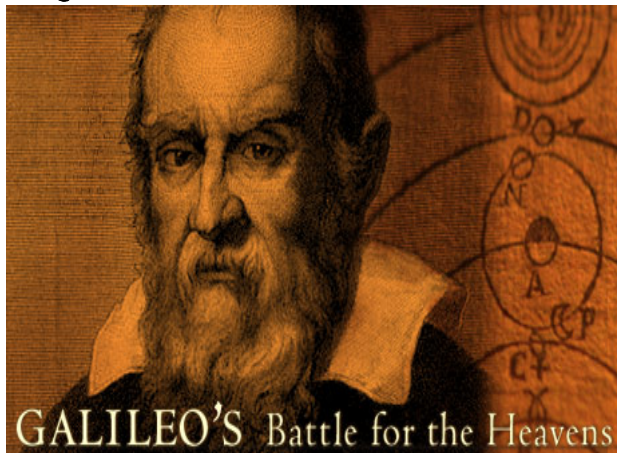


[Q.U.E.S.T.]

[Questions Utilizing Evidence Seeking Truth]

An Immortal Thoughts & actions of Larry Becraft

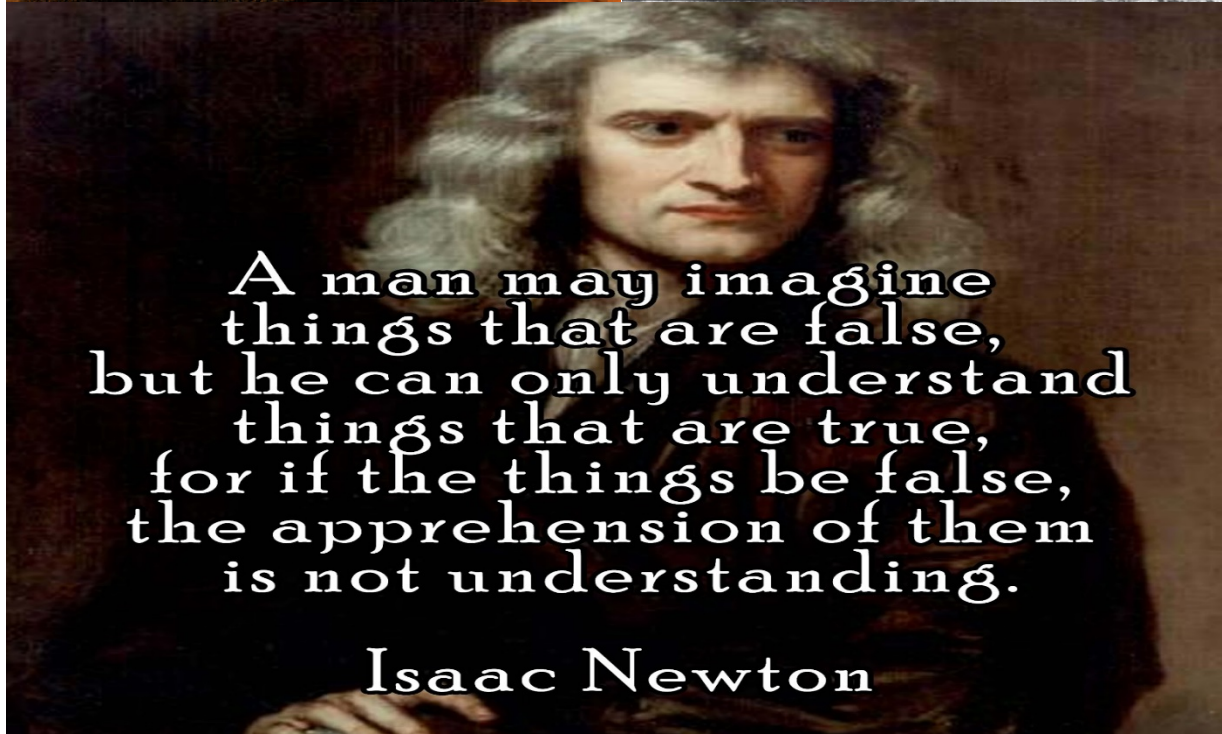
Galileo was imprisoned for holding a belief that conflicted with what everyone else "knew as a fact" and that Columbus, acting on a belief which conflicted with what everyone else knew as a "fact," discovered something no one else thought existed.



GALILEO'S Battle for the Heavens



Columbus & the Promise Land



A man may imagine things that are false, but he can only understand things that are true, for if the things be false, the apprehension of them is not understanding.

Isaac Newton

Law respecting an establishment of religion has a gravity of its own making defying reason, relativity & common rightness

THE BECRAFT LANDMARK CASE

by Frederick Mann

U.S. V. LLOYD R. LONG

The following article is reprinted from the December 1993 edition of *Free Enterprise Society News*, 300 W. Shaw Ave. #205, Clovis, Calif. 93612:

"A not guilty verdict came in the Eastern District of Tennessee in the case of *U.S. v. Lloyd R. Long*, #CR-1-93-91. The verdict came on October 15th, 1993.

This was an amazing case involving the income tax. A Chattanooga jury agreed with the argument by Long that the income tax is actually an excise tax and only applies to certain classes of people.

Nationally prominent attorney Lowell Becraft, of Huntsville Alabama, assisted by attorney Russell J. Leonard of Sewanee, Tennessee, defended Lloyd R. Long of Decherd, Tennessee. Long was charged with willful failure to file income tax returns for 1989 and 1990.

In presenting the case for the IRS, the government, represented by assistant US attorney Curtis Collier assisted by special agent Michael Geasley of the IRS, declared that Long had grossed income in excess of \$49,000.00 for each year, and that he willfully failed to file income tax returns.

The defense admitted that Long had an income in excess of \$49,000.00 for each year in question, and that he did not file a return. He then proceeded to prove to the jury beyond a reasonable doubt that he was not liable for an income tax, nor was he required by law to file.

Defense testimony showed a case titled *Brushaber v. Union Pacific Railroad* wherein it was the unanimous decision of the US Supreme Court that the 16th amendment did not give Congress any new power to tax any new subjects; it merely tried to simplify the way in which the tax was imposed. It also showed that the income tax was in fact an excise tax on corporate privileges and privileged occupations. The defense then brought out a case entitled *Flint v. Stone Tracy* wherein an excise tax was defined as a tax being laid upon the manufacture, sale and consumption of commodities within the country; upon licenses to pursue certain occupations; and upon corporate privileges.

Mr. Long's attorneys also brought out a case entitled *Simms v. Arehns*, wherein the court ruled that the income tax was neither a property tax nor a tax upon occupations of common right, but was an excise tax.

The defense then brought out a case entitled *Redfield v. Fisher*, wherein the court ruled that the individual, unlike the corporation, cannot be taxed for the mere privilege of existing, but that the individual's right to live and own property was a natural right upon which an excise cannot be imposed. Defense also pointed to a couple of studies done by the Congressional Research Service that shows the income tax is an excise.

Next, defense pointed out that in Tennessee Supreme Court case *Jack Cole v. Commissioner* the court ruled that citizens are entitled by right to income or earnings and that right could not be taxed as a privilege. In another Tennessee Supreme Court case *Corn v. Fort* the court ruled that individuals have the right to combine their activities as partnerships; and that this is a natural right independent and antecedent of government.

The prosecution did not challenge or attempt to refute any of these cases cited, or the conclusions of the courts.

Defense brought out in testimony the fact that nowhere in the entire IRS Code was anyone actually made liable for the income tax. They showed that in the IRS's own privacy act notice only three sections were cited, and that none of

these sections made anyone liable for the tax. They also proved that this was not an oversight by showing that the alcohol tax was worded so clearly that no one could misinterpret who was liable for the alcohol tax.

Prosecution did not challenge or attempt to refute this point, nor were they able to show a statute that made anyone liable for the income tax.

Defense then presented the mission statement of the IRS stating that the income tax relied upon voluntary compliance, and a statement from the head of the alcohol and tobacco tax division of the IRS which in essence showed that the income tax is 100% voluntary, as opposed to the alcohol tax, which is 100% mandatory.

Mr. Long stated that in 1989 he knew that the income tax was in fact an excise tax; and that he was not enjoying any corporation; and that income or earnings from the exercise of common right could not be taxed as an excise or otherwise; and that nowhere in the IRS Code was he made liable for the tax; and that the income tax was voluntary. Long then stated he was so intimidated by the IRS that he filed and paid his voluntary assessment.

He then began a series of letters to the IRS explaining that he had no licenses or privileges issued to him by the federal government. He asked for direct answers to simple questions, such as "Am I required to file federal income tax returns?"; and "Am I liable for federal income taxes?" The IRS never gave a direct answer to any questions. Instead they inferred and insinuated and extrapolated and beat around the bush, and generally avoided answering. So Mr. Long testified that he decided to stop volunteering.

The IRS brought in 2 expert witnesses. Both were actually IRS employees who had received training as professional witnesses. Upon cross-examination by Attorney Becraft, one witness, a Ms. Jeu, stated that a secret code known only to the IRS, and encoded on Mr. Long's permanent record, showed that the IRS knew that he was not required to mail or file a return. Ms. Jeu made every effort to avoid this admission to the point that she was beginning to frustrate the jury. The other witness, upon cross-examination by Becraft gave testimony that conflicted with the Privacy Act notice.

The government also attempted to institute "guilt by association" in that they claimed Mr. Long had known and relied upon persons of questionable character. They argued that the writers of some of the books he read and people he knew had been convicted of tax-related charges in the past and were in fact criminals.

Long responded that just because a person had been convicted of a crime by a court, did not invalidate everything said. To illustrate his point, he pointed out that apostle Paul was a murderer, but that by the grace of God he became the greatest of the Apostles. Mr. Long added that he did not rely on anything that he did not personally check out thoroughly.

In summation Attorney Larry Becraft reminded them that Galileo was imprisoned for holding a belief that conflicted with one which everyone else knew as a fact; and that Columbus, acting on a belief which conflicted with what everyone else knew as a fact, discovered something no one else thought existed.

The jury agreed with the defense. By finding Mr. Long "Not Guilty" on all counts they have ventured into history as preservers of freedom.

A Chattanooga TV Station quoted a government spokesman as saying that this case will change the way the IRS will handle such cases in the future. They indicated that they will be less likely to prosecute if a jury isn't going to decide in their favor.

Mr. Long's spirit was best expressed when he was asked for a final statement by a reporter as he was leaving the courtroom. His words: "To God be the glory!"
Congratulations, Lloyd!"

THE BECRAFT STRATEGY

Mr. Becraft's strategy was to establish in court certain weaknesses of the IRS, namely:

- The supposed "income tax" is really an excise tax which only applies to certain classes of people, engaged in certain activities.
- The 16th Amendment grants no additional taxing power to the federal government.
- An individual (as opposed to a corporation) has a natural right to live, work, and own property, without being taxed.
- Individuals have the right to produce earnings and income, not subject to taxation.
- Individuals have the right to combine their activities in the form of partnerships; this is a natural right, **independent of and antecedent to government.**
- Nowhere in the entire Internal Revenue Code is any individual made liable for the income tax. This is not an oversight. In contrast to the income tax, the alcohol tax is so clearly worded that nobody could misinterpret who is liable for it. (The prosecution did not attempt to challenge or refute this point. They were unable to show a statute that makes anyone liable for the income tax.)
- The mission statement of the IRS states that the income tax relies upon voluntary compliance. (The head of the alcohol and tobacco tax division of the IRS has stated to Congress that the income tax is 100% voluntary, while the alcohol tax is 100% mandatory.)

In his own defense Mr. Long then stated the following:

- The income or earnings from the exercise of an individual's common right cannot be taxed as an excise or otherwise.
- Nowhere in the IRS Code does it make him liable for the tax.
- The income tax is voluntary.
- Mr. Long sent the IRS a series of letters, asking the IRS questions such as, "Am I required to file income tax returns?" and "Am I liable for federal income taxes?" The IRS never gave a direct answer to any questions. [Through this series of letters, Mr. Long created a legal foundation. The fact that he believed he was not liable was legally established. This makes it very difficult for Mr. Long to be convicted of a crime, which requires **willful** intent - the knowing intent to do wrong. Mr. Long established that he could not be guilty of **willful** failure to file, because he believed he didn't have to file. This principle has been upheld by the U.S. Supreme Court: "If the defendant had a *subjective* good faith belief, no matter how unreasonable, that he was not required to file a tax return, the government cannot establish that the defendant acted willfully." Cheek v. U.S., 111 S.C. 604 (1991).]

The IRS then brought in their two expert witnesses. One of them, Ms. Jeu, admitted under cross-examination by Mr. Becraft that:

- The IRS used a secret code, known only to them, by which certain people were classified by the IRS as not liable.
- In their own system the IRS had classified Mr. Long as not liable for federal income tax.

The above admissions by the IRS witness must have been the final nails in the coffin of the IRS's case.

COUNTS AND PRE-TRIAL MOTIONS

It is instructive to examine the counts for which Mr. Long was prosecuted, as well as the pre-trial motions. Mr. Long was charged under two counts of willful failure to file income tax returns for 1989 and 1990. After stating in many words that Mr. Long was supposed to file, each count proceeds: "... **that well knowing and believing all of the foregoing, he did willfully fail to make an income tax return...**" Of course, during the trial Mr. Long established that he **did not know and did not believe** that he was supposed to file. The IRS failed to write to him that he was supposed to file, when he requested that information. Furthermore, the IRS had classified Mr. Long as someone not liable. [It boggles the imagination that the IRS could have been so stupid as to prosecute Mr. Long!] **Note that Mr. Long was prosecuted for failure to file tax returns - not for failure to pay federal income taxes.**

Mr. Long filed a motion requesting a bill of particulars to specify which statute he was alleged to have violated, because the statute cited in the counts he was charged with, mentioned only the penalty for willful failure to file, so it must have been some other statute that was allegedly violated.

The prosecution responded with a motion opposing the request for a bill of particulars on the grounds that it was "... typical of motions filed in tax protestor cases. This motion is frivolous and places an unnecessary burden upon the resources of the court..." The request for a bill of particulars was denied.

Next, Mr. Long filed two motions to have a list of the jury panel for his trial released to him at least 30 days before his trial, so he could establish if any of the jurors had been subjected to tax audits or other investigations. The prosecution had no objection to these motions and they were granted.

Mr. Long also filed three motions requesting that a wide range of information concerning the officers who investigated his case, as well as prosecution witnesses, and information relating to IRS administrative and computer systems, be made available to him. The prosecution objected to these motions on the grounds that they were essentially frivolous and typical of tax protestors.

The court denied Mr. Long's motions, with the exception that:

"Upon request of the defendant the government shall permit the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies of portions thereof, which are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belonged to the defendant."

Mr. Long then filed a motion to dismiss the case against him, partly on the grounds that the counts against him failed to charge an offense and that he was not within the purview of the Internal Revenue Code. This motion was dismissed.

Mr. Long also filed a brief to ensure that during the trial he would be able to fully testify in his own defense, submitting as evidence citations of all relevant court cases relating to his defense. This is a very important brief, because it counters the attempt often made by the prosecution in tax cases to prevent the defendant from defending himself, by ruling certain evidence inadmissible.

Specifically, what filing such a brief does is get "on the record" (so it can be used in court later) the "legal foundation" on which the defendant is basing his or her defense. This is important in establishing to the jury "subjective good faith belief" as discussed earlier. This solid legal foundation concerning your "subjective good faith belief" is critical to successfully refute the government's claim that you had the "specific intent" to "willfully avoid a known legal duty."

To reiterate, if you truly believe you have no legal duty - based on your solid, good faith legal foundation - to file, the government is unlikely to be able to prove its case beyond a reasonable doubt to a jury. So you win! Of course, if you lay the proper foundation early, it's extremely unlikely that the government would be foolish enough to prosecute you.

Mr. Long then filed a 22-page brief challenging the admissibility of computer evidence. The basic argument is that evidence derived from computer records long after the event was not admissible. The fact that computer records indicate that someone didn't file doesn't constitute **evidence** that he didn't file. [This brief could have been a "red herring" to misdirect the prosecution into believing that the main thrust of the defense would be that the prosecution couldn't prove that the defendant hadn't filed.

JURY INSTRUCTIONS

A "defendant's supplemental requested jury instructions" was filed. The purpose was to clearly establish in the minds of the jurors what the prosecution had to prove in order to establish guilt. These were the most important requested jury instructions:

- For the government to prove guilt, the following three elements need to be established beyond reasonable doubt:
 1. The defendant is a person required to file a return.
 2. The defendant failed to file a return.
 3. The defendant's failure to file a return was willful.
- The burden is on the prosecution to prove every one of the above elements.
- The defendant may rely on a "good faith defense" - "If a person in good faith believes that he has done all that the law requires, he cannot be guilty of the criminal intent to willfully fail to file a tax return."

FREEDOM TECHNOLOGY

Freedom Technology consists of the knowledge, skills, and methods to live free - the street-smart know-how to outwit freedom-violators at every turn. It also includes the means to protect yourself, your income, and your assets against onslaughts by freedom-violators. Ultimately, Freedom Technology also includes the means to blow away the bogus power of the freedom-violating elite.

The Long case illustrates all these aspects of Freedom Technology. Mr. Long obviously did acquire some knowledge on how to deal with the IRS. He created a legal foundation by writing a series of letters to the IRS. We don't know the details of Mr. Long's legal foundation. Possibly there were some serious weaknesses in his foundation, which led to his prosecution. Of course, it's also likely that he was prosecuted mainly because of the stupidity and incompetence of the government officials concerned.

It's also clear that the prosecution was caught flat-footed, with their pants down. The defense strategy completely outwitted them. They had no answers and couldn't contest any of the evidence relating to the nature of the income tax and who is liable for it. They must have appeared like bungling idiots to the jury.

It's important to realize that the power of the freedom-violators is bogus. People like Lloyd Long and Larry Becraft have the ability to blow away that bogus power - as they did in this case. Every individual has this ability and power. It starts with assuming **personal responsibility**. It grows as you educate yourself. It comes to fruition when you develop the means to say "NO!" to the system. You, personally, have to do it. Don't expect the politicians to do it for you.

Politicians have a clearly vested interest in maintaining the "status quo" to their advantage. They are generally known to be skillful liars and makers of broken promises. **Be true to yourself**. Take your personal power back from the politicians and bureaucrats.

Act on that personal power that is yours and yours alone.

RONALD REAGAN ON THE INCOME TAX SYSTEM

The following article appeared in the *Albuquerque Journal* of May 31, 1985:

Reagan Urges 'Rebellion' On Taxes, Government

WILLIAMSBURG, VA. President Reagan, promoting his new tax plan on the 220th anniversary of a revolutionary speech here by Patrick Henry, urged "rebellion" against Washington Thursday and expressed sympathy for the "cult of cheating" among American taxpayers.

"It's not considered bad behavior," Reagan said of tax cheating and referring to modern American morals. "After all, goes this thinking, what's immoral about cheating a system that is itself a cheat? That isn't a sin, it's a duty.

"Our federal tax system is, in short, utterly impossible, utterly unjust and completely counterproductive. It has earned a rebellion. And it's time we rebelled."

The outdoor crowd of several thousand, assembled on a sunny, picture-postcard day, erupted into cheers and applause as the president issued his now-familiar call for "a second American revolution."

In Williamsburg, Reagan seemed to equate his own campaign for tax simplification with the revolutionary cause of Patrick Henry, who on May 30, 1765, dramatically stood in the Virginia House of Burgesses and demanded repeal of the Stamp Act that recently had been imposed on colonists by their mother country England.

Henry's call for "tax reform" prompted immediate cries of "treason," but his speech fueled a revolutionary fervor that culminated 13 months later in the Declaration of Independence.

Speaking on the steps of the colonial capitol where Henry had orated, Reagan said the federal income tax is "so rigged, so unfair, that it corrupts otherwise honest people by encouraging them to cheat.... The current system just doesn't work anymore. The underground economy and the cult of cheating prove this is so."

Reagan recalled that the Founding Fathers argued, "Why should the fruits of our labors go to the crown across the sea?" He added, "in the same sense, we ask today, why should the fruits of our labors go to the capital across the (Potomac) river?"

The president declared, "Now is the time, in short, to get the federal government off our backs and out of our way."

Attacking both Washington and the income tax as symbols of each other will be a key feature of Reagan's strategy for selling his tax plan, particularly when he travels to middle class, family-oriented communities.

Leaving the ghost of Patrick Henry, Reagan flew later to the Main Street world of Sinclair Lewis in Oshkosh, Wis..

Speaking at the Winnebago County Courthouse Reagan asked: "Do the people of Oshkosh want our tax system to be complicated and unfair?"

"No," came the shouted reply.

The president asserted: "the answers are just the same every place I know of except for one city - Washington, D.C. Sometimes folks back there are a little slow to catch on. I may need some help.""

SOURCES

The U.S. v. Long Transcript plus exhibits of about 600 pages is available from Lloyd Long, 5048 Roarks Cove Rd, Decherd, Tennessee, PZ 37324/TDC; phone (615) 967-1402. The price is \$250 plus shipping. Larry Becraft can be contacted at 209 Lincoln St, Huntsville, AL 35801; phone (205) 533-2535.

A CALL TO ACTION

You may study, use, and spread this vital information. As Ronald Reagan implies, it is a duty to "just say 'no'." You owe this duty, not to broken-promise, lying politicians and bureaucrats, but to yourself.

Look within yourself and know that you are FREE! Take back your personal power. Take back that power in the area of taxes. Do all the research you believe is necessary. If, as a result of that research, you make certain discoveries about your "legal duties," then perhaps in good faith you might determine what you're proper actions should be.

You may determine that the best and most moral action for you is to just say 'no' to lying politicians and bureaucrats. Just say 'yes' to your personal power and individual sovereignty.

<http://www.mind-trek.com/practicl/tl16f.htm>