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The Root of All Evil, Part 2

by Gregory Bresiger

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

— Fourth Amendment to the U.S. Constitution

Sen. William Roth, a fiscal conservative who was one of the authors of the Kemp-Roth tax-cut bill of the early 1980s, correctly linked the IRS's imperious, lawless actions to Congress's spending addictions. More than occasional IRS scandals demonstrated how dangerous this agency was. But lawmakers generally had little interest in what was going on. The IRS, which Roth's 1990s congressional investigation found set quotas for bringing in money, was essential.

Roth warned that Congress has traditionally been interested only in how much money the IRS could raise, not the means used. Indeed, Senate Finance Committee Chairman Daniel Patrick Moynihan conceded that Congress hadn't done a good job policing the IRS:

"What seemed to matter most was that the taxes were getting collected. We have never paid attention either to the organization or to the job we were giving it," said Moynihan, as quoted in Roth's 1999 book, *The Power to Destroy*. Nevertheless, neither Congress nor presidents can pass the responsibility to someone else.

David Keating, of the National Taxpayers Union, quoted in the same book, zeroed in on the problem:

Congress wrote the tax laws, created the IRS, and funds the agency. So who's ultimately responsible for how it works?

Meanwhile, the taxpayer ends up with a heads-he-loses- and-tails-he-loses situation.

On the one hand, most Congresses have grossly overspent, seeing political power as originating in new programs and the extensions of old ones. Therefore, they need a rapacious IRS to keep the leviathan funded and expanding. When the IRS broke laws and wrecked lives, citizens turned for help to Congress, which usually provided none.

Bureaucratic ruthlessness

But what about those members of Congress who were sick of overspending or actually wanted the government to spend and tax less? They were, and are, hesitant to investigate and keep a close watch on the IRS. How many lives and how many businesses does the IRS ruin each year? The implicit threat today by the IRS against members of Congress is: Investigate us and we'll ruin you.

This is more than a threat. Members of Congress who have actually wanted to conduct full-scale investigations of the IRS and its predecessor agencies have been at the receiving end of IRS retaliation.

In the mid 1920s, Michigan Sen. James Couzens announced he wanted to investigate charges of graft that were swirling around the Bureau of Internal Revenue, one of the predecessors of the IRS. Couzens believed there was "widespread corruption and secret deal-making" in the bureau, according to David Burnham's book *A Law unto Itself: Power, Politics, and the IRS*.

A year into his investigation, the Bureau of Internal Revenue suddenly discovered that Couzens owed the government \$11 million. Later, after a long and costly fight through the courts, it was discovered that the government actually owed Couzens a \$1 million refund! The government action had been "a direct act of retaliation" for his investigation, according to Roth.

Other members of Congress who also wanted to investigate in the 1950s, 1960s, and 1970s found themselves the target of investigations. Or sometimes they were suddenly the subject of unflattering stories that were leaked by government officials.

In 1972, soon after Sen. Joseph Montoya of New Mexico announced he was looking into complaints against the IRS, a story was leaked to the *Washington Post* that he had tax problems. After an opponent used illegally disclosed information, Montoya lost reelection.

The power to destroy

The lesson then and now is clear: Anyone, no matter how good his record of paying taxes, can be snared by the power of the taxing authorities.

Supreme Court Justice John Marshall famously said that the "the power to tax involves the power to destroy." But the IRS, like a special prosecutor run amuck, can go one better. Its power to investigate, to raise questions that can be answered only by high-priced counsel or CPAs, certainly is "the power to destroy." That's regardless of whether one wins or losses in court.

Indeed, anyone looking at someone's form 1040, Schedule A, "may learn whether the taxpayer or his family are under medical or psychiatric care. It may also reveal the filer's religious affiliation, the objects and degree of his eleemosynary inclinations, the sources of his borrowed money," according to a 1976 report to Congress.

So the IRS, with its immense data on every taxpayer, its seedy history, and special prosecutor-like power to investigate endlessly, can find something on almost anyone. And there are plenty of ways to get someone. The tax code is already thousands of confusing pages.

Even the IRS often gives out the wrong information over the phone. The code itself is a mess of conflicting rules and cloudy interpretations that can trip up people with decades of tax-preparation experience.

Money Magazine has assembled the best tax-preparation experts, lawyers, and CPAs, and enrolled agents with decades of experience. It has given everyone the same raw information for a tax return. What happens? The people with the most knowledge of the tax code come up with radically different answers. No one is safe, not even a former Treasury secretary.

The case of Andrew Mellon

Andrew Mellon was one of the most controversial Treasury secretaries in history. He was a highly popular official in the 1920s. His support of deep, across-the-board tax cuts combined with fiscal conservatism pulled the nation out of the 1920 depression. It led to a boom until the crash of 1929.

Many associate Mellon with the Great Depression, although his call for more tax-and-spending cuts after the crash was ignored by Herbert Hoover, who sacked him.

(The National Gallery in Washington, D.C., should be known as the Mellon Gallery. It was Mellon's contributions to create the National Gallery, which were made in the last years of his life when he was fighting two bogus tax trials, that created the gallery that Americans enjoy today.)

Franklin Roosevelt targeted Mellon. As president, he had an attorney general and a tax agency that would accommodate his obsession with penalizing the rich. Even before being elected president, Governor Roosevelt, in 1926, called Mellon "the mastermind among the malefactors of great wealth."

Roosevelt and others would later unjustly charge that Mellon had caused the Great Depression. Once elected president, Roosevelt had administrative and legal agencies at his beck and call. He decided to go after financiers such as Mellon.

The government's civil and criminal cases against Mellon were argued over the course of two trials, the second of which wouldn't end until after Mellon's death. Mellon had the resources and the courage to fight them to the end of his life.

Yet, as David Cannadine, a hostile Mellon biographer (*Mellon, an American Life*), wrote, “Throughout his tenure at the Treasury, Mellon had dutifully observed both the rules and conventions for filing tax returns.” Cannadine writes.

His misfortune was that after 1932, the Roosevelt administration was determined to change those rules and conventions and, if possible, to apply those revisions, retroactively, making particular examples of particular rich men.

This is a devastating judgment that should make every taxpayer worry.

Roosevelt, after Mellon was exonerated in the second trial, was asked about the outcome at a press conference. The president disingenuously said he was waiting for a memo from the attorney general and never addressed the issue again. Mellon went to his grave not knowing that he had also won the second trial.

The disgraceful Mellon cases wouldn’t be the first time that the IRS and its predecessor agencies would be used by presidents to carry out political dirty tricks.

But it is not always the IRS itself that abuses its power of information. Sometimes it is presidents who use the IRS’s vast information to wreck a real or perceived political opponent.

For example, Congressman Charles Rangel, a New York Democrat, found himself in the early 1970s on President Nixon’s famous enemies list. “When I got to Washington I was audited six times by the IRS,” Rangel writes in his recent memoir, *And I Haven’t Had a Bad Day Since*.

Tyranny and the income tax

But let us go back beyond the 20th century, back to the founding of the United States, to find the dangers of the powers delegated by Congress to the Treasury Department and its tax-collecting power.

Patrick Henry, at the debate over the adoption of the Constitution, predicted much of what would come to pass. He warned that the national government’s tax gatherers would “ruin you with impunity.” On another occasion, he said, “These harpies [the tax collectors] may search at any time your houses and your most secret recesses.”

Anyone and everyone can be ruined by the tax system and the often lawless, unaccountable government agency charged with enforcing a tax code that confounds. Indeed, I might sleep better if this article had no byline.

It is safer that I quote the dead, such as Patrick Henry, Senator Roth, and Commissioner Andrews. However, that could be dangerous too. The IRS has been known to go after the relatives and ex-spouses of people who supposedly didn’t pay their taxes.

Ultimately, there is only one answer to the dangers posed by the IRS: End the income tax system, which supports the evils of snooping government, a government in which the individual

is held accountable before law, but never administrative agencies such as the IRS or the devious lawmakers who enable them.

The IRS is a key player in our leviathan. Its officials, like George III's tax collectors, are the shock troops of the American Empire, every bit as bad as the British Empire or any other empire ravenous for revenue.

"A government is as strong as its income," wrote Frank Chodorov in *The Income Tax: The Root of All Evil*. "Contrawise," he wrote,

the independence of the people is in direct proportion to the amount of their wealth they can enjoy.

We cannot restore traditional American freedom unless we limit the government's power to tax.

And we cannot restore liberty unless we end the government's backdoor methods of making a mockery of the Fourth Amendment.

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