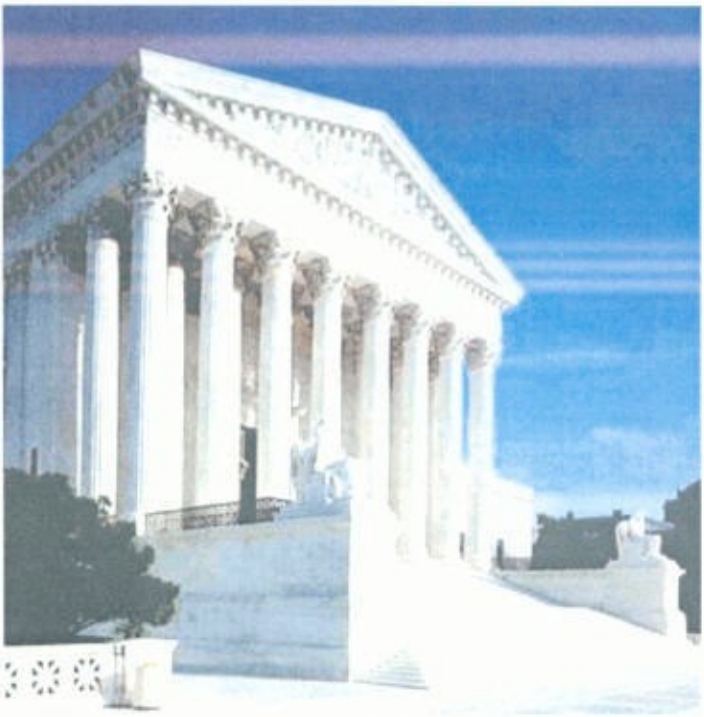
Do Courts Have Law Making Powers?



John Baptist Kotmair, Jr.

STATEMENT OF PURPOSE
FOR
Save-A-Patriot Fellowship

The SAP Fellowship is a national organization of your fellow American Patriots. We have joined together to resist the illegal actions of the Internal Revenue Service (IRS) and other government agencies who would attempt to deceive the public. We do not advocate or condone unlawful resistance, protest, or other like actions.

We do not tolerate illegal threats, intimidations or acts of violence and we're not going to take it laying down anymore. The Fellowship has researched and developed legal defensive weapons to protect our Liberty and Property.

Face it: bureaucrats keep the multitudes in line by FEAR. They use the news media to plant stories suggesting that resistance is useless and reprisal is swift and financially painful. These "reminders" and a lifetime of conditioning makes it difficult for most people to take the first breakaway step. However. SAP Fellowship members know that the alternative is unthinkable!

There is only one totally logical answer, a FELLOWSHIP that gives the Patriot insurance like protection—to Save-A- Patriot!

Do Courts Have Law Making Powers?

Recent Supreme Court decisions demanded the publication of this booklet. If the actions of the courts, both state and federal, are not corrected, individual liberties will soon be a thing of the past.

The problem within the courts has been growing for the past one hundred and eighty-six years, and cannot be allowed to go any further. It is the belief of this writer that if the information contained within this paper is disseminated and digested by God fearing patriotic Americans, proper actions will follow to abate this desperate problem.

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Do Courts Have Law Making Powers?

For all Americans who love Liberty, and are not willing to give it up for the false promise of peace and security.

DO COURTS HAVE LAW MAKING POWERS?

There have been hundreds of books and articles written complaining about how the Supreme Court of the United States and courts in general are taking away our freedoms. The news media constantly tells us that the Court has long standing in making such rulings, which are reported to have the power to limit our freedoms for the sake of our safety. Intelligent men educated in our law schools and occupying the Executive branches of both the state and federal governments, enforce these court rulings without question. I have watched this process with astonishment for the past fifty-eight years.

The enemies of the American way of life have successfully achieved the undermining of our Constitutionally secured Rights since the War Between the States. They have done this by taking advantage of, or even instigating an emotional issue that divides segments of the population, which a Court ruling supposedly settles justly, but which in reality serves an unrelated and unwanted political purpose. The emotional issue merely camouflages the real purpose for the public acceptance of the "court-made law." The news media stirs up so much controversy over these emotional issues that the authority for the Court to make such a ruling is not questioned, or if it is questioned those questioning the Court's authority are drowned out by the touting of the emotional issue itself. The media treats the ruling as necessary to right a civil wrong, and it

is taken for granted that the Court has the authority to settle such a crisis. This process has slowly caused the acceptance of the unlawful diminishing of our Rights in favor of the police powers of the government, both state and federal–supposedly to protect our health, safety and moral environment. This Court interference with cultural matters in our every day lives has advanced to the point where there is now a public outcry of JUDICIAL TYRANNY.

The proclamation within the *Declaration of Independence* that: *...all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed...* gave birth to the American principles of *Individual Liberty*, with the emphasis on *Individual*. Thus, as stated within the Declaration, the only lawful function of government is the protection of life and property. This premise is the basis and the mandate of the United States Constitution. Our federal government has enumerated powers given to it by the Constitution, and lacks authority to do anything outside those *enumerated powers*. Likewise the State Constitutions enumerate all the powers given to the various State governments. All other power not so enumerated, resides with the citizens themselves as described within the 9th and 10th Amendments to the U.S. Constitution.

In the federal courts, there are two sources of authority found within the United States Constitution. One is Article 3, Section 1, which states to wit:

The judicial Power of the United States, shall

be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

The other is found in Article 1, Section 8 giving Congress the power to establish such inferior Courts:

> Clause 9: To constitute Tribunals inferior to the supreme Court;...

Notice that the Constitution creates the Supreme Court and enumerates its powers, and then gives Congress the power to establish and regulate all of the federal courts that are inferior to that Supreme Court. If the Constitution would give Congress the power to establish the Supreme Court, there would be no checks and balances between those two Branches of the Federal government. The Executive Branch has veto power over the Congress, (except that two-thirds of both Houses of Congress can override the veto). The Executive Branch also has the power to appoint all federal jurists with the consent of the Senate.

The extent of Supreme Court's power is described in Article 3, Section 2:

> *Clause 1: The judicial Power shall extend to all Cases, in Law and Equity, arising under this*

Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; —to all Cases affecting Ambassadors, other public Ministers and Consuls; —to all Cases of admiralty and maritime Jurisdiction; —to Controversies to which the United States shall be a Party; —to Controversies between two or more States; —between a State and Citizens of another State; —between Citizens of different States, —between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

As stated above, the federal judicial power extends to:

1. cases arising under this Constitution,
2. cases arising under Laws of the United States,
3. cases arising under Treaties,
4. cases affecting Ambassadors, other public Ministers and Consuls,
5. cases of admiralty and maritime Jurisdiction,
6. controversies to which the United States shall be a Party,
7. controversies between two or more States,
8. controversies between a State and Citizens of another State,
9. controversies between Citizens of different States,
10. controversies between Citizens of the same State claiming Lands under Grants of different States, and
11. controversies between a State, or the Citizens thereof,

and foreign States, Citizens or Subjects[1].

Due to the fact that *Treaties* only apply to the aliens from the corresponding treaty country, and not citizens, the only jurisdiction of the federal courts that would apply to a citizen within a particular State would be for cases: 1: *arising under this Constitution* or 2: *Laws of the United States.* So, in order to determine to whom, and under what circumstances, these jurisdictions extend, we must examine the entire enumerated powers given to the federal government within the Constitution that are applicable within the States of the Union.

The very first Power stated and established by the Constitution is in Article 1, Section 1, which states:

> *All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

Due to this provision, only the Congress is empowered to enact the laws for the federal government that are allowable under the Constitution. The subject matter for these allowable lawmaking powers is found in Article 1, Section 8, Clauses 1 through 18. A study of these Clauses reveals that the only jurisdiction given the federal government within the States of the Union is:

Clause 1: "...to lay and collect taxes [excises]...";
Clause 3: "To regulate commerce...among the several Sates...";
Clause 4: "To establish a uniform rule of naturalization,

and uniform laws on the subject of bankruptcies throughout the United States";

Clause 5: "To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures";

Clause 6: "To provide for the punishment of counterfeiting the securities and current coin of the United States";

Clause 7: "To establish post offices and post roads";

Clause 8: "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries";

Clause 9: "To constitute tribunals inferior to the Supreme Court";

Clause 15: "To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions"

Clause 16: "To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress"

The only jurisdiction within these Clauses that actually relates to the average citizen is found in Clauses: 1, 3, 4, 6, 7 and 15; Clauses 5, 8, 9 and 16 relate only to the generic functions of the Federal government. The other Clauses—2,

10, 11, 12, 13, 14, 17 and 18–all pertain strictly to foreign jurisdictions or generic governmental powers, to wit:

Clause 2: To borrow Money on the credit of the United States;

Clause 10: To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

Clause 11: To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Clause 12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

Clause 13: To provide and maintain a Navy;

Clause 14: To make Rules for the Government and Regulation of the land and naval Forces;

Clause 17: To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;–And

Clause 18: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested

by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Notice that none of these enumerated powers confer any authority over State property, or property owned by individual citizens. The reason I bring this to your attention is the fact that the "Common Law" is actually law dealing with private property, real estate and/or personal property. Such Power over property, being absent from the federal Constitution, could only come under the jurisdiction of a State government, as regulated by the State Constitution. The State Constitutions, mirroring the Federal Constitution, only established governments for the purpose of the *protection of life and property* as outlined within the *Declaration of Independence.*

Basically, in our Constitutional Republic, there are two kinds of internal laws: Criminal and Civil controversies, both state and federal. There is no authority in the above ten Clauses listed for the passage of any federal Civil laws, other than to regulate *commerce, bankruptcies* and the *post office.* All other powers enumerated within the federal Constitution pertain to foreign affairs. Wherefore, there is no federal Common Law. This was rightfully declared by the United States Supreme Court in the case of *Erie Railroad Co. v. Thompkins*, 304 U.S. 64 (1938), to wit:

There is no federal general common law. Congress has no power to declare substantive rules of common law applicable in a state whether they be local in their nature or 'general,' be they commercial law or a part of the law of

torts. And no clause in the Constitution purports to confer such a power upon the federal courts.

Black's Law Dictionary Fifth Edition defines the Common Law thusly:

> *As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs;*

In other words, with respect to civil matters, the common law is basically the custom and usage of the citizens within a State of the Union, which is affirmed by the county courts of that State when deciding civil controversies regarding real estate and personal property; and common law crimes are crimes prohibited by the Ten Commandments, such as murder, etc. There is no federal common law for the simple reason that there are no federal property laws. There is no enumerated power within Article 1, Section 8 authorizing the passage of such laws, as the Supreme Court correctly declared. When federal agents attack property within a State, they are required to follow that State's property laws. Wherefore, excluding Post Office and Bankruptcy laws, the only internal Civil laws the Congress is authorized to enact are those involving *Interstate Commerce.* The federal government lacks authority to make and enforce any laws involving common law crimes.

It is very clear in Article 1, Section 8, Clause 3 that the Congress has the power: *To regulate commerce...among the several states...* The only other mention of *Interstate Commerce* within the Constitution is the prohibitions on Congress's law making powers found in Article 1, Section 9, Clause 6, which states to wit:

> *No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.*

This Clause gives the correct impression that the law-making power of Congress to regulate commerce among the several States is limited to *Duties.* The validity of this impression is verified within *The Federalist Papers* [2] by Alexander Hamilton in *Federalist No. 6* and *No. 7,* in which he only discusses the inequities of the States charging duties at the state lines on commodities imported from another State. Nowhere, within this explanation of the intent of the Constitutional Power of Congress to regulate commerce can there be found that it extends to criminal infractions involving such activity. Since these acts of *Commerce* are between the States of the Union, any criminal act committed within any commercial activity would have to have its origin in one of the States involved in the transaction, and therefore would come under the authority of that State's criminal laws.

As positively shown in the Clauses of Section 8, federal criminal jurisdiction is restricted within the States of the Union

to cases of *counterfeiting the securities and current coin, mail fraud,* and, products produced and sold without the payment of the *excise tax,* or imported from a foreign country without the payment of the *import duty,* commonly known as smuggling. The history of the advancement and development, since the early 1900s, of federal criminal jurisdiction has allegedly been through Article 1, Section 8, Clause 3—what is commonly referred to as the *Interstate Commerce Clause.*

A study of this history of the development of federal law enforcement verifies the above facts, and reveals the unlawful actions of the federal judiciary in aiding and abetting this unconstitutional development.

The first federal law enforcement agency was lawful in that it was created by an Act of Congress to enforce the collection of *Duties* and *Imposts* that Congress imposed on imports. The following was transcribed from the government web site, and presents the history of the U.S. Custom Service:

> *After declaring its independence in 1776, the struggling young nation found itself on the brink of bankruptcy. Responding to the urgent need for revenue, the First Congress passed and President George Washington signed the Tariff Act of July 4, 1789, which authorized the collection of duties on imported goods. It was called "the second Declaration of Independence" by the news media of that era. Four weeks later, on July 31, the fifth act of Congress established Customs and its ports of entry.*

Wherefore, the authority of the U.S. Custom Service is to collect Duties and Imposts at all ports of entry to the United States, and to enforce laws against smuggling enacted by Congress.

Although the Constitution gave Congress the Power to lay and collect *Excise* taxes, the tariffs on imports were sufficient to support the legitimate functions of the federal government as intended by the Founding Fathers. Surprisingly this fact is admitted by the Internal Revenue Service within the Internal Revenue Manual in Chapter 1100 at Section 1111.31, to wit:

> *1111.31 (7-6-83)*
> *Internal Taxation*
> *Madison's Notes on the Constitutional Convention reveal clearly that the framers of the Constitution believed for some time that the principal, if not sole, support of the new Federal Government would be derived from customs duties and taxes connected with shipping and importations. Internal taxation would not be resorted to except infrequently,' and for special reasons.*

This very important principle, protecting our *Individual Liberties*, was discarded by Abraham Lincoln when he asked Congress to pass a permanent internal *Excise* tax, and create the *Office of the Commissioner of Internal Revenue*, which they did on July 1, 1862. Thereby, the second criminal law enforcement agency was created to prosecute those manufacturers of *alcohol, tobacco* and *firearms* products that

did not buy the tax stamps to pay the *Excise* tax on them. The IRS could not resist putting a spin within this portion of the Internal Revenue Manual saying: "*...the framers of the Constitution believed for some time...*" All the framers had passed on before the permanent imposition of internal taxation–the last one being James Madison, who died on June 28, 1836, some twenty-six years before any permanent internal taxation.

Lincoln was very unpopular among the constitutionally informed part of the American citizenry, committing various acts in violation of his *Oath of Office* to support and defend the United States Constitution[3]. Therefore, he was the first President to need bodyguards, and the Pinkerton Detective Agency was hired to guard his person. The practice of Presidential bodyguards has continued for every President since Lincoln, and the Secret Service became the third federal government law enforcement agency on July 5, 1865 to perform this function. Besides protecting the President, the Secret Service was also given the authority to investigate counterfeiting, and due to the unlawful introduction of paper money, also by Lincoln–violating Article 1, Section 8, Clause 5–counterfeiting for the first time became a real law enforcement problem.

Lincoln pressured Congress to pass the Legal Tender Act of 1862, which he signed into law. The constitutionality of this Act was challenged, and in 1870 the Supreme Court, in the case of *Hepburn v. Griswald,* 12 Wall. 571, declared the Act to be unconstitutional, in violation of Article 1, Section 8, Clause 5 to wit:

> *"To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures"*

Of course, not being able to print paper money curtailed the federal government's ability to spend, so President Grant appointed two pro-paper money justices to the Supreme Court. They promptly reversed the prior decision in the 1871 case of *Knox v. Lee* and *Parker v. Davis*, 79 US 457, and also in *Juillard v. Greenman*, 110 US 448, in 1884, thus continuing the violation of their *Oaths of Office* with judicial legislation by the use of sophistry.

The next federal Law enforcement agency to be created was the Federal Bureau of Investigation. The founding fathers of the FBI were President Theodore Roosevelt and Charles Bonaparte, a descendent of Napoleon and Attorney General of the United States under Teddy Roosevelt. The following is transcribed from Bonaparte's biography:

> *On July 28, 1908, acting on Presidential instructions, Bonaparte issued the order, which made his special investigative force a permanent subdivision of the Department of Justice. In 1935, what had begun as a 23-man unit under Bonaparte's direction was renamed the Federal Bureau of Investigation.*

You can measure a good bit of the unlawful expansion by the federal government into the jurisdiction of the States by studying the history of the FBI. The FBI's official web site admits:

> *When the Bureau was established, there were few federal crimes. The Bureau of Investigation primarily investigated violations of laws involving national banking, bankruptcy, naturalization, antitrust, peonage, and land fraud*[4]*. Because the early Bureau provided no formal training, previous law enforcement experience or a background in the law was considered desirable.*

Notice that the stated investigative authority, except for *national banking*[5], was clearly within Congress' Constitutional jurisdiction. This was prior to 1910. In that year, Congress passed the *Mann Act*, and in doing so, Congress stepped over the jurisdictional line, and the Courts did not stop this intrusion into the Constitutional jurisdiction of the States, but rather embraced it. The FBI's web site states:

> *The first major expansion in Bureau jurisdiction came in June 1910 when the Mann ("White Slave") Act was passed, making it a crime to transport women over state lines for immoral purposes. It also provided a tool by which the federal government could investigate criminals who evaded state laws but had no other federal violations.*

This can be considered the camel's nose into the tent, for it is the first misuse of the *Interstate Commerce Clause*, in that the law making powers for the prohibition of prostitution come

under the police powers of the States and cannot be found within the powers of Article 1, Section 8. Wherefore, the jurisdiction for its punishment would be within the State of origin, which would have extradition rights to bring back the offenders from the State of destination. Getting its start here, Congress's expansion into violations of the *Interstate Commerce Clause* grew until today it covers just about every facet of our lives, all with hardly any interference from the federal Courts, but rather their eager cooperation. There are two exceptions to this that come to mind. The first being when the Supreme Court declared in the case of *Stanton vs. Baltic Mining Company,* 240 U.S. at 112 (decided February 21, 1916):

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

And the second was when Franklin D. Roosevelt tried to unlawfully impose socialism on the American public in 1935, to which the Supreme Court, in the case of *Railroad Retirement Board et al. v Alton Railroad Company et al.* 295 U. S. 330-392 argued March 13 and 14, 1935 and decided May 6, 1935, affirmed:

> *Provision for free medical attendance and nursing, for clothing, for food, for housing, for the education of children, and a hundred other matters, might with equal propriety be proposed*

as tending to relieve the employee of mental strain and worry. Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of any or all of these things? Is it not apparent that they are really and essentially related solely to the social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of Congressional power.

In the *Stanton* case the Supreme Court verified its holding in the *Brushaber* case, (decided January 24, 1916), that the income tax authorized by the 16th Amendment was to be laid and collected under the provision of Article 1, Section 8, Clause 1. Following these two Supreme Court decisions, on March 21, 1916, the Commissioner of Internal Revenue issued the following Order:

(T. D. 2313.)
Income Tax

Taxability of interest from bonds and dividends on stock of domestic corporation owned by nonresident aliens, and the liabilities of nonresident aliens under section 2 of the act of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE, Washington, D.C., March 21, 1916.

To collectors of internal revenue:

Under the decision of the Supreme Court of the United States in the case of Brushaber v. Union Pacific Railway Co., decided January 21, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913.

Due to the fact that the only internal tax authorized by Article 1, Section 8 is an "excise" tax, it is necessary to understand that the definition of an excise tax is, according to the Supreme Court in the case of *Flint v Stone Tracy Co.*, 220 US 107 (1911):

> *Excises are taxes laid upon: the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privilege; ... the requirement to pay such taxes involves the exercise of the privilege and if business is not done in the manner described no tax is payable ... it is the privilege which is the subject of the tax and not the mere buying, selling or handling of goods.*

Wherefore, the only *exercise of a privilege* that can be attributed to a nonresident alien would be the privilege to do business within the States of the union. This is verified further on in the Commissioner's Order:

The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned or business carried on within the United States, shall make a full and complete return of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their nonresident alien principals.

This collection of the income tax is confirmed within the Internal Revenue Code in Chapter 3, where the only withholding of the tax can be found, and it is imposed on:

Subtitle A - Income Taxes
Chapter 3 - Withholding of Tax on Nonresident Aliens and Foreign Corporations
Subchapter A - Nonresident Aliens and Foreign Corporations
Section 1441. Withholding of tax on nonresident aliens.
Section 1442. Withholding of tax on foreign corporations.
Section 1443. Foreign tax-exempt organizations.
Section 1444. Withholding on Virgin Islands source income.
Section 1445. Withholding of tax on dispositions of United States real property interests.
Section 1446. Withholding of tax on foreign partners' share of effectively connected income.

Notice that in *Section 1444,* if a citizen has Virgin Island

income, a tax is owed on it. Such taxation is outside of Constitutional confines.

Even though the Supreme Court has rightfully ruled on the imposition of the 16th Amendment income tax, the lower federal courts have ignored its holdings, and have ruled consistently that the tax can be collected from the domestic income of citizens; even in the face of the clear language of the law itself, and this modern-day Supreme Court has refused to hear appeals on this issue, sending many an innocent American to prison.

In deciding the Alton case, the Supreme Court in unmistakably clear language proclaimed that Franklin D. Roosevelt's Social Security Ponzi scheme, if imposed by law on American citizens, would be unconstitutional. Not giving up on his Marxist designs, FDR pressured Congress to pass the Social Security Act, which actually imposes a direct tax on the wages of nonresident aliens, and requires foreign corporations, doing business within the States of the Union, to withhold the tax from their nonresident alien employees, and from U.S. citizens volunteering to participate in the social security program. This is proven within the Act, and within the Internal Revenue Regulations. The Social Security Act was passed by Congress to enforce treaties with other countries having similar social security type programs. The FDR Administration advertised heavily to entice American citizens to participate in this socialist scheme. Just coming out of a contrived financial depression, just about every American signed up for an account number, and requested their employer to withhold the social security tax from their wages or salaries. With just about every American participating in the program, over time it became a general

public belief that participation was required by law.

The Social Security Act is written in such a manner that it preys on the misguided public mindset that U.S. citizens are required to participate in the program. This is bolstered by the vague decision of the Supreme Court in the case of *Steward Machine Company v. Davis*, 301 U.S. 548 (1937), wherein the Court held that the tax under the Social Security Act was a constitutional exercise of congressional power, neglecting to explicitly state on whose wages it is to be withheld from.

The Social Security Act is codified in Title 42 of the United States Code, where Section 405 states in pertinent part in paragraph 2:

> *(B)(i) In carrying out the Commissioner's duties under subparagraph (A) and subparagraph (F), the Commissioner of Social Security shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):*
>
> *(I) **to aliens at the time of their lawful admission to the United States** either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such*

employment;

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and

(Emphasis added.)

Also, in Part 301 in the Internal Revenue Regulations at Section 301.6109-1, we find who has a requirement to have and use government identification numbers: social security, employer identification, and taxpayer identification numbers. Except the writers of this law went out of their way to try to conceal the truth, as illustrated in paragraphs (b) and (c) (3) of this regulation:

(b) Requirement to furnish one's own number—

(1) U.S. persons. Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request.

For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with

respect to their social security numbers, see Sec. 31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see Sec. 31.6011(b)-1 of this chapter (Employment Tax Regulations).

(2) ***Foreign persons. The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons—***

(i) A foreign person that has income effectively connected with the conduct of a U.S. trade or business at any time during the taxable year;

(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year;

(iii) A nonresident alien treated as a resident under section 6013(g) or (h);

(iv) A foreign person that makes a return of tax (including income, estate, and gift tax returns), an amended return, or a refund claim under this title but excluding information returns, statements, or documents;

(v) A foreign person that makes an election under Sec. 301.7701-3(c); and

(vi) A foreign person that furnishes a withholding certificate described in Sec. 1.1441-1(e)(2) or (3) of this chapter or Sec.

1.1441-5(c)(2)(iv) or (3)(iii) of this chapter to the extent required under Sec. 1.1441-1(e)(4)(vii) of this chapter.

(c) Requirement to furnish another's number. —

(3) Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), (iii), or (vi) of this section as required by the forms and the accompanying instructions. The taxpayer identifying number of any person furnishing a withholding certificate referred to in paragraph (b)(2)(vi) of this section shall also be furnished if it is actually known to the person making a return, statement, or other document described in this paragraph (c). If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, and such other person is one that is described in paragraph (b)(2)(i), (ii), (iii), or (vi) of this section, such person must request the other person's number. The request should state that the identifying number is required to be furnished under authority of law. When the person making the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph (c), such person must sign an affidavit on the

> *transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them . . .*
>
> (Emphasis added.)

Generally, people have a tendency not to read footnotes or to go back and read over what has already been read. Not doing so in this regulation would cause the reader to fail to spot the fact that the "U.S. persons" described in this law are not "U.S. persons" at all, but rather foreigners; thus revealing that there is no requirement for American citizens to have and or use any government identifying numbers. But as warned in the book of Revelation within the Bible, even within this land of the free, government identifying numbers are being demanded to participate in every facet of the marketplace and the courts are impeding every effort to correct this practice.

In 1942, with the Social Security tax already being withheld by most employers through the voluntary request of the employees that elected to participate in that socialist government program, and with World War II in full swing, the Roosevelt Administration had the golden opportunity to introduce the withholding of the Victory Tax Act on wages. Even though this tax was called an income tax, in actuality it is an "Employment" tax, which is defined as a voluntary wage tax. The following year, 1943, Congress passed the Current Tax Payment Act, which has been in effect since then. In order for this tax to be collected by the employer, the employee must

request such withholding with an IRS Form W-4, EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE, which requires a government identification number to be used in the appropriate space on the form.

Over time, misleading statements from elected officials and bureaucrats coupled with misinformation from the news and entertainment media, the history of how the social security employment tax evolved was lost, and the general public acquired the mindset that the tax was imposed by law. Even though the Supreme Court held in 1916 that such a tax, if imposed by law would be unconstitutional, the lower courts have ignored the written law, putting innocent citizens in jail for the violation of non-existent tax laws, and the modern-day Supreme Court has refused to hear any appeals from these tyrannical acts.

In the Declaration of Independence, Thomas Jefferson wrote: *He* [King George] *has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance.* In the United States, things have come full circle.

When the Washington Administration took office under the Constitution in 1789, Congress created the executive departments needed for the lawful and proper functions of the federal government given under Article 1, Section 8; they were: the Secretary of State, Thomas Jefferson, Secretary of the Treasury, Alexander Hamilton, and Secretary of War, Henry Knox. Since then, there has been a slow but steady unconstitutional growth of executive departments. The entire present day Cabinet is listed here; those performing lawful constitutional functions are in bold:

Department of the Treasury	**1789**
Department of Defense	**1947**
(reorganization of War Department of 1789)	

Department of State	**1789**
Department of the Interior	**1849**
Department of Education	1867 - 1868
re-established in 1979	
Department of Justice	**1870**
Department of Agriculture	1889
Department of Commerce	**1903**
Department of Labor	1903
Department of Veterans Affairs	1930
Department of Health & Human Services	1953
Department of Housing & Urban Development	1965
Department of Transportation	1966
Occupational Safety and Health Administration	1970
Environmental Protection Agency	1970
Department of Energy	1977
Office of National Drug Policy	1988
Department of Homeland Security	**2002**
(only in the case of Foreigners and treasonous citizens)	

None of this unlawful control over American citizens and their property could have occurred without the full cooperation of the courts.

The Founders made provisions within Article 5 of the Constitution for changing it by an amendment process. But such an amendment process takes considerable time, giving the opposition the opportunity to fully educate everyone on the ramifications such a change would make. Under this process, the *multitude of New Offices* and *swarms of Officers* from them most likely would not have developed into reality.

Instead of taking chances with the Amendment process, the federalist-minded political element within our society that has had total control of the federal government ever since 1861, used the sophistry of the courts to unlawfully supplant our Rights and Freedoms.[6] This process started in 1819 with the Supreme Court decision in the case of *McCulloch v. Maryland,* 4 Wheaton 316 (1819).

One of the questions the court addressed was whether the Constitution authorized a national bank. Chief Justice John Marshall wrote the unanimous Opinion, which set in motion the idea that only the courts interpret the Constitution, and the laws of Congress. In other words, this decision established the doctrine that the Constitution is a living document to be read and enforced as the courts see fit. This was the birth of the present problem within the courts, which this paper is addressing.

In this decision, Marshall confesses that:

> *Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the articles of confederation, excludes incidental or implied powers; and which requires that everything granted shall be expressly and minutely described.*

but contends:

> *The power now contested was exercised by the first Congress elected under the present constitution. The bill for incorporating the bank of the United States did not steal upon an unsuspecting legislature, and pass unobserved. Its principle was completely understood, and was opposed with equal zeal and ability. After being resisted, first in the fair and open field of debate, and afterwards in the executive cabinet, with as much persevering talent as any measure has ever experienced, and being supported by arguments which convinced minds as pure and as intelligent as this country can boast, it became a law.*

In other words, the principle that citizens of the United States are governed by law, not men, merely sounds good, but has no basis in fact as practiced then and now.

The debate within the *executive cabinet*, referred to by Marshall, was between Thomas Jefferson, the Secretary of State, and Alexander Hamilton, the Secretary of the Treasury. Jefferson, being the statesman, held strictly to the content of the Constitution, and Hamilton, being the politician, wanted to expand it beyond its written content. This argument by Hamilton is just the opposite of the argument put forth within the *Federalist Papers* [7] to sell the ratification of the proposed new federal Constitution to the State Legislatures and the American people.

Jefferson warned against accepting the decision of the Marshall court, but history tells us that his words went unheeded. Marshall was, and still is by the legal community,

hailed as a great jurist, giving birth to what today is called JUDICIAL ACTIVISM. This activism has gone beyond the confines of the United States Constitution; in the last couple of years, some Supreme Court justices applied international law to domestic cases before the Court.

To justify the functions of the unconstitutional executive departments, their authority has been linked to what is commonly known as "federal money." The Congress writes statutes, such as the Civil Rights Act of 1964, and the enforcement thereof is tied to the acceptance of federal money, (which in this day and age reaches into every segment of American life), and the courts have enforced them. The problem is, there is no provision within the Constitution for Congress to write statutes granting money for education, highways, welfare charity, and the like. The courts upheld these unconstitutional enactments using John Marshal's principle of implied powers, and the court's right to interpret the law. Of course, as this selective method advances to all segments of society, rather than harmony, it causes discontent throughout the population. Politicians in both the Democrat and Republican parties perpetuate themselves in office, and climb to higher offices, by giving away the public treasury, in the form of federal pork-barrel "grants." When the treasury runs dry, such pork is financed mainly by borrowing from the private Federal Reserve Banks.

This course of political conduct is obviously dangerous to any society, free or controlled, and when it reaches a critical state, there are always those knowledgeable in the law who will step forward to warn, and even try to change. In this day and age, these individuals are called "strict constructionists," and

also "originalists." In 1987, one of these individuals, federal appeals court Judge Robert H. Bork, was nominated for the position of Associate Justice of the United States Supreme Court. Such nominations are made by the President and must have the consent of the Senate. In his opening statement to the Senate committee, Judge Bork stated that he would abstain from ruling on all cases involving banking. Because of his well-known opinion that the Federal Reserve banking system was unconstitutional, the socialist politicians were afraid that this position would give him an influential platform to express his logical, and constitutionally lawful, views. Even though he was willing to make that concession, the Senate committee rejected him because of his principles. This brings us to the conclusion that the only way political parasites can be removed from office is by an educated populace. The teaching of our culture and law have been removed from our schools, and this must be remedied.

In closing this dissertation on the actual authority of courts within the United States, we must examine the very essence of the implied principle, set forth by John Marshall, that courts interpret the law.

Some years ago, I attended a lecture on the Constitution given by a circuit court judge in Montgomery, Alabama. When he completed the lecture and opened the meeting to questions, I stood and asked him if the intent of the law was the force of the law. He evaded the question by saying that: "We had rather consider it to be the spirit of the law." I retorted with: "Come now judge, if the legislature passes a law to do something certain, isn't that certain purpose to be sought in its enforcement?" He tried again to evade the question, but I was

persistent, and he finally conceded that to be a fact. I then asked him: "Isn't it a fact that ignorance of the law is no excuse?" He replied: "Everyone knows of that." I then asked him: "Isn't it true that there is a doctrine of law that if a law is passed that the average man cannot understand, it is void for vagueness?" He replied: "Yes." I then asked him: "If the intent of the law is the force of the law; and ignorance of the law is no excuse; and laws are void for vagueness, what is the purpose of case law?" He leaned down to the organizer of the lecture and whispered, "Get me out of here." The organizer was a friend of mine, and the judge was set up to reveal these truths.

The words of the void for vagueness doctrine prove the fallacy of the principle that courts interpret the law:

> *Black's Law Dictionary 5th Edition*
> *Void for vagueness. A law which is so obscure in its promulgation that a reasonable person could not determine from a reading what the law purports to command or prohibit is void as violative of due process.*

And the very first thing to be stated in the United States Constitution prohibits any law making authority for the courts:

> *Article 1, Section 1*
> *All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

The word "All" means all, it does not mean shared. It is the stated purpose of the three branches of the federal government to have checks and balances against any one of them having too much power. How can any God Given Rights be secure, if the law to secure them could not be understood, or is intentionally not followed?

The United States Constitution is the supreme law, Article 6, Clause 2:

> *This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

All federal and state governmental elected, appointed and hired officials, having authority to make and enforce laws, must take an oath to support and defend the United States Constitution. This is commanded in Article 6, Clause 3:

> *The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under*

the United States.

If the courts can rule the acts of the executive branch, enforcing the laws made by the Congress in a way other than they are written, and then change the laws passed by Congress, through their own interpretation, where are the checks and balances? No, this is not the case, and never has been. This can only be described as a clear undermining of the intent of the United States Constitution, and such acts are clearly defined to be ***SEDITION.*** For when government rules in such a manner, it is actually in a state of anarchy, passing and enforcing laws that are not laws at all; and when the professionals of that society accept this state as a matter of convenience or self-interest, it grows on itself and always ends in a **TOTALITARIAN POLICE STATE.**

Footnotes:

Footnote 1.

This jurisdiction was changed by the 11th Amendment to give this jurisdiction to the courts of the State in question.

Footnote 2.

Written dissertations by James Madison, John Jay and Alexander Hamilton were published in the leading newspapers of that day to convince the American citizens, and the State Legislatures to ratify the United States Constitution. These treatises are published in a book that is readily available entitled The Federalist Papers.

Footnote 3.

This is documented in a book written by Charles L.C. Minor, entitled The Real Lincoln, copyrighted in 1904 by Everett Waddey Company, and republished in 1992 by Sprinkle Publications, Post Office Box 104, Harrisonburg, Virginia 22801.

Footnote 4.

The land fraud enforcement was restricted to the possessions and territories of the United States, due to the fact that there is no federal common law as stated by the Supreme Court hereinbefore.

Footnote 5

Nowhere within the United States Constitution can there be found any authority for the Congress to establish national banks, nor the passage of banking laws.

Footnote 6

Mr. Elbridge Gerry, of Massachusetts, a participant to the Constitutional Convention of 1789, warned about being seduced by the sophistry of the Judges. (James Madison, Journal of the Federal Convention, Vol.1, p.123).

Footnote 7.

See footnote 2 above.

Want to live in the coming police state? ... Do nothing. Just wait.

Want to STOP the police state? Make your move before it's too late ...

JOIN the Liberty Works Radio Network effort!

The only way to reverse the downhill slide toward a totalitarian police state is by re-educating American citizens to understand our heritage, so that they realize their Individual Rights are about to be lost — not through happenstance, but through contrived, persistent effort.

This educational effort must be accomplished posthaste, and be as widespread as possible. At the speed this tragic evolution is taking place, it is not feasible to realize the necessary mass education by one-on-one efforts. It must be accomplished through an electronic medium such as a RADIO NETWORK.

In 1998, a radio network was initiated; but trying to succeed through commercial-based revenue, and being under-funded, it failed in January 2001. Rather than giving up, we have devised another, more workable plan.

When Save-A-Patriot Fellowship, through associate members, has reached 100,000 total members, failure will be out of the question. At the insignificant fee of 99 Federal Reserve Notes per year, 100,000 associate members will be more than enough to establish, maintain, and spread Liberty Works Radio Network across our free Constitutional Republic. Imagine Patriotic talk radio hosts correcting the lies being taught to our unsuspecting citizens—24 hours a day, 7 days a week!—and teaching the truth about our Constitutional system of government. Many of our fellow Americans will be hearing this valuable information for the first time, since such instruction has been deliberately removed from our schools' curricula.

Please go to the Save-A-Patriot Fellowship's web site, www.save-a-patriot.org, and read more about the plan to use Liberty Works Radio Network to help save our Individual God-Given Rights. Do your part in making this a reality;

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