

from

Was Grandpa Really a Moron?

Critical Inquiries for a New American Century

by

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**The Truth About The "Exclusive Legislation" Clause In
The U.S. Constitution**



I can't think of how many times I have seen the assertion that Congress is free of all Constitutional restraints-- particularly tax-related restraints-- in the "federal zone" (DC and the "territories and possessions"). This notion is particularly widespread within the "tax honesty" movement, where it serves to prop up a variety of erroneous theories about the nature of the "income" tax.

It is, of course, complete nonsense.

Unfortunately, like most errors regarding important subjects, this inaccurate assertion is not a mere academic issue, but is actively harmful nonsense. The idea of rule-free taxing power within the federal zone serves to cause those exposed to it to incorrectly imagine that the tax is structured to capitalize on this "fact" and proceed down a path of ever-more elaborate misunderstanding with this error as the starting point. Every step down such a path is a step further away from the actual truth about the tax, and one step closer to becoming yet another loud voice spouting nonsense into the ears of the next

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traveler still uncommitted to the path down which he will choose to venture.

This myth about extra-Constitutional authority arises from misunderstanding the "exclusive legislation" provision in Article 1, section 8, Clause 17 of the United States Constitution. That provision gives Congress the power:

"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;"

To begin with, let's first recognize that the provision granting exclusive legislative authority over the area set aside as the seat of government (the District of Columbia) and such other areas as the several states may cede to federal control grants EXCLUSIVE legislative authority, not UNLIMITED or UNRESTRAINED legislative authority. Just on its face, there is nothing whatever in this provision supporting the myth about extra-Constitutional authority.

Further, the proposition is self-contradictory. A charter such as the Constitution can't grant authority to act outside the scope of the authority it has itself been ceded.

In fact the U.S. Constitution IS the constitution of the federal zone in precisely the same fashion that the Constitution of Michigan is the constitution of Michigan state territorial jurisdiction. The "exclusive" provision simply establishes that within the federal zone, no other jurisdiction obtains. Put another way, when exercised anywhere outside of the federal zone, such general federal jurisdiction as is authorized by the Constitution is, at best, concurrent with the territorial jurisdiction

of one of the several states. Within the zone, only federal jurisdiction applies. However, while exclusive of any competition, even that exclusive jurisdiction is entirely bounded by the U.S. Constitution:

*"And as the guaranty of a trial by jury, in the third article, implied a trial in that mode, and according to the settled rules of common law, the enumeration, in the sixth amendment, of the rights of the accused in criminal prosecutions, is to be taken as a declaration of what those rules were, and is to be referred to the anxiety of the people of the states to have in the supreme law of the land, and so far as the agencies of the general government were concerned, a full and distinct recognition of those rules, as involving the fundamental rights of life, liberty, and property. **This recognition was demanded and secured for the benefit of all the people of the United States, as well those permanently or temporarily residing in the District of Columbia as those residing or being in the several states. There is nothing in the history of the constitution, or of the original amendments, to justify the assertion that the people of this District may be lawfully deprived of the benefit of any of the constitutional guaranties of life, liberty, and property;...**"*

United States Supreme Court, Callan v. Wilson, 127 U.S. 540 (1888) (Emphasis added)

*"The congress of the United States, being empowered by the constitution 'to exercise exclusive legislation in all cases whatsoever' over the seat of the national government, has the entire control over the District of Columbia for every purpose of government,-national or local. It may exercise within the District all legislative powers that the legislature of a state might exercise within the state, and may vest and distribute the judicial authority in and among courts and magistrates, and regulate judicial proceedings before them, as it may think fit, **so long as it does not contravene any provision of the constitution of the United States.** Kendall v. U. S. (1838) 12 Pet. 524, 619; Mattingly v.*

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District of Columbia (1878) 97 U.S. 687, 690; Gibbons v. District of Columbia (1886) 116 U.S. 404, 407, 6 S. Sup. Ct. 427."

United States Supreme Court, Capital Traction Co. v. Hof, 174 U.S. 1 (1899) (Emphasis added)

(See your CtC Companion CD for both of these rulings in their entirety)

Another ruling is particularly worthy of review, since our focus here is the manner in which the myth of unrestrained authority in the federal zone distorts understanding of the nature and application of the taxing power:

"Yet it is admitted, that the constitution not only allows, but enjoins the government to extend the ordinary revenue system to this district [of Columbia]."

If it be said, that the principle of uniformity, established in the constitution, secures the district from oppression in the imposition of indirect taxes, it is not less true, that the principle of apportionment, also established in the constitution, secures the district from any oppressive exercise of the power to lay and collect direct taxes.

After giving this subject its serious attention, the Court is unanimously of opinion, that Congress possesses, under the constitution, the power to lay and collect direct taxes within the District of Columbia, in proportion to the census directed to be taken by the constitution, and that there is no error in the judgment of the Circuit Court."

Loughborough v. Blake, 18 U. S. 317 (1820) (Emphasis added)

The reality about the nature and application of the federal taxing power is, of course, clearly, plainly (and exclusively) laid out in its entirety in 'Cracking the Code- The Fascinating Truth About Taxation In America'. Anyone actually

wishing to learn the actual, liberating truth can easily do so with just a bit of light reading. (OK, maybe not exactly "light", but you get what you pay for...)

However, it is not enough that just the truly serious-minded and well-educated community of income-tax scholars know the truth, of course. As noted above, myths such as the "unrestrained power" nonsense are used to keep the existing regime of misapplication of the tax firmly fastened in place, and it is thus really important, and for the benefit of us all, that they not be allowed to persist even in the larger community.

Consequently, I am asking everyone who DOES understand the truth about this myth to become an adamant and forceful voice on behalf of that truth, wherever the issue arises.

Among other things, this will mean being sensitive to the appearance of this myth in larger bodies of work, even those to which it does not appear to be central or significant. The simple fact is, where a myth of this sort makes even a brief or apparently minor appearance, it serves as evidence of the overall work being rooted in misunderstanding (as well as a product of poor research), meaning that its broader analysis and conclusions are necessarily incorrect to one degree or another, as well.

I realize that this will be uncomfortable sometimes. Insisting on careful research and inflexible adherence to the facts is not always the path to popularity in some circles.

On the other hand, there is no other path to actually "getting it right" (and to becoming the persistent nightmare of the mendacious elements in the "tax agency/tax beneficiary" community that all of us ought to be). You will find that being right, and being a nightmare to the deserving and despicable crowd of systematic exploiters of ignorance, are a pretty satisfactory trade-off for enduring a little spite from those who wish to be spared the inconveniences of the actual facts.

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The ultimate prize for sticking to the facts, of course, is finally winning this war on behalf of the rule of law, and that will be very satisfactory indeed...

So, I'm asking all of you to simply not permit the assertion of this myth, or any notion based (or dependent) upon this myth, to go uncorrected even one more time. Please.

Whenever you see it put forward, whether directly or indirectly, whether within the "tax honesty" community or the "mainstream", SHOUT IT DOWN (and teach the truth in its place). This myth is a confusing error at best, and more likely a deliberate lie intended to waste the energy of those who are willing and ready to act on behalf of the truth, but haven't yet gotten a clear sight of it.

What this myth is not is harmless. Never forget-- confusion and lies are the tools of the enemies of the law, even when they are unwittingly deployed by others.

Please do your part.