

Introduction

In the late Spring of the year 1990, our small beach town in Northern California was visited by a minor political controversy. A local writer for the weekly newspaper, a man named Kirby Ferris, had a number of neighbors buzzing about his recent sequence of articles challenging the 16th Amendment, the so-called "income tax" amendment in the U.S. Constitution. It seems that Kirby had come across some huge collection of documents which allegedly proved that the 16th Amendment was never ratified. Instead of obtaining the required approval of 36 State legislatures, the proposed amendment was simply "declared" ratified on February 25, 1913, by Philander C. Knox, a man who purported to be Secretary of State. Kirby Ferris had, evidently, visited one of the men responsible for assembling this collection of 17,000 State-certified documents and returned entirely convinced that the so-called 16th Amendment was a complete and total fraud. The man he visited was Martin J. "Red" Beckman, a Montana rancher whose name now appears as co-author with Bill Benson on the cover of The Law That Never Was, a book that has already become a classic in American historical literature.

Up to that point in time, I had not been much of a Ferris fan. Too often for me, his style bordered on being too inflammatory and lacking necessary details. After all, Kirby had spent his youth surfing waves, drinking beer, and chasing bikinis. When this little controversy erupted, I made no secret of my bachelor's degree in Political Science from UCLA, and my master's degree from the University of California at Irvine in Public Administration. Trotting out these credentials, of course, was invariably my preface to answering the several questions which friends and neighbors put to me about Kirby's allegations, as if to underscore my obvious qualifications to repudiate Kirby's claims. "If there's a problem, Congress will just fix it," I must have said more times than I care to admit.

One day at breakfast in the Parkside Cafe, a favorite hang-out for all the "locals", the same conversation began again, this time with a Vietnam War veteran by the name of Mike Taylor. Mike is an intense man, with fierce convictions, a booming voice, a few lingering effects of combat shell shock (bad hearing), and a habit of getting right to the point. "What do you think of Kirby's columns on income tax?" he queried. Again, as if to practice a polished art, I repeated the same old answer one more time, "Congress will just fix it, if there really is a problem with the 16th Amendment." The answer had worked in the past; there was no reason why it wouldn't work on Mike too. Wrong! Mike shot right back, "OK. You're so smart. How is Congress going to fix it?" he retorted. "They'll pass a law. How else do you think they would fix it?" I answered, somewhat surprised from pride to be challenged so directly. And then Mike lowered the boom, "Are you telling me that Congress can amend the Constitution by passing a law? Is that what you're telling me?"

My jaw fell, as if to begin my next sentence, but no words came out of my mouth. I knew that he *had* me. Congress cannot amend the Constitution. Of course, Mike was right. In a feeble attempt to recover, I retreated by admitting that two-thirds of the States were required to amend the Constitution, and that Congress alone did not have the power to do so. Then Mike delivered the knockout punch, "It takes three-fourths of the States to

amend the Constitution, Paul, not two-thirds." I was had. All those years in school, all those high school civics classes, all those papers on political theory, and all those months of management science had left me woefully unprepared to spar with Mike when it came to the supreme Law of our Land. The lesson was a good one, one that I will never forget for the rest of my days. This book is my repentance, and redemption.

My embarrassed defeat was a terrific motivation. I went to work ordering books and reading everything I could get my hands on. A purchase order flew up to Red Beckman in Billings, Montana. Within a week I was devouring my own copy of The Law That Never Was. I had to repent for my errors, or so my religious training had led me to believe. The book was a turning point, in more ways than one. I knew enough about the rules of evidence to question every page. "How could this problem have gone undetected for such a very long time?" I asked myself. Here were allegations which appeared to undermine a major source of revenue for the entire federal government of the United States. I needed more proof.

I wrote to Kirby and explained my situation. It had been many years since my college political activism. I was now a senior systems consultant for a major investment bank in San Francisco, with almost 20 years of computer experience under my belt. I was often seen blending in among the "grey men" of the financial district, not too far from a regional Federal Reserve Bank. If I was going to take this problem very seriously and, in particular, if I was ever going to *do* anything about the 16th Amendment fraud, then I was going to need something more than a printed book from some Montana rancher I had never met. After all, with enough money, anybody can put ink to paper and put almost anything into circulation these days. I needed something more; I needed material evidence, as they call it in court rooms and in law schools -- material evidence, not hearsay, and certainly not unsubstantiated allegations that a massive fiscal fraud had been perpetrated on the American people for more than two generations.

Kirby rose to the occasion. "Tell me what you need," he said. I thought about it and invited him to come over for coffee. If there really were 17,000 documents, all officially certified by the Secretaries of State in the Capitol buildings of 48 of the United States***, there was no point in plowing through such a huge mound of paperwork. Paperwork was something which I put somewhere below a necessary evil. We put our heads together and came up with a plan. The feds have admitted in writing that 6 States did not ratify the 16th Amendment. Since three-fourths of the States were required to ratify it, the amendment could have passed with at most 12 States opposing it. If we could find only 7 additional States which obviously failed to ratify the amendment, that would make a total of 13 NAY's, and we would have defeated the "income tax". What a tantalizing thought! Before the night was over, we had our list of "The Dirty Seven", as Kirby liked to call them.

Kirby Ferris went home to call Red Beckman. Two days later, Kirby left a short note on my front door: Red Beckman had agreed to photocopy all the relevant documents for The Dirty Seven States, and would ship them to us as soon as the copying was done. Within a week, two large cardboard boxes were sitting on my front porch when I returned home from work. There it was, the evidence I needed. It was incontrovertible: the 16th Amendment was never ratified. The act of declaring it ratified was an act of outright fraud by

Secretary of State Philander C. Knox, a man who was sworn to obey the Constitution. This was an awesome discovery.

The events which have transpired since that moment have literally changed my life. I have filed formal petitions with two Representatives in the Congress of the United States. A detailed notice of fraud and deception has been served on all the governors of the 50 States. I have requested a Grand Jury investigation into the fraud committed by Secretary of State Philander C. Knox. I have studied and debated and learned everything I could about the laws and regulations which bear on this question. It has been an exhilarating and challenging experience. Almost all of the opposition has come from government personnel, mostly officials of the Internal Revenue Service. That opposition has been most instructive.

For those of you who may not know exactly how and where the U.S. Constitution is relevant to this subject matter, the text of the failed 16th Amendment follows:

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

[Constitution for the United States of America]
[text of so-called 16th Amendment]
[emphasis added]

From the beginning, the U.S. Constitution has empowered Congress to levy two different kinds of taxes: **direct** and **indirect**. These are powers which Congress has always had, with or without the so-called 16th Amendment. The power to levy **indirect** taxes is authorized by Article 1, Section 8, Clause 1, as follows:

The Congress shall have Power To Lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but **all Duties, Imposts and Excises shall be uniform** throughout the United States;

[Constitution for the United States of America]
[Article 1, Section 8, Clause 1]
[emphasis added]

Federal excise taxes on the sale of gasoline and tires are examples of indirect taxes. The requirement that indirect taxes be uniform throughout the several States is known as the "uniformity rule". The power to levy **direct** taxes is authorized by two separate clauses of the Constitution, as follows:

Representatives and **Direct Taxes shall be apportioned among the several States** which may be included within this Union, according to their respective Numbers

[Constitution for the United States of America]
[Article 1, Section 2, Clause 3]
[emphasis added]

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration hereinbefore directed to be taken.

[Constitution for the United States of America]
[Article 1, Section 9, Clause 4]
[emphasis added]

Thus, the requirement that direct taxes be apportioned was considered by the Framers to be so important, it is mentioned *twice* in the U.S. Constitution. This requirement is known as the "apportionment rule", and its application is easy to understand. If California has 10 percent of the nation's population, then California's "portion" would be 10 percent of any direct tax imposed by Congress. A "capitation" is another word for a direct tax imposed on each "head" or person (*caput* is Latin for "head"). Federal taxes on personal property, or on the income of personal property, are examples of direct taxes. Appendix Q shows the State portions of a lawful direct tax that was levied by Congress in the year 1798.

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Reader's Notes:

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