

# USA VS. LONG

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

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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 they 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!