

from  
**Upholding the Law**  
**and Other Observations**

by  
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**Even Solitary Candles, Once Lit, Can Roll Back The  
Darkness**

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*"I am only one, but I am one. I cannot do everything, but I can do something. And because I cannot do everything, I will not refuse to do the something that I can do. What I can do, I should do. And what I should do, by the grace of God, I will do."*

-- Edward Everett Hale

Good afternoon. First of all, I'd like to thank Bo Schaeffer, Elizabeth Johnson, and all of you, for inviting me to join you at this gathering of patriots. I am honored. You are among those to whom the torch first kindled by the likes of Samuel Adams, Thomas Jefferson, and Tom Paine has passed. Being with you today is good.

I'm here specifically to talk with you about the income tax, and I'm going to get squarely into that subject in a moment. I'd like to start, however, with a few words regarding a somewhat different area of law, which I think will both be of

general interest, and will also prove useful in setting the stage for what will follow.

The 9th circuit court of appeals, which many observers feel has racked up a lot to answer for over the years in terms of bad-- if not wacky-- decisions, bought itself a whole lot of redemption recently. Ruling late last year and again in March in a case known as Raich versus Ashcroft, the court enjoined the federal Drug Enforcement Agency from engaging in activities aimed at suppressing California's medical marihuana initiative. In so doing, the 9th circuit court has significantly served the cause of the rule of law in America.

The authority under which the DEA operates is the Interstate Commerce Clause of Article 1, section 8 of the United States Constitution, which provides Congress with the power to regulate commerce among the states. "The Congress shall have power... to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." This is obviously a very limited power. First of all, and undeniably, this power is confined in its reach to 'commerce', and only such commerce as involves two or more of the several states. Thomas Jefferson, discussing a proposal to create a national bank, expressed the nature of the authority granted by the commerce clause this way:

*"...if this was [alleged to be] an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a State, (that is to say of the commerce between citizen and citizen,) which remain exclusively with its own legislature; but to its external commerce only, that is to say, its commerce with another State, or with foreign nations, or with the Indian tribes."*

John Marshall, first chief justice of the United States Supreme Court described his understanding of the meaning and limitations of the commerce clause in the 1824 case of *Gibbons versus Ogden* with these words:

*"It is not intended to say that these words comprehend that [type of] commerce, which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and is certainly unnecessary."*  
*"Comprehensive as the word `among' is, it may very properly be restricted to that commerce which concerns more States than one. . . . The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State."*

The limitation of the application of that power to agencies of the several state governments exclusively is more ambiguous, perhaps-- but according to James Madison, the chief architect of the Constitution, the purpose of the clause is *"the relief of the States which import and export through other States, from the improper contributions levied on them by the latter"*-- in other words, preventing one State from taxing goods passing through it into another. Taking Madison at his word, and bearing in mind that the Constitution is, technically, a compact between, and in regard to, the several states acting in their corporate capacities-- it could be argued that the commerce clause has no direct application to the actions of private citizens at all, even actions involving 'commerce' between two such citizens across state borders. Seen in this light, such actions would be subject only to the authority of the respective state governments, with that authority in turn

subordinate to that of the federal government to ensure that such commerce is unimpeded. In practical fact, this understanding of the clause reigned more-or-less unchallenged for the first 100 years or more of American history.

During the era of progressivist influence in America-- essentially the first half of the 20th century, a naive popular faith in the capacity of democratic politics was exploited by rapacious special interests which recognized the opportunities afforded by a government of unlimited power to those who could influence or control its actions. These interests seized upon several elements in the language or construction of the federal Constitution which can be seen as ambiguous, if taken out of context, as the instruments of their ambitions. Prominent among these was the commerce clause. The original theory under which latitude was found in the clause was that if Congress is authorized to regulate interstate commerce, it can reasonably assert authority over things which *affect* interstate commerce.

This notion found its most promiscuous expression in a Supreme Court ruling in 1942 in the case of Wickard versus Filburn, in which the court accepted the federal government's argument that because the wheat a farmer grew *for his own consumption* reduced the amount that he himself would otherwise be obliged to buy, such production affected local commerce, which in turn affected regional, and ultimately interstate commerce in that commodity-- thus making his decision to plant his own wheat something over which the feds had lawful authority. Sound absurd and indefensible? It is the regime under which all but the very oldest here have lived for our entire lives.

Happily, this regime is now crumbling. The correction began in 1995 with the decision in United States versus Lopez, in which the Supreme Court overturned a federal gun control measure criminalizing possession of a gun within 1000 feet of a school. As is true of most federal criminal statutes, this one was

being enforced within the several states under the auspices of the commerce clause, a stretch which Lopez bravely and wisely challenged.

The defense offered by the government actually tried to break somewhat new ground from that previously tilled under the clause, since not even as indirect a commerce connection as that deployed to stop farmer Filburn from growing his own wheat could plausibly be proposed for the simple possession of a gun. So, the federal attorneys suggested instead that since the parts from which such guns are made had (presumably) at one time traveled in interstate commerce, and involved manufacturing capacity, which, on an aggregate basis had a national scope, governmental authority over the gun-- and therefore its owner-- existed, essentially forever and in all circumstances. The court rejected this contention wholesale. In its ruling, the court cites John Marshall's language in *Gibbons versus Ogden*, regarding the limitation of the clause to matters purely interstate, and then goes on to observe:

*Similarly, under the Government's "national productivity" reasoning, Congress could regulate any activity that it found was related to the economic productivity of individual citizens: family law (including marriage, divorce, and child custody), for example. Under the theories that the Government presents in support of 922(q) [the law in question], it is difficult to perceive any limitation on federal power, even in areas such as criminal law enforcement or education where States historically have been sovereign. Thus, if we were to accept the Government's arguments, we are hard-pressed to posit any activity by an individual that Congress is without power to regulate."*

Shortly after this decision, the court repeats essentially the same perspective in striking down a federal assault law, holding that, although the actors whose behavior the

government was attempting to reach might be personally involved in interstate commerce, and may even be arguably inhibited in such involvement by the acts being proscribed, it is an unsupportable stretch of the commerce clause power to thus extend it over individual behavior. In this ruling the court makes another strong statement reflecting its growing intolerance for legislative adventurism in defiance of the clear meaning of Constitutional language:

*“Congress found that gender-motivated violence affects interstate commerce “by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved in interstate commerce;...” “ Given these findings and petitioner’s arguments, the concern that we expressed in Lopez that Congress might use the Commerce Clause to completely obliterate the Constitution’s distinction between national and local authority seems well founded”*

That same year, the court also threw out a long-standing federal law against arson, again rejecting expansive federal claims of authority under the commerce clause.

Now, following in the wake of this refreshing Supreme Court trend, comes the 9th circuit court serving up what may well prove to be the coup-de-grace for the commerce clause’s contributions to the exercise of unlimited power by the federal government. Certainly, its recent pair of rulings in Raich versus Ashcroft represent a powerful blow to that regime.

The basic facts of the case are fairly simple. The plaintiffs, Angel McClary Raich and several associates, grow, supply, and consume marijuana in California, enjoying protection from state harassment by the provisions of the California Medical Marijuana Initiative.

That initiative has not dissuaded the federal DEA from abusing them, however, under the auspices of the Controlled

Substances Act-- itself an appendage of the Federal Food and Drug Act, which is one of the oldest federal enactments created under the mantle of the commerce clause. The enactment of the Federal Food and Drug Act, in fact, predates many of the wild flights of fancy tolerated by the Supreme Court in *Wickard* and similar cases, and the legislation contains its own statutory definition of 'interstate commerce'; one far more consistent with the founder's views than current administration practices conducted under its authority would suggest. That definition, by the terms of which all federal drug law enforcement is circumscribed, declare 'interstate commerce' to be:

*(1) commerce between any State or Territory and any place outside thereof, and*

*(2) commerce within the District of Columbia or within any other Territory not organized with a legislative body,...*

It is self-evident by the terms of this definition-- even without looking to the higher law of the Constitution-- that the private, in-state growth and consumption of marijuana, or anything else, is outside the purview of this and any dependent federal law such as the Controlled Substances Act. But the DEA is accustomed to friendly, if not compliant courts; more significantly it is accustomed to ignorant adversaries unaware of the details and limitations of the law. Therefore it proceeded with its high-handed business-as-usual against these peaceable Californians. Raich and her friends, knowing at least the Constitution, if not the nuances of the Federal Food and Drug Act, sought an injunction in the federal courts against future assaults by the agency.

The government, faced with another case involving a completely locally grown, distributed, and consumed item, offered-- concept for concept, if not word for word-- the very argument it used 62 years ago in *Wickard versus Filburn*. Indeed, in crafting the Controlled Substances Act, or CSA,

Congress included a lengthy preamble describing its 'findings' that the substances-- and the Americans who use them-- over which it wished to exercise power by way of the act partake of the same ephemeral interstate commerce connections and influences which won the day in the Wickard case so long ago. However, recognizing that such 'findings' carry little legal weight and that the CSA remains circumscribed by the Constitution's language, as well as that within the Food and Drug Act itself, the 9th circuit court, said no, twice.

The appellate court's ruling was not so bold as to cleanly embrace the clarity of Marshall, Madison, or Jefferson, in that it largely confines its focus to the definition of 'commerce', observing that none is involved in the private production and consumption of Raich's marijuana, while dancing around the 'among the states' element of the statute. Even so, the ruling upholds the principle that the words of the law must be given no more and no less than their meaning, and represents a significant step down the path charted by the Supreme Court in Lopez.

Raich versus Ashcroft will now go to the Supreme Court, which only last year extended an invitation to the circuit courts for just such a case. Not only is there every reason to expect the high court to be predisposed to uphold the lower court's ruling, but even if the supremes were inclined to reverse their own recent doctrine, they would have great difficulty overcoming the correctness of the circuit court's reasoning. Thus, a highly significant reining-in of long-standing congressional excess is probably imminent. This will not instantly undo all legislation promulgated under the elastic reading of the commerce clause, but will likely deal much of it an at least slowly fatal wound.

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I have begun with this discussion of the commerce clause and the jurisprudence associated with it in order to illustrate several important realities. First and foremost is that a great deal of what is typically understood to be true about the law, particularly federal law-- and about federal jurisdiction-- is wrong.

Although you are a group far more conscious of matters of law than most Americans, I venture to say that many in this room did not know, or at least were not confident in their suspicion, that the federal government has almost no direct criminal jurisdiction of any kind in the several union states. It is only by connivance and craft, making claims-- credible or incredible-- on the basis of some narrow Constitutionally-granted authority such as those we have just examined that the feds attempt to exercise jurisdiction.

We've talked about federal arson, assault, and 'possession of a gun in a school-zone' legislation as predicating its authority on a ridiculous stretch of the commerce clause-- did you know that even the federal criminalizing of possession of a firearm by a felon, one of the most grey-bearded and seemingly solid expressions of federal police power, only applies within the several states as a commerce clause measure? Even before Lopez, charges of felon-in-possession directed against knowledgeable and courageous citizens were being thrown out by federal judges as outside of federal authority. As in all such cases, of course, reliance upon the limits of the Constitution, or those crafted into lesser statutes, such as the definition of 'interstate commerce' in the Food and Drug Act, are available only to those who know the law and are bold enough to demand its protection.

Another lesson to be learned from looking at the commerce clause history is that either the law means what it says, or there is no law. As the Supreme Court expressed in the relevant rulings cited, the door opened by promiscuous latitude

in the interpretation of the words of a statute leads to an alien universe of unlimited governmental power. In so doing, they say nothing new, but merely echo wisdom of such ancient standing that even Confucious, two thousand five hundred years ago, observed that *"When words lose their meaning, people lose their liberty."*

The essence of law is clarity, predictability, and limitation. We do not create law in order to wonder about its meaning, or to give power over that meaning to interpreters; and we do not craft law to grant latitude, but rather, to limit it. This principle, that the words of a statute must be given their plain meaning, is one of the most firmly established in American law. Here is another United States Supreme Court cite, from *Connally versus General Construction Company*:

*"...a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law."*

A third important reality demonstrated by the history of the commerce clause is that Americans get the restraint in government that they pay for. It is daunting and costly to contest the expansive interpretations of government power favored by its advocates, but unless it is contested, that expansiveness will prevail. As Jefferson observed, *"It is the natural course of things for government to gain ground, and liberty to yield."*

On the other hand, if it IS contested that expansiveness can be curtailed. It may be hard to believe, but as I suggested a moment ago, many litigants, even those assisted by highly paid and well-respected counsel, proceed through legal contests-- even landmark legal contests the course of which takes the battle into the Supreme Court-- without ever invoking,

or often even knowing, the actual words of the statutes whose application they are contesting.

Instead, it is common for a case to be argued solely against or about the merits of whatever may be the current relevant paradigm-- its apparent fairness, or utility, or even its utility in service to a different paradigm, in a tail-wagging-the-dog formula such as those that defend motorcycle helmet requirements on the theory that helmet use reduces the burden upon government-provided health-care. This is because many people suffer from an unfortunate reluctance to think outside the box, even when the box is just the efforts of a competing interest to control the terms of the debate; and because most professionals, in law as in all other specialties, have found that rocking the boat is a bad career move-- or at least makes for a harder day's work than just playing along with the status quo. Yet when a challenge IS offered, when someone like Lopez, or Jones, or Raich refuses to play along-- that is to say, when such litigants pay the price for more restraint in government-- it can be achieved.

The final, and most practically significant reality illustrated in this discussion of the commerce clause litigations that I wish to point out before turning directly to the income tax is that, despite the efforts of paradigm-shifters to muddy or mutate the meaning of various laws, the actual federal legislative product still typically conforms to the limits imposed by the Constitution. However much Congress may want to conduct a war on drugs, for instance, it has never revisited section 321 of the Federal Food and Drug Act and changed the definition of 'interstate commerce' by which all drug-related legislation is limited; nor has it ever created a custom definition solely for the purposes of the Controlled Substances Act.

An equivalent legislative restraint will be found in all federal enactments of any significant tenure-- those restraints are simply buried deep among thousands or hundreds of thousands of words in a statutory structure the exploration of which was, typically, abandoned by the legal profession long ago. After all, not only does Congress hate the idea of its limited authority being made manifest by the Supreme Court ruling which would inevitably follow such an overstep, but generally, it has been sufficient for Congressional purposes that most Americans are too uninstructed or intimidated to invoke the Constitutional or subordinate statutory limitations on federal legislation.

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Federal legislation based upon the Commerce Clause draws on a Constitutional grant of authority-- but one which is, as the courts are lately reminding us, limited in its scope. The federal taxing power is also a limited authority, and is, in fact, the *most* limited authority. Unlike the Commerce Clause-- in which the limits are found through implication, and by analysis of the meaning of the words used in constructing the clause-- the limits on the taxing power are not only explicit and independent of the authorizing clause, but, insofar as the prohibition against unapportioned direct taxes is concerned, it is the only explicit limit imposed on a grant of Congressional authority which is expressed twice in the Constitution-- first at Article 1 Section 2:

*"...direct Taxes shall be apportioned among the several States which may be included within*

## *Upholding the Law*

*this Union, according to their respective numbers,..."*

and, even more forcefully in Section 9:

*"No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."*

We often joke about the apparent need to perfect the Supreme Court's understanding of Constitutional intent by the addition of the phrase, "And we really mean it!" here and there throughout the document. This is an older idea than many of us realize, as is made clear by the repetition of the prohibition against unapportioned direct taxes. This is the one the Founders really meant.

Immediately, of course, the question of the meaning of 'direct tax' arises. Black's law dictionary offers this definition:

*"One which is demanded from the very persons who it is intended or desired should pay it."*

A more illuminating definition can be had from looking at the meaning of the one type of direct tax to which the Founders specifically referred, a capitation. Bouvier's 1856 Dictionary of Constitutional Law defines a capitation as:

*"...an imposition which is yearly laid on each person according to his estate and ability."*

Adam Smith, the father of economics and the reigning authority on this and all related subjects at the time of the framing of the Constitution describes capitations with greater clarity, saying, in part:

*"The taxes which, it is intended, should fall indifferently upon every different species of revenue, are capitation taxes,"... "Capitation taxes, if it is attempted to proportion them to the fortune or revenue of each contributor, become altogether arbitrary. The state of a man's fortune varies from day to day, and without an inquisition more intolerable than any tax, and renewed at least once every year, can only be guessed at."... "Capitation taxes, so far as they are levied upon the lower ranks of people, are direct taxes upon the wages of labour, and are attended with all the inconveniences of such taxes."... "In the capitation which has been levied in France without any interruption since the beginning of the present century, the highest orders of people are rated according to their rank by an invariable tariff; the lower orders of people, according to what is supposed to be their fortune, by an assessment which varies from year to year."*

Clearly any tax which falls upon *"every different species of revenue"*, *"the wages of labour"*, or, *"what is supposed to be [anyone's] fortune"* as measured by *"an assessment which varies from year to year."* is a capitation. Clearly such taxes cannot be imposed except by apportionment.

And you know what? They're not. In fact, such taxes are not imposed in America today at all.

Such taxes are remitted, such taxes are collected, such taxes are browbeaten and intimidated and connived out of millions of Americans every year, but they are not imposed by any law. And this disconnect between the actual existing legal structure and what is practically administered upon the American people is not one dependent upon elastic and fanciful arguments about interrelationships and influences as has been the case in the interpretations of commerce clause legislation.

## *Upholding the Law*

Federal revenue law is quite explicit as to what it seeks to tax, and *“every different species of revenue”, “the wages of labour”, or, “what is supposed to be [anyone’s] fortune”* as measured by *“an assessment which varies from year to year.”* is not included. What IS included is federal privilege, measured by the revenue which its exercise produces. That privilege takes the form of essentially three things: Federal government employment; the performance of the functions of a federal public office; and being engaged in a federally licensed business.

As the Supreme Court instructs us in *Brushaber versus Union Pacific R.R.* (and many other cases) taxation on income is *“...in its nature an excise...”*

In *Flint versus Stone Tracy* the court tells us that the requirement to pay excise taxes *“...involves the exercise of privilege.”*

The Second Circuit Court of Appeals puts it succinctly in *American Airways versus Wallace*: *“The terms “excise tax” and “privilege tax” are synonymous. The two are often used interchangeably.”*

F. Morse Hubbard, a Congressional legislative draftsman, explained this in testimony before Congress in 1943, saying:

*“The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax”*

I’m confident that the 16th amendment has popped into many heads over the last few seconds, as the standard IRS-type explanation if presented with the Constitutional prohibition on unapportioned direct taxes is to suggest that the 16th

amendment did away with the apportionment requirement. This is simply not true.

Almost immediately after the passage of the 16th amendment, a test case went to the Supreme Court, brought by a New Yorker named Frank Brushaber. He was attempting to stop the application of the income tax to dividends to be paid against his railroad company stock, and argued that the tax amounted to a direct tax without apportionment, and was therefore unconstitutional, the 16th amendment notwithstanding-- in fact, he argued in part that the amendment itself was unconstitutional. The court corrected him, saying,

*"We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it..."*

The court proceeds to discuss these many contentions, leading it eventually point out that,

*"...it clearly results that the proposition and the contentions under it, if acceded to, 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."*

Confused? Here is the key: The 16th amendment does not say anything about a *direct* tax without apportionment-- it merely provides for a tax on *income* without apportionment, and "income" does not mean "all that comes in", or, as Smith put it, "*every different species of revenue*". What it means is the

benefit of federal privilege, as discussed a few moments ago. Indeed, during the course of its ruling in the Brushaber case, the Supreme Court goes so far as to point out that should the term "income" come-- through craft or sloppy usage-- to be treated as "all that comes in" in relation to a tax, the apportionment rule would have to be applied, even though the name of what was being taxed had not changed.

The fact is, the term "income" had long been used statutorily by the time of the 16th amendment. The first income tax act had been passed in 1862, and was followed by many others. The meaning of the term was fixed and consistent throughout those enactments, and those taxes had been upheld by the courts during that time, because a tax on federal privilege, the exercise of which is a wholly optional and voluntary activity, is an indirect tax, to which the apportionment rule never applied.

The 16th amendment came about not because it was necessary to implement a tax on "income", but because in an 1894 case, *Pollock versus Farmer's Loan and Trust*, the Supreme Court had said that even the benefit of federal privilege could not be taxed if receiving it was connected with the ownership of private property. This was another railroad stock-related case (railroads having been declared by the Supreme Court in the very early 1890's to be federal instrumentalities, making revenue associated with them "income").

The plaintiff, Pollock, objected to the imposition of the tax nonetheless, arguing that because the revenue by which the tax was to be measured proceeded from his private property-- that is to say, the stock he owned-- to tax that revenue was to tax the private property itself, and thus such a tax would be direct, and must be apportioned. The Supreme Court agreed, and the country proceeded in due course to propose and more-or-less ratify the 16th amendment, giving Congress the power

to lay a tax on incomes, from whatever source derived, without regard to any census or enumeration. Nothing changed about the meaning of the term "income"-- the amendment simply provided that resort to the private property source of the income could no longer be used to frustrate the tax. "Income" remains what it always has been-- federal privilege, measured by the dollars it produces.

All of this is directly and unambiguously reflected in the statutory structure of the tax as written. The word "wages" for instance, as used in federal revenue law is not a word, it is a custom-defined legal term, meaning "the remuneration paid to federal officers and employees". Similarly, the phrase "trade or business" in the revenue law is defined as "the performance of the functions of a public office". "Employee", "employer" and "employment" are all custom-defined terms in the law.

Like the term "income" when used in relation to federal tax law, none of these legal terms have the common meanings of the otherwise identical words that we use in everyday language. There is, however, an elaborate and mature scheme in place by which those who are NOT federal officers and employees, and who are NOT engaged in the performance of the functions of a public office, are made to appear in the eyes of the law as though they were those beneficiaries of federal privilege, and are therefore taxable on their receipts.

This scheme involves the routine creation of evidence by Americans who make payments to their fellows in which such payments are declared to be the payment of "wages" *as defined in the revenue law*, or to have been made in the course of the payers or recipients "trade or business" *as that phrase is defined in the revenue law*. One or the other of these two declarations lies behind every W-2 or 1099 issued by anyone and about anyone.

Who among the business owners here has ever actually read the law under which a W-2 is created and submitted? Any who had would have found that, by statute, what is to be listed on a W-2 is not simply 'wages'-- it is *only* and *explicitly* to be "*wages as defined in sections 3401 and 3121 of the Internal Revenue Code*".

Which of you, in submitting a 1099 to some poor contractor, with a copy being put on record with the IRS, has taken the time to notice that the instructions for filling out the form explicitly and clearly say it is only to be used to list payments made in the course of a "trade or business", and even if having noticed this, has followed up and discovered what "trade or business" means in the revenue law? Well, you're not alone. Every year millions of such documents are produced about millions of Americans, and it is on the basis of those "information returns" as they are known, that a tax liability is presumed to exist for those about whom they are created. There are a few more involved subtleties to the structure of the scheme, of course, but that is the heart of it.

Obviously, everyone with respect for the rule of law-- both Constitutional, and subordinate statutory law-- should stop creating false evidence, if they have been doing so. Furthermore, those about whom false evidence has been created should rebut and correct it. Our legal system, being an adversarial system in which claims are sorted out based upon competing evidence, provides for such rebuttals and contests institutionally, and nowhere more so than in the tax system. In fact, the IRS itself produces forms intended for just that purpose.

This is not to say that the "service" encourages such corrections, of course, even when made on their own forms. In fact, it will resist explaining that you can make them; and it will resist acknowledging or abiding by them once made with all the warmth, charm, and helpful demeanor of a rabid junk-yard dog

with a toothache. Because the simple fact is, once erroneous evidence about "income" received has been challenged, the government's established claim to an associated tax correspondingly evaporates.

However, what YOU attest to is your business, not theirs, and challenging what others say about you is your right as well. We have no bureaucratic kings in America empowered to say only one side's testimony is worthy of consideration, or to declare one's to be true and another's not.

The Founders provided a prudent tax structure for America. Under that structure, direct, unavoidable taxes require a straightforward declaration of purpose and amount-- and accountable representative endorsement-- as each such tax is a one-time affair, and is collected by the state governments from their own citizens, thus keeping the mechanisms closer to the people. All other lawful federal taxes, being indirect, share the characteristic of optional, voluntary citizen participation and the requirement that their overall burden be uniformly distributed throughout the union, while possibly being perpetual once enacted.

With any other audience, I would be tempted to proceed with a discussion of why insisting on strict adherence to this Constitutional structure is so important, but I suspect that with you this is not necessary. I am confident that everyone here is fully conscious of the ills attendant upon what has become an institutional disregard of that structure, effectively resulting in perpetual, involuntary and unaccountable taxation which diverts a river of wealth-- and consequently power-- out of the hands of the citizenry and into the control of the state. We all know that once so diverted, that wealth is used to corruptly secure incumbencies, to pay off favored special interests at the expense of the disfavored, to inordinately swell the influence of the federal government over our state and local

institutions, and to justify and finance the swarms of officers sent forth every day to harass us and eat out our substance.

America cannot long endure a steady assault upon her intended design by this process and the mechanisms and subterfuges necessary for its sustenance. I hope that you'll all join me in striving to put an end to it.

Thank you.

### **Update:**

The United States Supreme Court, in a despicable 6-3 ruling in *Ashcroft v. Raich* (re-titled *Gonzales v. Raich*), demonstrated its willingness to utterly defy logic-- and disregard the clearly-stated intent of the Framers-- in service to the boundless ambitions of Congress. Thus, I am proposing the following amendment to the United States Constitution:

*"The power of Congress to regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes shall be exercised solely for the purpose and to the effect of ensuring that such commerce is unhindered and unburdened, other than by such tariffs on foreign imports as are elsewhere provided for herein."*

This amendment actually just spells out the Framers' intent in creating the commerce clause in the first place, but it has become obvious that this sort of emphasis is necessary. I would be grateful for your help in seeing this amendment adopted-- which will involve initiating and promoting action in the legislatures of the several States (and at the grass-roots level), if it is to be effective.