well known as a fine libertarian advocate, did his best - see Appendix 15 - but was fined $1,000 for daring to argue a bit too close to what really mattered.

The Ninth Circuit handed down its opinion (Appendix 16) on December 26th 2007, signed by Justices Thomas, Tallman and Ikuta. It wrestled mightily with the almost-irrelevant question of whether Judge Dawson had imposed

his sentence for "contempt" (ie, Irwin Schiff's repeated attempts to tell the jury why he was not guilty, despite Dawson's directives) in a proper manner, and concluded that Dawson needed to do that part over. It also dismissed the case against Larry Cohen on a technicality, sending him back for re-trial. On all the vital matters, almost the whole substance of what Schiff had argued in his appeals, the Court was as silent as if he had never written, or as if it had never read them. Perhaps it never did. Or perhaps it read them, then urgently found an excuse not to acknowledge having read them. Such is the pretense of justice.

Its conduct might be compared to that of the political and judicial authority in First Century Jerusalem, upbraided by a well-known provincial preacher as follows:

> [23]Woe unto you, scribes and Pharisees, hypocrites! for ye pay tithe of mint and anise and cummin, and have omitted the weightier matters of the law, judgment, mercy, and faith: these ought ye to have done, and not to leave the other undone.
>
> [24]Ye blind guides, which strain at a gnat, and swallow a camel…
>
> [27]Woe unto you, scribes and Pharisees, hypocrites! for ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within full of dead men's bones, and of all uncleanness.

Matthew, Chapter 23 (KJV)

7: Premises

Very clearly, we've seen so far that there's a complete disconnect between Irwin Schiff's understanding of income tax law, and the beliefs professed by pretty well everyone else, especially government people. I began Chapter 1 by likening him to the "small boy" in Anderson's fable of the Emperor's new suit – but that was a bit naughty because it prejudged the vital question of which of them is right. There are plenty of "small boys" around who defy conventional wisdom in one way or another, and nearly all of them are dead wrong. It's very true that all human progress depends on the questioning of authority – quite often by lone, far-seeing individuals – but *merely* to question it, perhaps especially as a lone individual, is by no means any kind of guarantee that one is right. Any fool can say that the Earth is flat, but that doesn't make him right; the key is *reason* - and in that case, reason clearly supports the conventional view that it's approximately spherical.

So our next purpose in this book is to figure out, by reason, who is right, who is wrong, and why; and so to gain a better understanding of this powerful entity called "government." Only then can we adequately consider, in the coming Chapters, what to do about it. First, two preambles.

(a) Premises are vitally important, as in "where you stand depends on where you sit." If from somewhere one holds the premise that alien creatures are beckoning from beyond the moon, where one can go join them and live for ever in paradise merely by ending one's earthly life, then it is

perfectly rational to go ahead and end it and so transport oneself to that wondrous carriage in the sky. Lest this seem absurd: members of the "Heaven's Gate" cult did exactly that in 1997 and all of them were "normal" Californians with good jobs and earnings. A premise can be sensible or ridiculous, but once it's embraced as one's starting point, good sound reasoning from it can lead to some amazing conclusions. They are no more amazing than the premises. In this chapter we're going to guess at what premises Irwin Schiff's adversaries may have embraced, which led them to oppose him with such destructive effect.

(b) Second: it's worth reminding ourselves how critical is this question of "who's right" about the US Income Tax – it is by means trivial. This tax is arguably the greatest single financial engine of the present world. Consider:

- It yields, directly, about half of all the revenue the Federal Government spends; on its myriad schemes for redistribution of wealth, on its military (the biggest in the world; US military spending exceeds all other military budgets combined), and its "aid" to foreign governments, with which vast influence is purchased. By this route alone, the US income tax is a key factor in determining world history.
- Indirectly by an arithmetic link to Social Security "contributions", income tax triggers *another* third of all Federal revenues to insure the population against illness and old age as we saw in Chapter 1 – like a second income tax, as Schiff has demonstrated.
- Indirectly by another series of arithmetic links, this tax triggers 43 other income taxes, imposed by State governments to furnish a majority of their revenues.

All added up, I reckon that around two thirds of all money taken by all levels of government from working Americans comes via the income tax, directly or indirectly. That sum is about four trillion (2009) dollars a year, out of the six trillion tax total, itself about one half of everything produced in this $12 trillion economy.

So if small-boy Irwin Schiff is right, the implications will shake the world. The Emperor will be *really* embarrassed.

Okay, preambles over: *who's right?*

That question takes us directly to the heart of the nature of government, and needs to be answered systematically and the obvious, immediate answer is not the full or final one. Our understanding of this will determine what we choose to do about it, so let's try to get our minds around it fully.

First, it must be abundantly clear from the preceding chapters of this book that *on the premise that Law is what Congress writes,* Irwin Schiff is the clear winner – head, shoulders and torso above his government rival. If this were a US Open final, he would have taken game, set, match and championship by scores of 6-0, 6-0, and 6-0. There is simply no contest; I doubt whether the government people know which end of the tennis racket is the handle. Schiff has developed a tightly reasoned understanding of tax law and posed the key questions any adversary must answer to stay in the "game", and that adversary has not even attempted to return a single reply – except that in the final game, after for long staying silent on the "liability statute" question, they suddenly came up with several, said to

"work together." Schiff eloquently demolished that nonsense in his "Reply" to the ConsOpp (Appendix 8.)

As is clear from his motions in our Appendix, Irwin Schiff placed plenty of reliance on court decisions – especially Supreme Court ones – as well, but it may be fair to say that his fundamental premise is that law is what Congress wrote; and the result above followed from adoption of that premise. Given though that almost everyone else reaches an opposite conclusion, one must ask whether there is any other premise, from which they might have reasoned through to their opposite conclusions.

It's fair to ask that question, even if the answer should turn out to be "no" – or, more likely perhaps, that indeed there is another premise at work but that is has no credibility, like that fable of the kindly aliens and their lunar fly-by.

It's fair, because we need to explain how it can be that an otherwise reasonable and intelligent man like Judge Dawson can do the evil things recounted in the previous chapter. We ought to explain how it is that 100,000 or so of our fellow-citizens work for the IRS to process paperwork to assist in history's biggest heist, and how 25,000 of their senior colleagues go about their work of enforcement. We ought to explain why 130 million people swear that their 1040 forms are accurate, believing that there is an income tax law, despite Schiff's convincing proof that the opposite is the case.

The simple answer that "they are all evil" seems very unsatisfactory, not easily credible. We may assume that most of this very large number of people have wives,

husbands and children whom they love and support, that many of them have pets for whom they care, that a respectable minority attend church and donate to charitable causes. Are they all evil? - hardly. Were they all born to unmarried parents? - it may be satisfying for a moment to say so, but clearly it can't be true. We need an explanation a whole lot better than those, and the obvious one is that they are reasoning from a different premise. Let us see whether we can deduce what that premise might be.

Let's listen to them for a moment, or read what the say. The IRS has a web site here which deals with their opponents. Pay it a visit. The format for each of the objections it deals with is the same:

- A statute is mentioned (and misrepresented) and
- Many court decisions are listed which over-ruled the objection or position being considered.

The statute references are wicked. One is quoted, as if it supported the IRS' position when in fact it does the opposite, then comes the long list of (to them) favorable court decisions – which are almost all lower court ones, not from the Supreme Court.

One example of this pattern responds to the contention that "The filing of a tax return is voluntary." The IRS invokes three statutes that compel filing for anyone "liable for" a tax, but fails to point readers to any other statute that makes anyone liable for an income tax – yet proceeds *just as if there was one,* by saying "Any taxpayer who has received more than a statutorily determined amount of gross income is obligated to file a return." So far, the IRS has quoted a

statute and tried to make it say the opposite of what it does - since there's no liability, what it actually says is that there's *no* requirement to file. Then the whole of the rest of the response consists of court decisions – ten of them, by my count – and some of those dismiss the claim that i-tax payment is voluntary as "frivolous." To the ordinary reader that word conveys the idea of shallowness or silliness; but that's not the way it's used in legal circles. There, it means something *already ruled as incorrect,* and therefore not appropriate to raise again in the present case. So these ten cases actually reduce to a smaller number and perhaps even to one; and unless he has large resources of time and library access, the ordinary citizen can't readily discover whether those early setters of precedent were conducted fairly and impartially or whether they, too, were as bigoted and corrupt as was certainly Irwin Schiff's. Nonetheless, the courts do rule, with monotonous regularity, that the law taxes individual earnings.

This pattern of reliance on court rulings repeats for all the contentions the IRS site addresses. It's as if their unstated premise is that *the law is what courts determine it to be.*

What the IRS does on its web site, its agents do in the field. Any of us who have met one of them will know this: we ask a good question about the law, and they resolutely zip their lips, saying only words like "the courts have ruled against your arguments" (even when it was a question, not an argument at all!) It's infuriating. What is their premise? - that la*w is what the courts say it is.*

Change scene, to the Federal Courtroom in Las Vegas in 2005. Irwin Schiff desperately tries to show his jury what

the law says; Judge Dawson refuses repeatedly to allow it and insists that he alone will instruct the jury about the law. What is his premise? - *law is what courts say it is.*

A final scene: John Q Taxpayer, laboring over his 1040 in the office of his adviser, Blockheads Inc. Question: do I have to file this form, pay this money? Answer: I'm afraid you do. Question: Where does it say so? Answer: It really doesn't matter. Everyone who has challenged that has been shot down by the courts. It's my job to help you pay as little tax as possible, consistent with what the courts have ruled.

So the Blockheads premise is: *law is made by the courts.*

If you can come up with a different premise, from which the conduct and beliefs of all these many groups can be rationally derived, be my guest. To me, it seems that this one fits like a glove. Right or wrong, sensible or stupid, this is where they all start: it's not just a matter of *what the courts will let you get away with* (though the Blockheads fellow may have seen it that way) it is, rather, that law is truly what courts determine; end of story. Or to express it more fully, with regard at least to the Income Tax,

Law is made by US District Courts, with nine decades of Supreme Court silence indicating concurrence.

Now it's time to *test* that premise, to see if it's credible.

8: Can Courts Make Law?

In the previous chapter we saw that very evidently, all who maintain that the law taxes personal earnings are presupposing that law is what courts say it is, rather than what Congress wrote. Let's now test whether that premise has any reasonable basis, or whether it has been pulled out of thin air, or from the distant clouds of mythology.

I can guess what Irwin Schiff would say about it; with heavy emphasis, he'd quote the Constitution:-

> All legislative powers... shall be vested in a Congress...

That's pretty clear, and it's on Page One. Who could not understand that? - since “all” lawmaking powers are vested in a Congress, elected by the People, none are left over for courts (the un-elected, Judicial Branch) to write. Simple. Game over. Or, is it?

Not quite. The Constitution starts on its Page One, with that Article One, but it doesn't end there. It has seven Articles and twenty seven Amendments, and before dismissing this assumed “government premise” as unsupportable, we should check some more of it.

So let's go back to the source; to the Constitution, then to some highlights of early US history. Might we have missed a qualifying phrase, such as:

> …unless over-ridden by the Judicial Branch as provided in Article Three below

No, that doesn't seem to be there, but perhaps Article III does allow such over-riding even so. Let's take a look.

Articles I, II and III set up the three branches of the Federal Government: Legislative, Executive, and Judicial.

Article I has 2,268 words and specifies in much detail what Congress shall and shall not be empowered to do.

Article II uses 1,025 words to empower and limit the President and to show how he must be elected.

But Article III has only 390 words and grants to the Judicial Branch few particular powers and imposes no limits – except that judges shall maintain "good behavior" which it does not trouble to define, and enjoy a salary that can not be reduced. The powers granted are that the Supreme Court shall have original jurisdiction in only a small set of case types, and otherwise be a court of appeal. No limits or prohibitions are listed.

So the public, on reading the proposed Constitution, would see that its elected Representatives would make all laws, and that courts would exist to make sure they were carried out. Seems pretty bland; little to worry about.

However Article III does deal with two important powers:

1. The power to adjudicate, and
2. The power to validate laws

Both of these can have a profound effect in modifying laws enacted by the Congress. Let's take a closer look at each.

Adjudication

Courts (the Judicial Branch) were granted this power. That's clearly implied, because the Supreme Court was named as one of *appeals,* primarily; so the inferior courts were to adjudicate. That's the normal business of courts.

Now, in deciding whether a defendant has broken a law or not, a court must necessarily take a position on what the particular law means. If Congress wrote it unambiguously that's not a problem – but if it can be read in more than one way, or with various shades of meaning or application, the court is the party to decide among those meanings. In so doing, the court over-rides what may have been the intent in the minds of the legislators.

An example is the case of *US v Sullivan*, decided in 1927 by the Supreme Court. Sullivan ran a car dealership and did some bootlegging on the side, as detailed in Irwin Schiff's book How Anyone Can Stop Paying Income Tax.

So as not to advertise his illegal bootlegging to the Feds, and so as not to commit perjury on his income tax return, he decided not to file at all. He was prosecuted and convicted, but appealed on the grounds that his rights under Amendment Five were being violated; the filing would have forced him to incriminate himself. He was of course quite right, but the Supremos found a way to deny those rights anyway. My point here is what they did *not* do. They

did not grant Sullivan's appeal in five minutes flat, with such words as “No evidence is on record that Appellant is a corporation with profits, therefore there is no requirement that he file any income tax return at all, hence the question of his Fifth Amendment rights is moot.” Instead, the Court treated the case exactly as if the law *did* tax Sullivan's personal earnings, only six years after it had, in *Merchants' Loan,* declared plainly that in tax law, “income” means corporate profits. It did not explicitly reverse those earlier opinions, but simply ignored them. *A reversal by silence!*

So *Sullivan* was the Supreme Court's signal to all lesser courts that it was okay to enforce the income tax as if the set of 1916-21 decisions had never been made. Then the precedents began to accumulate, to be quoted and used from then forward, by the IRS on its web site and by Kent Dawson in his court room. Such is the way that the power to decide appeals determines what law gets enforced.

Notice, the power of final arbitration as an appeals court was openly granted by Article III, and we've just seen how easily that power can be used to pervert and over-rule what Congress wrote down. If that kind of power “to say what the law is” is undesirable, the blame lies squarely on the Constitution itself, ratified in 1789.

Wait! some may say; that's all very well, but there must be courts! And courts must have the power to settle cases! How else could the Constitution have been written?

I don't disagree. If there is to be a government, making laws, that's all true. All I'm doing is to point out that courts will have an over-ride power over its legislature and so, at

the end of the day, *the courts will say what the law is.* This is a basic contradiction in the Constitution; it tried to square a circle, to set up a government with limits – and it failed.

Validation

The power to decide which of the legislature's laws are valid (by the standard of the Constitution) and which are not valid is an even stronger way in which courts decide what is, and is not, the law of the land, and now we ask if it too was granted by Article III.

Clearly it was not; there is no such wording. But alas, that doesn't settle the question, because Article III contains no limits or prohibitions on the powers of the Judicial Branch either, and because that very power was at the time of writing a very active question.

Some in the Convention, notably Hamilton, argued that it was a central and necessary power for any supreme court and that it was implied by the very phrase "judicial power." Perhaps he was right. Others argued the contrary – that if the Supreme Court had such a power, it (and not the Congress) would really be in charge. Since it was so critical it ought to have been spelled out, one way or the other, in Article III; but it wasn't.

This omission was either deliberate or else an oversight, and since the Philadelphia convention that designed it consisted mainly of lawyers and politicians who were by no means stupid, we may presume fairly that it wasn't an oversight. One credible possibility is that the delegates left it blank so as not to alarm those being asked to ratify the

charter, intending somehow to fill it in later when fewer were paying attention. That suggestion will disturb those who pre-judge the motives of all the founders to be pure, but will not surprise others more skeptical of what such people do with an opportunity to form a government.

Certainly, the powers to be taken by the Judicial Branch formed a critical issue. In the period between publication of the new, proposed Constitution in 1787 and its becoming ratified in 1789, debate about it was fast and furious. In #78 of the Federalist Papers Alexander Hamilton wrote in favor of the view that the "Judicial Power" certainly did include the power to rule what was valid, constitutional law and what was not; he saw it as a final arbiter in that respect, and assumed that the Branch had such power.

In #78 of The Anti-Federalist, "Brutus" wrote in rebuttal:

> The Supreme Court under this constitution would be exalted above all other power in the government, and subject to no control. The business of this paper will be to illustrate this, and to show the danger that will result from it. I question whether the world ever saw, in any period of it, a court of justice invested with such immense powers, and yet placed in a situation so little responsible...
>
> There is no authority that can remove them, and they cannot be controlled by the laws of the legislature. In short, they are independent of the people, or the legislature, and of every power under heaven. Men placed in this situation will generally soon feel themselves independent of heaven itself.

The root problem, to which we'll return later, was that if there were no final arbiter of law, nobody could be sure of what the law says – while if there were such a final arbiter, that party would in effect be the government, all pretense about democratic rule notwithstanding.

It may be said that Judicial Review is not much of a lawmaking power, it's only an authority to accept or reject laws that emerge from the primary lawmaking body, the Congress. There is some truth in that, and its effect is felt in terms of time. It can take a long while for a matter to be resolved, if courts have to make binary choices in sequence. However we can see how very significant it is anyway, again from the example of the income tax itself; in 1894 Congress passed a law taxing personal property directly without apportionment, and in 1896 by its *Pollock* ruling the Supreme Court shot it down as unconstitutional; with much more confusing language it also shot down the 1913 attempt to so tax it, even *after* passage of the 16th Amendment. Suppose though that the *Brushaber* court had ruled the contrary? - then beyond question, every American would have had to surrender part of his earnings ever since to the Feds, perfectly legally. So the power of Judicial Review is by no means trivial. At day's end, it does clearly endow courts with the power to say what the law is.

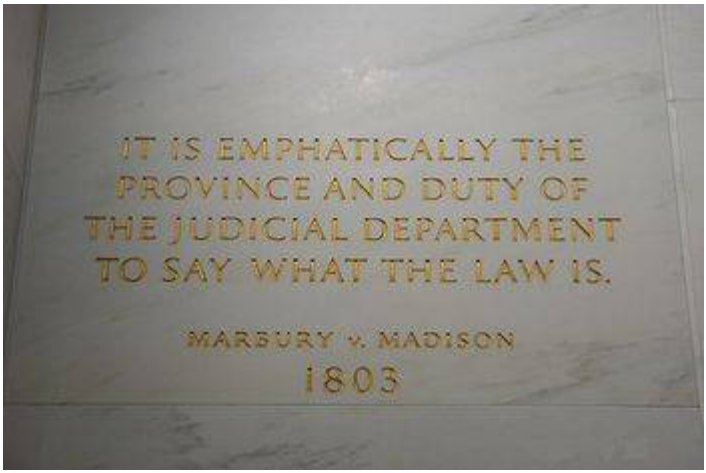
Did the new Judicial Branch get that power, or not? When all the debating was done, the Constitution was ratified, and Article III said nothing at all about it. There was no specific grant, but there was no specific limit either. Hamilton could go on claiming that “Judicial Review” was implied, while “Brutus” could insist that it was absent. The Nation began,

in 1789, with this vital question unresolved – along with that of slavery. This was either a *carte blanche* or, at the very least, a gross ambiguity.

One more aspect of the controversy should be mentioned: both sides of it, articulated by Hamilton and "Brutus," were advocated by lawyers and politicians and believers in the need for some kind of formal grouping of the State governments they represented. With Thomas Paine, they all subscribed to the theory, which we'll examine in a later chapter, that government is "necessary." So we cannot rule out the possibility that the vigorous "debate" might have been mostly for show; that in reality they all wanted to get the Constitution ratified so the could move on with the business of governing and fix any open questions later, and they left Article III blank in this respect because they feared that an open granting of that power of final arbitration would prevent the whole being ratified.

Now let's see how the blank was afterwards filled in. Just 15 years later came the *Marbury* case.

That *Marbury* is the landmark of all US "landmark" cases is confirmed by the fact that the key words of its opinion are carved and gilded in marble on the very wall of the Supreme Court building in D.C. as illustrated nearby. The details of the case are that the outgoing Adams administration had appointed William Marbury a Judge in the District of Columbia - but that had to be confirmed by papers of commission issued by the incoming Jefferson administration, which refused to do so.



Marbury made use of the “Judiciary Act” which Congress had passed in 1789 (in its very first session!) which purported to grant the Supreme Court the "power to issue writs of... mandamus" as a court of original jurisdiction, not just as one of appeal. So he went right to the top in order to save time, suing for just such a writ (an order, to “handle this now”) against Madison, the new Secretary of State.

John Marshall's Court denied Marbury's suit, for want of jurisdiction. It said Congress had had no business granting it any power at all; that was something only ¾ of the States could do, by an Amendment to the Constitution. He was quite right; that 1789 Judiciary Act was unconstitutional.

But notice: in the very act of saying so, Marshall's court actually did the very thing it was saying Congress could not do! - namely, amending the Constitution without having the authority to do it. This strains the brain, but is vital to

grasp – for it's here that we find the core of the government's gigantic swindle. Let's spell it out:

- By the Judiciary Act in 1789, Congress exceeded its Constitutional powers by purporting to grant the Supreme Court a power not found in Article III.

- By declaring the Judiciary Act unconstitutional, Marshall's Court *also* exceeded its Constitutional powers, by purporting to exercise the Judicial Review power not granted in Article III.

Thus, Marshall was doing precisely what he said Congress could not do, when the Judicial Branch had no more right to do it than the Legislative Branch. This Supreme Court ruling had no more validity than the Judiciary Act; they were in a tightly closed loop, and that loop was integral to the Constitution itself, because that charter neither granted such powers to the Judicial Branch, nor withheld any. However, Congress' attempt to exceed its delegated powers was slapped down, while Marshall got clean away with his.

That he was allowed to get away with it strongly suggests that the founders never intended their new government to be subject to limitations at all, while at the same time skillfully selling the package to the ratifiers as if it was.

So in effect Marshall's Court was making an awesome, breathtaking grab for power; he gave the Judicial Branch the right, never mentioned in Article III, to decide what laws were constitutional and which were not; or in those other words, to “say what the law is.”

Now, it may be objected that if laws are to exist, someone has to decide which are constitutional and which laws are not, and a reasonable choice might be the Judicial Branch; but that is not the point here; the test is not whether that power seems to be reasonable, but whether it was granted in Article III. And as can be clearly read there, *it was not.*

Again, if such power *had* been expressly granted to the judiciary in Article III, the Constitution could hardly have been ratified; for it would have set up openly what we actually have in practice today: a dictatorship of professional lawyers. This exact concern was voiced by Thomas Jefferson (who was not present at the Constitutional Convention) about *Marbury:*

> ...the opinion which gives to the judges the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action but for the Legislature and Executive also in their spheres, would make the Judiciary a despotic branch.

Due credit to President Jefferson for saying this, when the direct result of the *Marbury* ruling was very much to his liking; he certainly didn't want an Adams toadie appointed to a judgeship in D.C. But anyway, nobody paid him heed.

Accordingly, Marshall grabbed massive power out of thin air, in what we can now see was a *coup d'etat*, pre-planned by those who left Article III blank on purpose. America became and has been ever since an oligopoly of lawyers, thickly disguised as a tightly limited democratic republic. Alas, ever since *Marbury* filled in Article III's blank check,

the courts have indeed been able “emphatically... to say what the law is” by selecting what laws are acceptable, as well as deciding which appeals to grant and which to deny.

The power to choose which laws are valid must include the power to **interpret** all laws, otherwise there would be no basis for such a choice; and the Supreme Court has extended that power to include the Constitution itself. The absurdity of that was often pilloried by Irwin Schiff; he asked whether the Constitution had been written in Chinese, that it should need “interpreting”? He insisted, rightly, that if one of its provisions, or some law for that matter, is so complex as to need a professional interpreter, then it is *too* complex and should be ignored – in legal terms, it is “void for vagueness.” Conversely if it is plain, no interpretation is needed. Yet this assumed power of interpretation has been used to twist the Bill of Rights out of all recognition.

It's hard to deny that of those first ten Amendments, no more than one (#3, concerning the quartering of soldiers in peacetime) is still applied as written. For example #2 (that the “right of the people to keep and bear [carry] arms shall not be infringed.”) has been “infringed” so often as to be almost fully gutted; at this writing the Supreme Court is addressing it again and may possibly restore some lost rights. Or it may not, and it may be overturned later even if it does; that's the problem. Instead of a fixed and permanent right, we have one that is weakened or strengthened according to the prejudices of nine elderly people.

The implications of that Amendment alone are numerous; shortly after the 2001 attacks the artist Bieser portrayed how that matter would have been resolved had Amendment Two been properly in effect. All the anguish of war and privacy loss in the years since then would never have followed.

Amendment #1 has suffered even more at the hands of the Judicial Branch. Speech in America is by no means free. In 1919 Oliver Wendell Holmes (the author of the *Sullivan* ruling above) wrote a Supreme Court ruling in the case of *Schenck vs US* (concerning anti-war speech) that included the infamous phrase that laws are valid that prohibit "falsely shouting 'FIRE!' in a crowded theater." That is of course nonsense; if any theater patron behaves in any way so as to trouble its owner, or other patrons, they can readily sue him for the damage caused and there is no need for, or improvement brought, by any law whatever. (Comedian Steve Martin, much later, ridiculed this ruling by asking whether it was lawful falsely to shout "MOVIE!" in a crowded firehouse.)

"Interpreting" Amendment #1 has been used also in direct relation to how the government hobbled Irwin Schiff's ability to defend himself in 2005 by citing the 1942 case of

Valentine v Chrestensen, as related in Chapter 3. Ever since then, speech has not been free (in the sense of being unfettered by any law) if it is delivered in exchange for money; "commercial speech" can be controlled. If that does not apply already to sold newspapers, radio and TV there is no obvious reason why it cannot soon do so.

There, then, are the law-making powers acquired by the Judicial Branch; the power to adjudicate and decide appeals (which was granted in Article III) and the powers to interpret and select as valid or otherwise all enacted laws and Constitutional provisions (which were not prohibited in Article III, and which were grabbed in *Marbury.*)

Now we can pull this matter together, and propose a solution to the Puzzle of the Premises named in Chapter 7.

No laws have been written to tax individual earnings (ie, **Schiff is right,** on the basis of his well-supported premise) but all of them are enforced as if they had, *and that enforcement is not illegal!* (ie, **the government is right**, on the basis of *its* well-supported premise.) Article III gave courts enough power to twist and change the effect of laws in adjudication and appeals, and for the additional power of interpreting laws and selecting their validity, it left the door wide open, on purpose, and the *Marbury* case walked right through it. Both tricks were pulled in full public view by the very people most honored by patriotic people today.

That's not to say for a moment that this contest is some kind of a "draw" with both parties being equally right and equally blameless. The fact is that while we do live under a dictatorship of lawyers that was set up deliberately back

when the Federal Government was given its charter, that government has also for all its existence mendaciously claimed to be something it has never been: a limited democracy, a constitutional republic, a disinterested servant of the people who elect it to office, a "government of the people, by the people, and for the people" whose laws are made by those the people elect. Thus, it is wickedly deceptive and always has been; all the hoopla of elections is vast pretense and nothing more. Ultimate power resides in a set of nine judges, answerable to nobody, who "say what the law is" and that was exactly what most of the founders always intended.

That is why Judge Dawson could reasonably believe he could tell Irwin Schiff's jurors that the law taxes wages, and yet not technically violate the law of the land. Article III did not restrain him, *Marbury* asserted he had the power, and nobody in two centuries has contradicted John Marshall. Thus: we live under an oligopoly of lawyers, masquerading as a Constitutional Republic. Welcome to Amerika; not as a nation that has deteriorated in recent decades or during the New Deal, as is sometimes alleged, but as it was from the get-go in 1787 and 1803.

"Objection!" I hear; "Dawson spoke for a District or *lower* court, not for the Supreme Court - and anyway he wasn't arbitrating between two written laws, he was declaring new law from the bench. How does your analysis allow that?"

Good point. My answer is that the Supremos were silent only selectively; as we saw above they accepted Sullivan's case for hearing, but made no ruling that he was not subject to income tax laws. Later, the Supreme Court heard two

other cases: *Cheek v US* (1991) and *US v Bishop* (1973.) By the former it established that a person is not "willful" if he fails to pay because of a "good-faith misunderstanding of the law" while in the latter it said that he is not "willful" if he "relies on a previous decision of this Court." Willfulness has to be proven in all such prosecutions, so these rulings are valuable to all income-tax defendants – but notice: neither opinion took the obvious opportunity to say something like "this defendant cannot have been willful because there is no such thing as a tax on personal earnings." Here too, by failing to so rule, the Supremos can reasonably be said to have endorsed the many lower-court rulings that there is such a tax.

There were plenty of appeals it could have heard and ruled in harmony with its decisions of 1916 – 1921, but it did not choose to hear them. My guess is that there is some kind of "understanding" between the three branches, at least at the very top level, for what the Judicial Branch has done with regard to the income tax suits all of them very well indeed. The Supreme Court is on record as declaring it to be a tax only on corporate profits, so can claim innocence. The Congress can wring its hands and agree with complaining taxpayers that the IRS is monstrous, but ultimately shrug and say that the (lower) courts have ruled such and so, hence there is little that can be done. The Executive Branch is happy to make use of all the money its IRS collects and the private information it garners. Who's to complain? It's a good deal for them all.

There's more yet: Jefferson's good observation above tells only half the story. He was concerned that as a "final arbiter" of what shall and shall not be "the law", the

Judiciary would be despotic, and he was right. However if the Congress had that power, Congress would be the despot! So would any other party, such as the only other Branch (the Executive.) Therefore, because *somebody* has to be a final arbiter in a law-based society, *"limited government" is impossible!* In his Anti-Federalist paper quoted above "Brutus" very nearly saw that point - but not quite. For him, presumably a politician, such thinking was outside the box; the box being the presumption that society must, to be civilized, be based on laws.

Right there, though, we do have the fatal flaw in the theory that it's ever possible to have a "government" (an entity that rules) that is subject to "limits" (things which prevent it ruling.) When we think about that clearly, it's not hard to see that the idea is an absolute contradiction. The founders could not overcome it, and they did not; but rather than admit it was impossible, they created an unlimited government with Article III and then pretended it was limited with the help of the numerous "prohibitions" of Articles I and II – and, later, of the Bill of Rights.

Jefferson dodged that key issue by going on to say that "the people" would resolve the matter if an unconstitutional law were enacted, but smart as he was, that is just too naïve to be taken seriously. There's no Constitutional mechanism for such control to be exercised. The only choice is to have a government not answerable to anyone, or to have no government at all – to have a society that is *not* law-based.

Evidently, then, the government's premise, that tax law is made ultimately by the courts, appears quite well founded. The only way to dislodge it would be to mount some kind

of legal appeal to the Supreme Court (which is never bound to hear and in fact declines to hear 95% of cases received) which begged that court to surrender the final-arbiter power it so eagerly grabbed in *Marbury* - while depending on its exercise of that very power in order to decide the appeal itself! This is too much of a brain-bender for me, but I do have a sufficient sense of the feasible to opine that such an appeal would not stand a snowball's chance in hell.

So, sad to say, Dawson's evident belief that courts make law, and that a series of pro-income tax decisions during several decades with no reversals by the Supreme Court do, in fact, serve to trump all the arguments amassed by Irwin Schiff because his were primarily based on *written* law! Dawson was certainly lying, as we can see by reading English; but the power granted to the Judicial Branch entitles judges to lie; once a court says "Up", something "really, truly" is Up, legally, even when mere ordinary mortals can clearly see it's Down. That's what power is all about. That's what happens, when a government exists; if you want a government, ultimately it will enforce whatever laws it sees fit.

Understanding the implications of the government's silencing of Irwin Schiff, as we're seeking to do in this Chapter, is a bit like peeling an onion. So far we've seen:

1) The law Congress wrote does not tax earnings
2) The law which courts enforce does tax earnings
3) That "court law" may not be unconstitutional, but
4) The whole US Government is *wickedly deceptive*
5) That wickedness originated in 1787

Such “court law” is not easy to read, for it was put in place very deceptively as above; the founders deliberately left undefined the powers of the Judicial Branch, and then when a convenient case came along (*Marbury*) the key one was defined by the Supreme Court itself, in a kind of pre-planned *coup* to which nobody objected – except Jefferson, as above, and he was ignored. So far, then, we have seen that the wicked deception and contradictions of the present Federal Government, which Irwin Schiff exposed so fully as justifiably to call it “The Federal Mafia”, did not originate in the 20th Century; it was there from the start.

However, the onion is by no means yet fully peeled.

9: Depths of Deception

The previous chapter showed that America's founders said they set up a government with limits on its power, but actually set no such limits; or none that would not dissolve rather quickly, like a time-delay poison-pill.

Now here, we'll remove another "onion layer" and question the whole theory that the Constitution, whatever it really says and means, granted or delegated powers from "We the People" to a new government. It certainly makes that claim, in its opening words. Is the claim correct and true? It's necessary only to ask that question, to begin to see the needed, negative answer. On two grounds, it's clearly false:

First, those drafting the new charter as well as those who later ratified it were not "people" (ie, about 3 million) at all, but *elected representatives* of those of the people allowed to vote; or rather, representatives of the State Legislatures that the people had elected. Since they were elected, it follows that they did not represent the opinions of those who voted against them, and since I don't know the size of their voting majorities, let's guess that it was 75% in each of those two stages; then the probability that the 39 drafters enjoyed the support of "the people" would have been been 0.75^2 or 0.56 - a bare majority of 56% - of property-owning males, that is. Of all free adults, that would be 28%, and of all non-slaves including children, perhaps about 21% - just over one person in five. So much for "We the People"!

Then **secondly** comes the basic subject of what any one person can delegate or grant to another person, to act on his or her behalf. Even supposing that all 3 million Americans in 1787 *had* delegated power to "ordain and establish" a new government, would they have had any valid right to do so? Very clearly, a person can grant (give away) only such authority or power as he *already possesses,* personally. Any of us can validly authorize another person to act on his behalf, as if we were present in person; but we can *not* give away powers (or anything else) that we do *not* possess.

So, for example, we can grant to someone else the power to sign a contract to buy or sell something, or to distribute our property after death. But we can *not* grant anyone the power to compel our neighbor to pay for our children's education, because we could not do that personally! Nor can we grant or delegate to someone else the power or right to go kill somebody we dislike, or force a third party to behave in some manner we prefer, or to pay for *anything else whatever,* for we do not possess such power ourselves!

Yet in the case of *all* governments, the power to tax (ie, the power to force people to pay for something) is routinely assumed. Where does that power come from? *Nowhere!* They conjure it out of thin air! In the case of "democratic" governments like ours, they pretend it came from those who elected them to office but *that's another lie!*

Now, the US Constitution does not authorize any direct and unapportioned tax on US residents, that's clear from the early chapters of this book; but it certainly does say **"**The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises..." in Article 1 §8 when *no*

such power was owned by those who supposedly delegated it! - and without some such power, given that nobody in his right mind would donate funds for the operation of government, it follows that *the entire process of setting up a Federal Government was fatally flawed!*

And so we need to add a sixth layer to our onion-peeling:

6) the Constitutional "grant of power" was a fraud.

There's more yet. Having understood that the founders always intended to establish a supra-government over the State ones, with powers supposedly limited by fine language but little else, we ought to consider what this tells us about government in general. We are raised to embrace the notion of "good government", as if that were an ideal that is not an oxymoron but something capable of existing in real life. So we ask: *could* one exist, anywhere, any how?

I reason that it can not; that the phrase is, indeed, a contradiction in terms no matter how sincerely people may strive to set one up. The American experiment is surely the best such attempt in history.

But it didn't work, and that's my first reason for believing that this ideal is Utopian. Within nine years of ratification, Congress had enacted the monstrous Alien & Sedition Acts in the teeth of the First Amendment "guarantee" of free speech. Even earlier, in 1791 Congress set up the First Bank of the United States as a central bank, in flagrant disregard of Amendment 10, which forbids the FedGov to do anything at all not expressly authorized elsewhere in the Constitution – and lending money, of course, is not.

Happily in 1836 that was all abolished, until in 1913 a central bank was brought in by the subterfuge of calling it private: the "Federal Reserve."

These were not the wild excesses of a later age, when the world had grown more complex, but were among the first things the new government tried to accomplish – despite the prohibitions that did, for a while, slow it down. A mere half century later, half a million lives were ended prematurely when Southern States, for good reason, elected to secede from the Union – something not prohibited by its terms of association; Lincoln's power-hungry friends prevented it anyway, regardless of cost. Government, these facts of history tell us clearly, is not subject to limitation.

That's my **first reason** – that despite best efforts to limit government, and ideal conditions, it just can't be done. My **second** is that *in the very nature of government,* it's quite foolish to suppose that it ever could be done. To grasp that, we need to recall what is that nature.

It is, very simply, to *govern.* That's what the word means. Nothing hidden here; government is that which rules people – that is, it tells them what to do (or not to do) regardless of their own wishes. Whereas every individual wants to make all the decisions affecting his own life, government is that which over-rules him in some, at least, of those choices.

So always, government is what contradicts human nature. Every one of us has a right, by virtue of being human, to own and operate our own lives. That premise is an axiom; it cannot be denied. (Try it; think of who might possibly be your rightful owner! Then figure out how he acquired the

right to own you!) Therefore government, whose whole business is to govern (own and operate) everyone in a society, directly opposes and denies that basic attribute of humanity. There is no possibility of reconciling these two diametric opposites; for all of recorded history, government has been a catastrophic mistake.

If any other person or group were to enslave someone or to extract his money, they would rightly be seen as thieves and enslavers; but when government does it, the same act is described as "tax" or "service to one's country" as if there were something noble about it. Notice, the theft of fruits of labor (tax) is not just "income tax" - whether legislated openly as in most countries or enforced by back-door "court law" as in the United States – but all and every tax levied by all kinds and levels of government; Federal, State and Local - and in the form of Income, Property or Sales taxes. The only source anyone has from which to pay any of them is his own labor, or that of a benefactor from whom he may have received them as a gift.

However modest may be the size and scope of government it must meet its operating expenses, and tax (enslavement or theft) is the only way to do so, because nobody would volunteer the money (as in "Here's $1,000. Use it to rule me, please, for the next month.") Worse yet, however, is the use to which those stolen funds are put; the actual governing. Human beings are perfectly capable of dealing with each other on the basis of mutual agreement or contract, so that obligations exist *only* when voluntarily undertaken – so there is no actual need for rules to be handed down by a third party. As far as can be told from history, mankind lived that way for at least 40,000 years

before the invention of government, and did very well. But under government, the story of our species has been a sorry chronicle of one deliberate slaughter after another.

The primary business of government is war; war to steal extra resources from a neighboring government, to extend the scope of its power. From the early records of conquest by groups evolving in the Middle East, forming Persian, Assyrian and other Empires, through the better-known systematic killing and enslavement in the Roman Empire, to the mechanized mass murder of modern warfare, that is how governors govern, imposing their wills on their hapless victims. In the supposedly civilized, enlightened and "limited" case of the US government, in the century *before* the "New Deal" which many regard as the date when it began its steep decline into tyranny, it killed half a million so as to retain all its power in Washington (to "preserve the Union") and *another* half million human beings in the genocide of those who had lived in this land from thousands of years earlier. Its use of power in the 20th Century skillfully spilled blood belonging mostly to foreigners, it's true; but all of it was human and nearly all of it was innocent.

War is the primary business of government, control and power for its own sake are its meat and drink; domestically, every government injects its fangs into every human activity it can, to interfere with decisions real people would otherwise make for themselves. Great decisions about how to conduct major industries, to personal decisions about whether or not to use a seat belt – all are grist for the mill of the knee-jerk lawmakers that make up government. So as to know what laws to write and what interference to deploy

it has to gain knowledge, meaning to spy on its citizens; the monstrous intrusiveness of the early years of the 21st Century was put in place on the excuse of "defending" people from terrorism; but if US foreign policy for sixty years had not favored the enemy of those "terrorists" no attacks would have taken place and no such excuse would have been available; the real terrorists are those who pursued that foreign policy and bully travelers and others to expose their persons and property to government snoops.

Nothing about this nature of government is new. Consider this, from Pierre-Joseph Proudhon, in 19th Century France:

"To be governed is to be watched, inspected, spied upon, directed, law-driven, numbered, regulated, enrolled, indoctrinated, preached at, controlled, checked, estimated, valued, censured, commanded, by creatures who have neither the right nor the wisdom nor the virtue to do so.

"To be governed is to be at every operation, at every transaction noted, registered, counted, taxed, stamped, measured, numbered, assessed, licensed, authorized, admonished, prevented, forbidden, reformed, corrected, punished.

"It is, under pretext of public utility, and in the name of the general interest, to be placed under contribution, drilled, fleeced, exploited, monopolized, extorted from, squeezed, hoaxed, robbed; then, at the slightest resistance, the first word of complaint, to be repressed, fined, vilified, harassed, hunted down, abused, clubbed, disarmed, bound, choked, imprisoned, judged, condemned, shot, deported,

sacrificed, sold, betrayed; and to crown all, mocked, ridiculed, derided, outraged, dishonored.

“That is government; that is its justice; that is its morality."

Sound familiar? That closing line is an absolute killer, as devastating a comment on government as any I know. It’s a universal list; it applies to governments in every age and place - yet Proudhon had never even heard of passports and radar traps and drug wars and surveillance CCTV and gun control and phone tapping and a fraudulent income tax. He didn’t get the prescription right (he said he was a “socialist anarchist,” a contradiction in terms) but he sure nailed the diagnosis; he *understood* government. We too must understand it, at least that well.

He missed some items, most notably that government laws have no *moral* validity whatever, being no more than one-sided contracts; a few years later Lysander Spooner, in America, spotted that even more fundamental fault affecting all governments. Like his acquaintance Karl Marx Proudhon also completely misunderstood economics (even supposing that property is “evil”!) but in Austria at the same time Carl Menger was laying the foundation for a rational economic school that correctly identified subjective customer preference as the great driver of prices and production, and government as the source of every disruption to a market society; and in the following century his work was perfected by Ludwig von Mises, Friedrich Hayek and others, culminating with Murray Rothbard, whose “Power and Market” is a must-read for any interested in the impact of government on prosperity and

freedom. For all that, Proudhon's list is unmatched as a catalog of the miseries that accompany every government.

And so we add a seventh "onion layer" to those we are peeling off the well-disguised pretense that makes up our "government of the people, by the people and for the people" - and the reader will recognize part of what Thomas Paine also concluded about its nature:-

7) Government, even in its best state, is... *evil*

It should be clear by now that the problem with which this book began – the apparently illegal enforcement of a tax that has not been legislated – is by no means the sum of the problem we have. On the contrary, it's merely the tip of the iceberg. Government has rigged its terms of reference so that there's no way to prevent it enforcing pretty well any tax it wants to collect, and then uses the money to do immense damage to everyone it touches.

Some who perceive the dishonesty of the income tax feel that all would be well if only the Feds could be pushed back into their cage, or "constitutional rule" be reinstated. It's just not so. As we've shown, gross mischief began even as that charter was being created, and Washington himself recruited and led a 12,000-man army to put down the "whiskey rebellion" in Western Pennsylvania as early as 1794, in order to maintain authority and confiscate money; Jefferson demurred, but Hamilton had wanted more violent action, sooner. All the "rebels" wanted was to be left in peace; they had hurt nobody. So the idea of a once-pristine American state is a fairy tale. Such patriotic feelings are

laudable, but inadequate; their holders mean well but are ignorant of the true, evil nature of *all* government.

Accordingly, the remedy required is much more radical.

10: An Unnecessary Evil

The fuller quote from Thomas Paine's well-known dictum is that all government is a “necessary” evil. Was he right?

Before we address the vital subject of what ought to be done about the onion Irwin Schiff began to peel, we need to answer that question. It would be foolish to seek a way to abolish government because it is so evil, for example, if at day's end it's something we must suffer anyway. In examining this, we must present a viable alternative to government, if one exists, that will serve human society at least as well as government does, in several vital respects.

My approach here is to name seven such *vital* functions, and explore whether they could take place in the absence of government, as well or better, *without* being “evil” or having bad consequences associated. If I cannot, to your satisfaction as reader, then we're stuck with what we have; but if I can, then a radical change is required and all we have to do is to figure how to bring it about.

If pressed about what purposes any government serves, the reply usually mentions “protection” and identifies such services as providing a safety net for the poor, socialized defense, justice and such needed infrastructure as education, money, roads and post offices. Some of those appear in the US Constitution, if not quite in those words; notably the first of them does not – even though most government revenue is now spent on the redistribution of

wealth, supposedly to help the needy though actually favoring the politically powerful whether needy or not.

There can be no question: all seven are vitally needed, for a peaceful and prosperous society. It must not be vulnerable to outside attack, there must be a system for righting wrongs, travel and communication are essential for trade, and at the very lowest, if assistance for the needy is absent there will be blood in the streets before long. So the only open question is whether these and other services are delivered best by government using force, or in some other way without it. Paine and his friends thought there was no such alternative – hence his "necessary evil" - but he hadn't read, or at least had time to understand, Adam Smith's treatise on the Wealth of Nations, published one year later in 1776. In other words, the founders did not grasp the nature of economics. Politicians today often suffer from a similar ignorance.

Here very briefly is how a zero-government society would deliver each of those vital services, thanks largely to what we've learned about economics in the last two centuries.

1: Poverty Relief. A few people *choose* to do without material possessions, so we must clarify that we're speaking of *involuntary* poverty not caused by natural disaster; and in a zero-government society that would not occur.

There's a broad statement! Is it not a fact, skeptics may reply, that grinding, squalid poverty prevailed throughout the human race for all of history until about the 18th Century? - and yes, I'd agree. I'd also point out that that was the exact time when governments worldwide began to lose

their grip. As individual rights and freedoms began to appear, wealth grew exponentially *and* it was spread far more evenly throughout society than ever before in recorded history. The 19th Century in particular was rich for nearly everyone beyond all previous imagining! In America that phenomenal growth in living standards took place even while the population itself was exploding!

Freedom from government was certainly not achieved – it still hasn't been. But as control was relaxed a little bit, the poor enjoyed living standards (including health care) they had never experienced anywhere or ever. Today that is still true, but not in countries where government control is still near-absolute. It is now well established that economic and other freedoms go hand in hand with prosperity; exactly as Adam Smith perceived, nations with a relatively non-intrusive government enjoy far more wealth than those with tight controls on trade. Just *think* how much better off yet all will be, when government disappears altogether!

The 19th Century saw also an explosion in the way that the *residual* poverty can best be handled, and there will always be some, because illness and accident can hobble anyone: charity and insurance, both. The first springs from compassion, and the more the prosperous have, the more they are willing to give away to help the less fortunate. Note how sharply this contrasts with "entitlements" handed out by government bureaucrats; there, compassion is absent. Nobody can be compassionate with stolen money.

The second came from simple commercial greed: the idea was born to enable the prudent to insure themselves against misfortune and illness. For a small regular premium, those

unpredictable disasters could be deflected if they occurred. There was even a kind of combination of the two; working folks' "provident societies" appeared, with compassionate people administering clubs for the benefit of members but not for profit-seeking shareholders. All these came about and met the need. The trouble began later, after government entered the picture, turning the premiums or contributions into compulsory taxes and the contracted benefit payments into "entitlements." Nobody, of course, is ever *entitled* to someone else's property; that use of the word is a gross corruption of the English language.

So in a zero-government society, just such innovative ways of providing helping hands will again carry the load, and families too will help out members going through a rough patch just as they have always tried to do. The difference will be that, absent taxes, they will have over twice as many resource with which to do so.

One more factor relates to this heading: poverty will occur *only* as a result of some natural misfortune such as illness or weather; in a zero-government society unemployment will be an impossibility. There will never be a wage that does not "clear the market"; that is, if someone loses a job he will get a new one the next week, albeit at a lower rate, until he can climb again up the ladder of success. Today, such flexibility is forbidden: government intervenes and actually forbids employers to hire someone below a certain wage. That's fine for those in jobs paying more than the minimum; it's savagely crippling for the yet-unskilled who are trying to find one. You or I might hire a school-leaver at $2 an hour, and pretty soon he will gain experience and skills and market himself for $3 and $4 and so on; but

Nanny says No, we're not allowed. So the kid goes on welfare, or retails outlawed drugs and winds up in prison. Government is, in such ways, any society's primary *cause* of involuntary poverty.

2: Defense. Governments attack one another with sickening regularity; it's been going on since they first appeared about 10,000 years ago. They want to capture their rivals' resources of land, minerals, population etc so as to increase their own domain and enjoyment of power. So any society must consider how to defend itself against foreign aggression.

A zero-government one would have no collective defense, so at first sight it might be thought a sitting duck. However that disregards the nature of how and why wars begin.

The aggressor eyes a resource he wants; oil, perhaps, or rich farming land, or living space. He makes a calculation: what will it take to steal it? How much treasure must be spent on weapons and soldiers? What risk of loss is involved? (and remember, a 50% win rate is average!) He makes, in other words, a rational investment decision. He is investing slaves, in the hope of gaining more slaves. He cares nothing for the rights of those he indoctrinates to do his fighting (why should he, he governs them!) but does care about the risk of loss and the likely rate of return. No known exceptions have ever applied.

What he most wants is a quick victory. In modern times the best exponents were Hitler in 1940, Bush Sr in 1990 and Bush Jr in 2003; they made major gains with very small losses and did it in a few days or weeks. But how can a

quick victory be gained over a zero-government society? Iraq folded when the generals came to meet Schwarzkopf in a tent; France surrendered to Hitler in a railway car at Compiègne – just as German generals had done to the French 22 years earlier. But what if there's nobody to sign a surrender, to act for the whole society? Oops!

The cost of victory suddenly escalates. The only path to domination is then to thrust an army into every village and enforce slavery one person at a time – those persons being each quite well armed and knowledgeable in gun control (how to aim straight.) Just as the estimated investment escalates out of sight, the estimated returns fall through the floor, because all those enslaved people would work just as slaves always do: enough work to live, but with nothing extra. In contrast today, if a government spokesman surrenders to an invader, the population works pretty well just as hard – but for the invader, the new government. In the French case, the invader was even smart enough to make the government *French,* operating out of Vichy, so that the population was not even subjected to a foreigner.

So a zero-government society would be far harder to subdue than a conventional one, and that would be a major deterrent to any scheming would-be invader. He will turn his attention to a softer target, one without the porcupine spikes of millions of armed, free people, each determined not to be dominated. The war won't happen, because the motivational dynamics will be radically different.

One further factor will affect the aggressor's motivation; news of the free society and the huge increase it is enjoying in prosperity will spread to the plotter's *own population.* He

will be unable to prevent them thinking, “Me too!” - he will be facing the threat of domestic unrest and will have to pour resources into that task, leaving few over for foreign adventures. Now, I admit that this will not always apply. It is a well-established trick of statesmen that when things are going badly at home, it's time to distract people by finding a foreign threat, generating patriotic fervor and starting a war. So this one might occasionally backfire. Personally I think it won't; once one major country (America) has discontinued government, the demand for something similar will be powerful, fast and worldwide; governments everywhere will be in panic.

3: Justice. Where there is none, there is no peace – and the converse too is true: when a society *does* have a proper justice system, there *is* peace. Do we have peace today? How about justice? Even a cursory read of the first few chapters of this book must show that today's sorry excuse for justice is a cynical charade. What is justice, anyway?

Government people say it's about law and order. They make laws, they keep order; the bad guys are those who break their laws, and they get punished... if they're caught. That's about the limit of the governmental brain.

Let's check this: A damages B in some way that happens also to break a government law. He rapes her, perhaps. If he is very unlucky, the government's apprehension apparatus catches him, and with even worse luck it convicts him, and he then is placed in a government cage; all this is at the expense of C, the taxpayer. B is savaged again by the awful experience of having to give evidence, and walks

away with the thanks of the court and nothing else; except maybe an unhealthy feeling of vengeance satisfied.

So B gets nothing that will help her recover, C is victimized without hope of repair, and A is brutalized to become even more vicious after release, even less capable of becoming a productive player in society. This charade is what government people call “justice.”

So much for cases in which there is a real victim, B. Many cases don't have one; they concern solely the breaking of a government law (a speed limit, a law prohibiting drugs of certain potency or guns of certain specifications; a law implementing a draft or one imposing a tax of some kind.) Although such laws are usually written by the legislature they may, as we saw beyond doubt in the first six chapters of this book, take the form of “court law” which cannot readily be studied in advance.

In these cases, the contest involves Government vs A, again with C paying all the bills. There is no B, an actual victim. And when the real victim – A, the law-breaker – is put away, government people call this also “justice,” so inverting the meaning of language.

Real justice is about righting wrongs.

A damages B, and a true justice system establishes the facts and *causes A to compensate B.* That's what justice is. The whole objective is to restore, as far as is feasible, the status of B prior to the infliction of damage by A. Once A has discharged that obligation, he resumes normal life – whether that takes him a day, a year or a decade. There is

no punishment, only restitution. And when there is no victim, there is neither.

Having now understood what justice is, it's not hard to see that government is very ill-suited to deliver any while a free market is very well suited indeed; and that is what would take place in a zero-government society.

The justice industry would operate for profit, of course, and would consist of detection companies, apprehension agents, for-profit courts, and insurance companies. All of these component firms, motivated by profit, would be efficient to a degree not known today (for there is no such motive.) The insurance firms would be very useful: most people would insure themselves against aggression of some kind and if one falls victim, they might be compensated at once by the insurer – who would then contract with the other parties to discover, apprehend and adjudicate the case, taking for themselves whatever award the court imposed. Details would be fixed of course by the contract, and would vary widely; but this outlines the kind of process that would occur. In essence: justice would be done. The victim would receive compensation, and would have to move the case through the courts only to the extent he or she had contracted to do; insurers would provide immediate relief, discounted of course to leave them profit.

Has any such system ever operated? - of course not! For ten thousand years, governments have savagely prevented it!

As for victimless “criminals” like Irwin Schiff, they would not exist. All the cases like his, described in this

book, would not occur; all those wasted resources would be employed usefully in the market for the benefit of all.

So my task here was not so much to show that justice in a zero-government society would be *better* than what prevails today, because today, justice doesn't prevail at all; instead I have shown that for the first time ever, justice would *appear* in human society. There is no contest!

4: Education; how would 40 or 50 million youngsters get educated if government did not provide free schooling?

First, notice that this common form of the question is false: nobody is being provided free schooling, nor ever could be. No teacher works for zero wage, even if it's a charity school funded by donations; nobody can. All must eat. So currently, money to pay the expenses is first stolen from taxpayers, some of whom don't even have any children and many of whom profoundly dislike the government system they are forced to fund. Some of those, significantly, are teachers in that system who understand its failings so well that they pay for their *own* children to attend elsewhere!

The second falsehood is that government-school children are being *educated.* With some exceptions, they are not. They are being *indoctrinated* – something very different. They are being taught to be good, obedient little citizens and as many as 60% of them are lucky or talented enough to emerge from their 12-year mind-control regimen able functionally to read their diplomas.

With those corrections to the question, the answer is not hard to see: forty or fifty million children would be offered

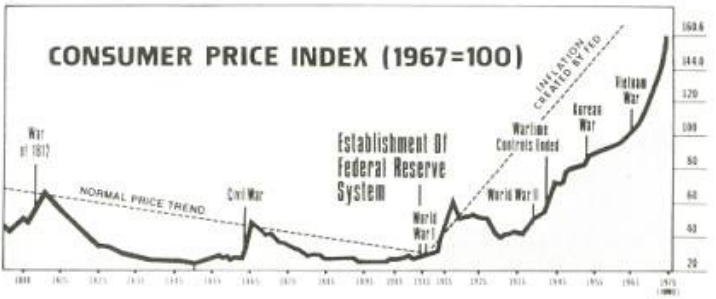
whatever education experience their parents wish to buy for them; and all the evidence is that true education is valued very highly. Many – a majority, in my view – will be taught at home, for home-schooling already produces children who are two grade-years ahead of their counterparts in the indoctrination factory. In the days two centuries ago when Americans valued education most of all, the great majority of all of it was done at home, and functional literacy was at 95% and has never been that high since.

Those parents who prefer to pay someone else to the job will do so, and the prices will be competitive, therefore low by today's standard; today there is no competition, so costs escalate as far as the political process lets them. With increasing use of Internet resources I don't doubt that within a few years, real education in a zero-government society will cost no more than a tenth of today's bloated figures. Furthermore I repeat that it will be *education;* that is, the "leading out" of the child's instinctive curiosity and eagerness to learn what he or she currently finds of interest.

5: Money is a vital element in any society's infrastructure – for without it we'd suffer the inconvenience and inefficiency of barter exchanges. If government didn't provide it, what would we do?

Notice that in America, the Feds were chartered to provide it. The new government was (supposedly) empowered to "coin money, and regulate the value thereof." True, that didn't give it the right to control the quantity of money in circulation, but it did give government an inch, and we know how many yards that will eventually enable these people to take. During the 19th Century when government

control over money was still modest and when a gold standard limited its quantity, prices gradually fell as new ideas and inventions were put to work to make products less expensive. This effect is shown in Irwin Schiff's fine chart, published in his 1976 book The Biggest Con:-



In 1913 however the Feds got their wish for a quasi-central bank called the Federal Reserve, and the gold link was loosened and eventually broken, so they have been able for all our lifetimes to print money on demand. The effect has been an average inflation rate of nearly 4% a year, almost identical to the rate used in the late Roman Empire – and which destroyed it. 4% a year *doubles prices every 18 years* and terribly distorts financial planning for everyone, most of all for those who understand it least.

In the coming zero-government society there will be no such control over money and therefore money will consist of whatever people want to use for that purpose, when buying and selling to each other in the "market." Gold and silver, by long historical precedent, will almost certainly be the dominant choices, for they cannot be counterfeited and their supply is relatively stable. Prices will likely follow the pattern of gradual decline reflecting rising standards of life experienced in the 19th Century and shown in the left hand

portion of Schiff's chart above. At long last, money will be something everyone can trust.

6: Roads are a vital part of any society's infrastructure, and it's a tragedy that for two hundred years nearly all of them have been monopolized by government, at its Federal, State and local levels.

It's a tragedy because every decision concerning roads – where to build them, how to build them, when to repair them and how to fund them – is made in a *political* process, in which those with most interest in the outcome vote that interest at the expense of everyone else. That's in contrast to a *market* process, in which everyone wishing to buy a good or service makes payment, and all who don't, don't – nobody's wishes are over-ruled. So roads get built where a politician can favor those who will support his re-election, and repaired when funds are left over from whatever other boondoggles are currently in construction; and the time-frame is always set not by the rate of deterioration with use and weather, but by the date of the next election and who is likely to win it. Roads are too important to leave to such an irrational arrangement.

In a zero-government society roads will be built when an opportunity is perceived to make a profit. A person or firm knowledgeable about the business will notice traffic patterns and conclude that one is needed between locations P and Q. He will survey the land and approach its owners with offers to purchase land – and *not* with the government compulsion euphemized as “eminent domain” seizure and allegedly authorized by Amendment 5. If his cost estimates fit the revenue expectations, he will build it – and will build

it in such a way as to optimize his cost of maintenance over the long term, not just over the current legislative term! Such is rational planning; such is free capitalism, with risks being born by investors.

The builder / owner of the road will seek to attract users because they will be his only source of revenue and profit, and he will treat them with the respect due to *customers,* in sharp contrast to the present day. If any customer should make conditions unpleasant for others, then (just as a restaurant may bounce out an objectionable patron) he will decline to renew his usage contract and not allow him access. Even then, notice; the discourteous driver will be banned from *that* road, not from *all* roads.

With government monopolization of roads, comes control and that control in each State is run by a Department of Motor Vehicles. The DMV is perhaps the most unpopular of all local-government bureaucracies, and deservedly so. Not only does it administer the nuisance of annual vehicle inspections, it executes State laws about renewing driver licenses also; this is absurd. Once one learns to drive, it's not a skill one forgets. Yet every few years, one has to go through the hassle of taking time off work and getting a new piece of government plastic. Some years ago the real purpose of this hassle was just to generate some extra revenue for the State government; today there's an added purpose: *identification* and more, ever more control. Due to the DMV, “free” Americans must carry more ID than did subjects of the Third Reich. Try opening a bank account for example without a “Driver's License”!

Worse yet: the DMV is a law unto itself regarding who may drive on government roads, and capricious cops may and do disqualify elderly drivers, whose lives depend heavily on the ability to be mobile, from operating – even though they may have a spotless driving record for longer than the cop has been alive. The DMV is a nest of tin gods.

All that oppressive nonsense will be swept away, when roads are owned and operated for profit. Not only is it not necessary that governments "own" roads, we shall see a vast improvement in freedom when they cease to do so.

7: Post Offices are – or were – also a vital part of the infrastructure of a modern society, and the US Constitution said government could set them up, and build roads to connect them. It did not say anything about monopolizing either, but that didn't stop them outlawing all competition rather quickly. The result has been ever-escalating costs of communication, with absurdly high wage rates fixed by a monopoly trade union, and regular massive bailouts by the taxpayer. The US Postal Service is a whale on the beach.

In a zero-government society no such monopolies will be possible so the USPS will rapidly go bankrupt, with its resources being purchased by any who think they can use them to turn a profit. They will not take long. Even in the age of well-established electronic communication there will be some residual demand for the carriage of documents on paper, and a competitive industry will rationalize quickly to meet that demand in the most economically efficient possible manner, which is what capitalism always achieves whenever it is free to do so.

There are of course **thousands of other** infrastructure items performed by government in today's society, and the reader may well be curious about how they would operate in its absence. In a short book like this there is obviously no space to cover more than a few of them; what we've seen in this chapter is a review of seven key ones, which are often cited as activities government *must* do, for the market could not. We've seen that is another black lie by government apologists; a free, capitalist market could perform every one of them, and much better than is being done today.

More are addressed in my book A Vision of Liberty, which can be ordered on the Net via TakeLifeBack.com and in two other, excellent volumes: The Market for Liberty, by the Tannehills, and The Machinery of Freedom by David Friedman. All are strongly recommended.

The question raised by this Chapter's header is a moral one; "can evil be necessary?" There's an extra reason why it can absolutely not: if it were necessary, the human race would be morally reprobate, and *all* attempts at reform would be futile, doomed to failure. That is not what humans are. And so we can present our eighth onion layer, removed at last: no, despite all the raucous propaganda to the contrary,

8) Government is not needed at all.

11: What You Can Do

Under the simile of peeling an onion, we have now briefly explored what is wrong, what needs to be put right, about American society – and, by extrapolation, human society in every other country. Now in this final chapter is shown what can be done about it – what, in fact, you the reader can do to fix it, for: if not you, who?

It may help to keep track by first summarizing what we've seen about the task, the "onion." The layers are:

1) The law Congress wrote does not tax earnings
2) The law which courts enforce does tax earnings
3) That "court law" may not be unconstitutional, but
4) The whole US Government is *wickedly deceptive*
5) That wickedness originated in 1787
6) The Constitutional "grant of power" was a fraud
7) Government, even at its best, is *evil*
8) Government is not needed at all

Here in Chapter 10 we'll peel off the final layer and show:

9) Government can quite readily be terminated.

Notice the flow, above: the first two are the primary subject of this book and demonstrate one major example of the contradictory, mendacious nature of one US government – and the source of two thirds of the revenue of them all. The third layer shows how they weaseled out of culpability for

breaking their own laws, but the fourth concludes that even so, we must recognize wicked deceptiveness for what it is.

Then the fifth showed that this wickedness is not something recent but that it goes right back to the founding years, the sixth that even that apparent act of foundation was itself a total fraud, and the seventh gives multiple other reasons for recognizing that all government is a thoroughly evil entity. Lastly the eighth introduced the happy fact that we can very well do without it. Now, we have to determine how.

I'll present it by starting with a few common ideas that I believe are mistaken, so that we can lay them aside.

The first is that the job can be done by a form of tax strike. I did hold this view myself, for some years; I was wrong. The idea is that if a large enough minority of people come to see what Irwin Schiff has proven – that in the written law the biggest tax of all does not exist – enough will stop paying it as to overwhelm the government bureaucracy's ability to handle the revolt, so that a meltdown begins. Then the matter will gain publicity, and everyone else will inform themselves, and it will snowball; in due course the public will become disgusted by the deceitful wickedness of government (layer #4 above) as to spew it out, demanding drastic cuts in all government. This strategy is perhaps best summarized in the slogan:

“No answers, no taxes”

meaning that if the Feds fail to explain their enforcement of a nonexistent tax, the protester will not pay it.

It's mistaken, as I now see. Two reasons: first, government is very skilled at repressing such protest and is well armed to repress more, as needed; the conviction of Schiff, Neun and Cohen in 2005, in the manner this book relates, proves that beyond reasonable doubt. It's true that a few brave people have been acquitted in government courts, despite the best efforts of the judge, but they were lucky. There is no serious hope that a large enough minority will risk odds like that – I reckon, of at least 4 to 1 against.

The second reason why this strategy is in error is that even if it were to succeed, it would do no more than reduce the size and scope of government to where it was about a century ago (before the income tax was enacted.) In other words, it might at best deal with onion-layers 1 thru 4, but would take no account at all of layers 5 thru 8; so, it would leave the job half done at best. We *already know* that government will find a way to expand beyond that limited size (next time it will use some other way to raise revenue) – so why repeat the failed experiment? It makes no sense.

In case any wonder: yes, there are at least two other ways for government to replace its vacuum-hose into workers' pocketbooks. It can tax sales instead of earnings, stealing the money as it goes out instead of coming in, and it can simply print money. The latter was the method favored in many "banana republics" to our South, for many decades. So, noble as this plan seems at first, it will not do the job.

Second idea, sometimes considered: violent revolution.

Everything every government ever does is violent; even when being apparently benevolent its actions are possible

only because of violence or the threat of it, used to extract the needed funds in the first place. So what is wrong with self-defense, of using violence against the violent?

Nothing morally wrong, on the face of it (though I respect the contrary view of those who reject all violence even for self-defense.) The moral difficulty comes in the details, and then there's the huge question of effectiveness.

Self-defense is a basic human right; we each own our own lives, hence we have the right (perhaps also the *duty*) to advance and of course protect them. Therefore if someone threatens aggressive force, it's morally sound to meet that with sufficient force to prevent the attack. If a government (or any other) thug seeks to capture your person with a gun, you certainly have the right to respond with a gun. But here is the problem: suppose he carries such a weapon but only *threatens* to use it; then, is it morally justifiable to kill him?

Not so easy, right? Now extrapolate: government imposes its will on us using millions of low-level bureaucrats, whom the Mafia might call "soldiers." Most of them are not armed, but merely *imply* a threat of force. Morally, is it okay to kill one of those people? Even less easy!

The individual cop-killer is almost always a dead duck, for however badly government protects people from criminals it does very well in finding and convicting those who kill its own employees; I recall a case in late 2009 in which a mentally unstable man killed some cops in a café and was found within a day and shot dead, saving the cost of a trial. So any violence used on government agents will likely be met with concentrated, well-trained violence in response;

and if (how?) some kind of army is assembled to make war on them in a traditional, collective sense that army would be using nothing better than government's own tactic of violence instead of reason, killing large numbers of people whose degree of guilt is seldom high enough to warrant termination of their lives.

Morally, therefore, armed revolt would be messy at best.

There's a stronger objection yet: in an 1896 essay Francis Tandy noted that "...such a revolution might be successful. But then it would be unnecessary, for people having refused to stand in the relation of subjects to it, the State would no longer be king." That is, on the premise that enough in a population are angry enough to take arms and kill, the prevailing public opinion would render such violence unnecessary. Tandy didn't detail what alternative he had in mind, but his point is strong: if a large portion of a population wants to scrap its government, it will find a peaceful way to do the job.

The strongest objection of all, as I see it, to the idea of a violent revolution is simply that it won't work. Imagine a series of battles with government armies, which somehow turn out in the rebels' favor; and it just might happen. It did once before, in 1781. Unlikely, but possible. What then?

“What then” is that the successful military leaders will be cheered with ticker-tape in major cities, and asked to lead the peace. Having used force to get rid of government, they will be well equipped to use force to prevent its return. Their whole outlook will be: force works.

Therefore, they will just morph into a fresh government. And that is exactly what happened in the case of every violent revolution in history; plenty saw the replacement of one government by another (yes, even the American one!) but not a single case resulted in its replacement by *none.*

The reason they will be asked to lead the peace (ie, to form a replacement government) is that few in the population will understand that no government at all is needed; few will have peeled off the eighth layer of our onion, above. Enough were sufficiently riled-up to support the rebels (one third of the population, in 1776-81) but a comprehensive adjustment of people's understanding about what it means to have a free society simply didn't take place; or if it had, *per* Tandy, there would have been no war.

Third idea: reason with them.

I'll not give this much space, because it's a non-starter, as anyone who has ever tried reasoning with a government agent will know: in the words of Anthony Alexander, “to reason with a bureaucrat is to reason with a stone.”

It ought to be simple: show government employees that what they are doing every day is immoral and destructive (and in the case of IRS people regarding the “income tax”, even *illegal*) and being reasonable people, they will see the error of their ways and stop.

It will never work, and George Washington, the terror of the Pennsylvania whiskey distillers, tells us why:

> "Government is not reason, it is not eloquence, it is force; and force, like fire, is a dangerous servant and a fearful master."

That accords perfectly with Onion Layer #7: acting always with force, government is intrinsically evil. He said it well.

Idea #4 is that the entire population be re-educated, to understand fully what our onion-peeling has outlined.

Here's why that certainly *will* work: government is actually a fiction, it does not exist - in the sense that a person exists or that a company (an association of identified, responsible persons) exists. It's a concept or idea, no more. It really consists only of people with guns and laws and prisons, who have the notion that they have a right to rule others. So if and when all those people realize which way is up and quit their jobs, government will actually disappear; it's not that it will become unable to operate (though that's true too) but rather that it will absolutely vanish. Government, in other words, *consists only of those willing to work for it.*

Second, equally vital reason this will work: for a free, zero-government society to function (with all transactions being voluntary) all its members must *desire* it to do so. That's because if more than a trivial proportion still want to use force (the political means) to satisfy their wants and needs, they will prevail; that's what force does. Now, for everyone to desire the alternative of voluntary exchange (the market means) they must all *understand* it – and hence, be re-educated or, as some have put it, *deprogrammed* from the "cult of the omnipotent State." When all do understand how free markets work, they will work – for nobody will

prevent them working. Voluntary exchange is the *natural* way humans interact.

But how, the reader may well ask, can that truly massive program of re-education be accomplished? - haven't you just got through telling me that “to reason with a bureaucrat is to reason with a stone”? - yes, I sure have. And if we may imagine a giant School, with 300 million students, trying to operate in the teeth of vicious opposition by all the massive government propaganda resources including its $300 billion-a-year school system, we'll fast get fazed. Don't know about you, but I don't have that kind of money.

Here's how it will be done. The concept isn't new (though its first implementation is) – and it is that each person finds and teaches *one* other, in some period such as one year. A very simple task, placing no undue burden on anyone and costing virtually no cash at all.

So once one person (you?) has learned in some course of study the essentials of the freedom philosophy, you get one of your friends a year to take the same course, and help him or her through it. Then both of you repeat. Here's how the number of graduates progresses:

Period (year)	0	1	2	3	4	5	6	7	8	9	10
Number	1	2	4	8	16	32	64	128	256	512	1024

So, it doubles every year. Keep tapping your calculator and you'll see that after 28 years, graduates number over 268,000,000 and that's the literate population of America.

Again: that will deliver an education about freedom in some depth, to everyone in society within one generation. Everyone will then understand and desire a free society, and those presently working for government will quit. When all have quit, government will cease to exist; without any significant expense. The first implementation of this concept, see below, costs each participant about 50¢ a year.

Better news yet: this concept is already in use, and has been on track since 2006 with enough "direct" joiners (who came to the educational facility without having been invited by a friend) to make membership equivalent to what it would have been if it had begun with one person in 1999. Accordingly, my prediction is that government will become history in 2027, and my book Transition to Liberty spells out why government's attempts to stop the avalanche, in its final half-decade of life, will fail. TakeLifeBack.com is where to find it.

The first element in what I just described was that "each person finds and teaches one other" annually and while that is actually very easy, it might seem rather daunting at first. Where, one might ask, are the textbooks to help?

That question was answered in the first implementation of the concept, called The On Line Freedom Academy. It's an interactive, zero-charge, self study facility that has been widely praised, and although on line now, it's designed to be passed from friend to friend, mentor to student, in the form of a CD that each will make (that's the 50¢/yr!) so as not to depend on continuing liberty to run web sites. Again, this is already off and running; its growth is organic

and independent of its originators. It consists of 18 lessons or segments, and is a life-changer in two ways:

1. It demonstrates the *intellectual necessity* of a free society; that it's not just "nice to have" but the *only* world-view consistent with human nature.

2. It provides a way to cause that free society actually to come into existence.

Other implementations may of course appear, and all being well they will complement each other and possibly even bring "E-Day" (when government evaporates) forward to some date earlier than 2027. But on the very reasonable assumption that each graduate of this one brings to it one friend a year, that will be when history changes.

If you haven't met it already, now is a good time to join. Ask around for one of its CDs, or (at this writing) reach it through the web site named above.

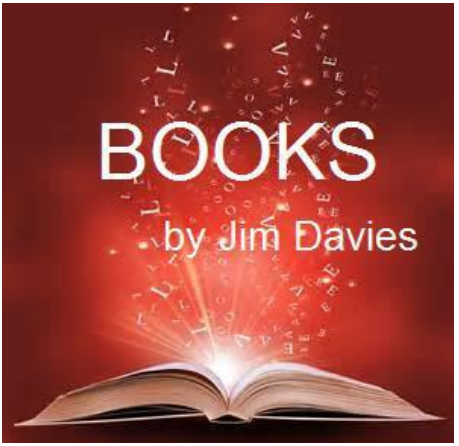
Governments have been around for ten millennia, and have slaughtered countless hundreds of millions with their endless, useless wars. The US government has pretended for two centuries to be one that answers to "the people" and to enforce only laws that their representatives wrote, when from the start it was never answerable to any but itself and enforces whatever laws it wishes. Courageous pioneers like Irwin Schiff have revealed some of that gross hypocrisy, at enormous personal cost, and now it is time to terminate this utterly destructive institution. The means to do so is at hand. It remains only for you the reader to do the job.

Appendix

Here are presented the seventeen public-domain documents which most closely relate to the the 2005 trial of Irwin Schiff, Cindy Neun and Larry Cohen. They are referenced in the text of this book and serve both to substantiate the narrative and to provide a rich resource for any reader unfortunate enough to find himself accused by the IRS.

Just click on any of the titles to navigate to its contents. Most are .pdf files; #13 and 14 are .htm documents. They are located on the Web, so you'll need a live Internet connection; having opened one of them, you can if you wish have your browser save it to a file on your own PC.

1) Judge George's Injunction (the book ban)
2) Schiff's Response to that Injunction
3) Jurisdictional Challenge, Motion 1
4) Liability, Motion 2
5) Congressional Power, Motion 3
6) Illegal Search, Motion 4
7) The Government's Consolidated Opposition
8) Schiff's Reply to ConsOpp
9) Judge Leavitt's R & R
10) Schiff's Response to #9
11) Schiff's Amended Response to #9
12) Judge Dawson's Denial
13) Schiff's 1st Supplementary Appeal
14) Schiff's 2nd Supplementary Appeal
15) Attorney Waxman's Appeal
16) Ninth Circuit's Rejection of #15
17) Ninth Circuit's Memorandum on #16
18) Jacqueline Hall's Critique of the Book Ban



If you enjoyed “How Government Silenced Irwin Schiff”, you may like these others by the same author:

To Freedom from Fascism, America!

A play on the title of Aaron Russo's final movie, here Jim shows why America is even more authoritarian than he suggested, and that the rot set in far earlier. Again, though, a solution is provided. This 82-page e-book costs only $3.

Which Church (if any)?

Here's an unusual, short e-book which concisely presents the key doctrines and history of the Christian religion, for consideration by recent immigrants and by anyone who is considering joining one of its denominations – which are compared. It's also a *critical* review, so that the reader can test the credibility of those doctrines and, if he finds them wanting, choose instead the atheist alternative. 37 pp, $3.

The Liberty Trilogy

This consists of three separate books, currently available in hard-copy, perfect-bound format.

Denial of Liberty is a short but sweeping history of the world, demonstrating that ever since it appeared on Earth about 10,000 years ago the institution of government has massively hindered human progress.

Transition to Liberty looks not backward but forward, using the fact that a way to terminate the government era has already begun to operate; it suggests how, in America, it will gradually and inevitably implode and give way to a truly free society.

A Vision of Liberty is also predictive; it tries to imagine what the resulting free society will be like. It's inspiring!