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Sea-Land Service, Inc.

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March 30, 1984

H. L. SCHUYLER
Director Public Affairs
Alaska Division

TELEPHONE:
(206) 623-6310

Honorable Charlie Bussell
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Bussell:

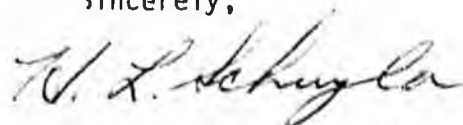
We, in the private sector of the Alaska Transportation System, are concerned over several points in the Alaska Railroad Operational Bill, H.B. 512 (work draft dated March 15, 1984).

There is no doubt that the State of Alaska will need the Alaska Railroad in the future in order to develop its natural resources, assist in the growth of the resource areas, and to move the resources to the closest deepwater port for export. Whether the U.S. Government or the State of Alaska operates the Railroad, it should be preserved; but it should have some oversight to ensure that the Railroad will be an asset to the State and not a liability.

Attached to this letter are some suggestions for changes or amendments which we definitely would like to see in the bill. If the Alaska Railroad were to be allowed to buy other modes of transportation, such as air, truck, and water, the private sector would not be able to compete with them in the marketplace. Reasons: a government entity is not required to service their capital as is the private sector (bank loans at market interest rates, etc.); no consideration for taxes (local, state, and federal); and it is not necessary to show a Return On Investment (R.O.I.). With the above advantages, the Alaska Railroad could price their services to a degree that would be detrimental for private carriers to stay in business and compete.

Hopefully, some consideration can be given to the above suggestions in H.B. 512.

Sincerely,



HLS:kt
Attachment

HOUSE BILL NO. 512

Suggested changes or amendments to House Bill No. 512 from copy of work draft dated 3/15/84.

- 1) Page 1, Line 14, insert the word rail between efficient and transportation.
- 2) Page 1, Line 19, insert the word rail between a and transportation.
- 3) Page 2, Line 28, insert the word rail between economical and transportation.
- 4) Page 6, Line 5, insert the word rail between common and carrier.
- 5) Page 6, Line 10, insert the word rail between economical and transportation on Line 11.
- 6) Page 6, Line 16, at the end of sentence add: rail transportation service.
- 7) Page 12, Line 10, Sec. 42.40.260. Annual Report. Since the Alaska Railroad will belong to the people of the State, shouldn't the Annual Report be made public?
- 8) There does not appear to be any limitation to the Alaska Railroad's ability to purchase other modes of transportation. The Alaska Railroad should not be allowed to enter into the ownership of air, truck, or water transportation. On Page 15, Line 6, Paragraph 20, they are given the ability to contract with other modes of transportation service connecting to the Railroad's rail services. Why should the State invest in other modes of transportation which competes with the private sector who pays market rates for capital and pays local, state, and federal taxes?
- 9) There should be a Pricing Policy statement added to the Bill, such as: When pricing their services in competition with existing private carriers or businesses, the State-owned Alaska Railroad must include a reasonable provision for capital (whether or not provided by State appropriation), taxes (even though exempted), and interest (equal to the private sector rate). Also, policy should state that pricing should be at a level to earn reasonable Return On Investment (R.O.I.).

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LAW OFFICES
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AVRUM M. GROSS
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February 22, 1984

MEMORANDUM

TO: Senate Transportation Committee
FROM: Gross & Burke *GGG JAB*
RE: Organization of Public Corporation to
Operate the Alaska Railroad

At your request, we have reviewed the drafts of SB 10 and SB 352, with a view toward determining the extent to which those bills create a valid legal structure to operate the Alaska Railroad after its proposed purchase. Initially, we were asked whether the legislature had the power to require that gubernatorial appointments to the governing authority^{1/} of the railroad be confirmed by the legislature. Both SB 352 and SB 10 presently require confirmation of executive appointments. At a second committee hearing we were requested to advise you of the minimum number of executive branch controls which must be placed on any entity created by law to operate the railroad to insure that the entity would be a part of the executive branch and, therefore, constitutionally sound. We shall answer the questions in the order posed.

SB 10 and SB 352 both provide that appointments made by the Governor be confirmed by the legislature in joint session.

1/ SB 10 speaks of an "Authority" while SB 352 creates a similar organization but describes it as the "Railroad Corporation." Purely for the purposes of simplicity, we will refer to the basic organizational structure at issue here as an "Authority."

We assume that if a similar section remains in a bill, which passes the legislature, the Governor will probably choose to submit the names of his appointees for confirmation just as he submits his appointees to a host of other boards and commissions in state government. It is our opinion, however, that should an occasion arise when the Governor decides not to submit a name or names for confirmation, the legislature would have no legal right to insist he do so.

Our conclusion is based both on the words of the Alaska Constitution and a decision of the Alaska Supreme Court.

The constitution provides in Art. III, sec. 25 that:

The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the Governor, subject to confirmation by a majority of the members of the legislature in joint session . . .

Sec. 26 of the same article states that:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the Governor subject to confirmation by a majority of the members of the legislature in joint session . . .

The wording of the constitution is clear on its face. The legislature may confirm the heads of all departments, whether they are single executive officers or a board. The legislature may also confirm boards or commissions which are "regulatory or quasi-judicial" agencies. A regulatory authority is, as it implies, one whose basic function is to regulate a particular public activity. The Fish and Game Board is a classic example of such a regulatory board. A quasi-judicial

agency is one in which individual rights are adjudicated. An example of such a board would be the Public Utilities Commission, where contested proceedings determine rates.

The Railroad Authority as established in SB 352 or SB 10 fits under none of these definitions. It is not at the head of a department^{2/} nor is it a quasi-judicial or regulatory agency. Under the constitution, then, the legislature has no power to confirm executive appointments to the Authority, unless the legislature can add to the powers of confirmation which are granted in the constitution.

The legislature attempted to do just that in 1975 when it passed a statute authorizing confirmation of a whole list of lesser executive branch officials, including deputy commissioners and certain division directors. The Alaska Supreme Court held that the statute granting the legislature the additional confirmation power was unconstitutional. Bradner v. Hammond, 553 P.2d 1 (Ak. 1976) In the Supreme Court's view, the power to appoint to positions in the executive branch is a power reserved to the Governor under the doctrine of separation of power, except as the constitution permits the legislature to participate in the process through confirmation. If the constitution does not specifically

^{2/} We recognize that SB 352 provides, "The corporation shall be considered a principal department only for the purposes of Art. III, sec. 26, Constitution of the State of Alaska." (emphasis added) In our view, however, the courts would almost certainly view this purely nominal designation as one purely of form, since the bill does not actually establish a new department with the kinds of gubernatorial controls normally associated with a principal department of state government. This issue of gubernatorial controls is addressed in detail later in this memorandum.

authorize confirmation, there is no legal power to do so and the Governor's power of appointment can not be subjected to confirmation by the legislature. Put another way, the Bradner case holds that the constitution states the outer limits of legislative powers of confirmation; the legislature may not expand that power by statute. While neither SB 10 or SB 352, as presently structured, would withstand constitutional challenge on the issue of confirmation, there are options available to the legislature which would provide a valid legal basis for the confirmation of appointments. We will set these options out briefly for your consideration.

The first and most obvious manner for the legislature to obtain confirmation power is to pass a joint resolution placing before the voters a constitutional amendment that would specifically authorize the legislature to confirm appointments to the Railroad Authority. This amendment could be placed before the voters during this year's election. If the amendment passed, the first appointees of the Governor to the authority or commission would be constitutionally subject to confirmation; if it did not pass, the situation would remain as it is today -- confirmation if and when the Governor chooses to submit the names. We should note that following the Braune case a constitutional amendment granting broad additional confirmation powers to the legislature was put before the voters and failed, but whether that would be the fate of a more narrowly drawn provision would be difficult to predict.

The second option to insure confirmation would be to create an entirely new department of state government, which would be headed by the Railroad Authority. The sole purpose that new department would be to the railroad. In such an instance, the Authority would be at the head of a department and under Art. III, sec. 26 of the Alaska Constitution, the members of the Authority, would be subject to confirmation. There are, however, certain serious problems which might result from this approach. One of the basic purposes of the present bills creating an independent public corporation or authority (located nominally within a department) is to permit the Railroad Authority to raise money for operations without involving the general credit of the state. If, however, the authority which manages the railroad is a full department of state government there is some real question about its ability to successfully perform this fundraising activity without the involvement of state credit. Art. IX, sec. 8 of the constitution provides that no state debt may be incurred unless (1) it is authorized by law; (2) is for capital improvements; and (3) is ratified by the voters. Sec. XI of the same article provides that the restrictions of sec. 8 do not apply to debts incurred through revenue bonds issued by public corporations or public enterprises of the state when the only security is the revenue of the enterprise or the corporation. Whether or not an entire department of state government can be made a "public corporation" or whether

or not the entire activity of a department of state government would qualify as a "public enterprise" are questions that have never been decided in this state by any court. While the committee can certainly receive advice from legal counsel as to the possible or probable outcome of litigation on these subjects, it would at best be an educated guess. The result might well be that in order to obtain confirmation powers the committee would create a department which, in the end, might be subject to the same bonding restrictions applicable to all other departments of state government. I gather there is no disagreement within the committee that such a result would be highly undesirable. We cannot recommend this method of insuring confirmation powers because the risks are simply too great -- the legislature would be in totally uncharted waters and the magnitude of the questions involved is simply too great to accept that degree of risk.

Having discussed the issue of confirmation, we now move to the second issue posed by the committee. Specifically, that question involves the extent to which a public corporation may be established independently of the authority of executive branch and yet be a part of that branch of government. Art. III, sec. 22 of our constitution requires that all agencies of state government and their respective functions shall be allocated within no more than 20 principal departments.

The only exceptions provided are for "regulatory, quasi-judicial, and temporary agencies." As we view the functions of the operation of the Railroad -- whatever form of entity is chosen -- those functions are not primarily "regulatory" or "quasi-judicial." Further, the railroad operation would not necessarily be "temporary." Although conceivably the railroad could be sold or leased at some point in the future to a private corporation, the existence of the operating entity could well be permanent.

We think it is clear that the Alaska Supreme Court would view the Railroad Authority as performing operational or executive functions and would, therefore, require that the Authority be either a separate principal department or located within one of the already established principal departments. We have already reviewed the problems that would be created if the Railroad Authority would be made the head of an entirely separate principal department. Therefore, we are left with the conclusion that the only other constitutionally sound option is to place the governing board or authority within an existing department of state government.

Simply stated, then, the legal issue you have asked reduces itself to this. On the one hand, the legislature seeks to create an "independent" authority -- one which has financial and political autonomy and is not subject to direct gubernatorial control. On the other hand, the constitution

requires that all executive or managerial functions be a part of the executive branch, which, in turn, is under the supervision and control of the Governor. What then are the limits -- how much gubernatorial control is required to make the "independent" authority a constitutionally valid part of state government?

The cases that the Alaska Supreme Court has reviewed concerning the requirements of Art. III, sec. 22 make it clear that more than mere nominal placement of an independent corporate entity within a department in the executive branch is required. For example, in De Armond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962), it was claimed that the legislation creating the Alaska State Development Corporation was unconstitutional because it sought to create an independent agency that was nominally within the Department of Commerce, but which the challengers claimed was not in actuality within that department. The Alaska Supreme Court rejected this contention and upheld the constitutionality of the Development Corporation. In doing so, the court enumerated a number of features contained in the enabling legislation for the corporation, which demonstrated sufficient ties with the Department of Commerce to justify the conclusion that the corporation was (at least for constitutional purposes) truly within the Department of Commerce.

The factors that the court cited were as follows:

(1) the Commissioner of Commerce had a permanent seat on the board of directors and thus had "considerable influence" on the board;

(2) the other six members of the board were appointed by the Governor, and served at his pleasure;

(3) the board was required to submit comprehensive annual reports to the Governor and legislature;

(4) the financial records were to be audited annually by the legislative auditor; and

(5) the state's bank examiner was required to examine the corporation's records each year.

Additionally, although the court did not make clear what significance this fact had, it noted that the corporation was "temporary" and could be dissolved by a majority vote of the board subject to legislative approval.

Four years later, the court reviewed a similar challenge to the constitutionality of the Alaska State Mortgage Association; i.e. that it was only a nominal rather than a legitimate part of the department of state government in which it had been placed. Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966). The court, however, noted that the mortgage association legislation contained most of the same features which it had cited in De Armond to support its conclusion that the development corporation was properly established within a department of state government. Like

the development corporation in De Armond, the mortgage association members were appointed by the Governor and served at his pleasure. The commissioner of Commerce had a permanent seat on the board of the association. Additionally, the court noted that as further evidence of gubernatorial control, the mortgage association was required to submit detailed annual reports to the Governor and legislature, the financial records were subject to an annual legislative audit, and certified copies of the minutes of every meeting of the association were required to be sent to the Governor.

Neither of these decisions, unfortunately, provide any guidance on the question of the minimum number of factors that will be required in order to meet the constitutional requirements of executive supervision or control. In both cases, however, the court seemed to emphasize two factors over and above all the others. The first was that board members served at the pleasure of the Governor. The second was that the Commissioner of the department within which these independent entities were located served on the board and was a full voting member. These two features were emphasized by the court to demonstrate that the Governor exercised at least partial control over the activities of the board. The court, for instance, noted that while the commissioner was only a single member of a multi-member board his position as a cabinet member would give him

substantial influence. The court further emphasized that the Governor was in a position to exercise influence on an otherwise independent board through the fact if there were a real disagreement in policy, he could exert control over the board members through his ultimate power to reeve them. The court, in Walker, cited with approval language from the Superior Court decision in the case to this effect:

If the Governor is dissatisfied with the executive director in either his capacity as a member of the Alaska State Housing Authority or the Alaska State Mortgage Association, he can assert his authority over the board members to effect the director's removal, and should they disregard his wishes, his alternative is to appoint members to the board who will appoint an executive director satisfactory to the Governor.

Walker, at 250 n.19.

At the same time, the court recognized that there may be important and legitimate reasons for the legislature to insulate a board or authority from direct gubernatorial influence over particular decisions. In the courts words:

It is true that the Commissioner of Commerce can not dictate the decisions of the Board. Nor can any other state official It is quite apparent that the legislature intended the board to be free from outside control in making decisions on particular loans.

De Armond, at 724 (emphasis added).

Nonetheless, it is clear from the decisions that there are limits to the degree of insulation that the court will

tolerate and still uphold the constitutionality of the placement of the independent corporation nominally within a department of state government.

Accordingly, it is our view that to insure constitutionality of this bill the legislature should, at an absolute minimum:

1. create an independent authority which is part of an enumerated department of state government;
2. provide that the board for the public corporation or authority be comprised of persons appointed by the Governor and who serve at his pleasure;^{3/} and
3. that the commissioner of the department in which the authority is placed serve as a voting member of the board.

3/ There is a secondary, but perhaps no less important, reason why the appointees to the governing body of the railroad should serve at the Governor's pleasure. As a constitutional matter, there is a serious question as to whether any appointee of the executive branch with the exception of those who serve in regulatory or quasi-judicial positions can be subject to any other restrictions but that they serve at the Governor's pleasure. The U.S. Supreme Court has interpreted that under the federal constitution, if an office is "executive" in nature, legislative efforts to restrict the president's power to remove an official are invalid. Myers v. United States, 272 U.S. 178. That opinion has been modified slightly in Humphries Executor v. United States, 295 U.S. 602, as the court held that a member of the Federal Trade Commission could have his term set by Congress and be insulated from removal by the president, but the court was clear to limit its opinion to quasi-legislative or judicial agencies, i.e. those that were actually passing regulations or resolving legal disputes as their prime function. The Railroad Authority would fall in neither of these categories, but would be within a traditional executive agency structure.

We raise this issue because we can be reasonably sure that the content of this bill will be litigated in the courts, if there is any reasonable basis to do so. The appointment of commissioners to the Railroad Authority who serve at the Governor's pleasure would reduce the possibility of legal attack on yet another basis.

It would be advisable, as well, to include at least some of the kinds of provisions (such as the annual reports to the Governor and legislative audits) which the court in De Armond cited as significant, although these may not be essential. Beyond that, the legislature may, in our view, limit the application of acts such as the Executive Budget Act, Administrative Procedures Act and others which impact most executive branch agencies, but are not, in our view, critical to upholding the constitutionality of this public corporation structure.

AMG/SAB/yw



**YOUR
INTRODUCTION
TO THE
LIBERTY AMENDMENT**

Questions and Answers

by

Rep. Larry McDonald (D-Ga)

CONGRESSIONAL RECORD — October 9, 1975 H 10015—H 10022



Rep. Larry McDonald (D-Ga)

Mr. McDONALD of Georgia. Mr. Speaker, the average American is acutely aware that he is rapidly losing his liberty. Government takes 48 percent of his income in taxes, while inflation devalues the remaining 52 percent. The marvelous, highly productive economy, of which he is a part, once free, is now grinding to a halt under the massive weight of Government controls. Decisions that were once his to make—the kind of food he eats, the kind of car he drives, how and where his children are educated—are now being made by Government bureaucrats.

In short, he is losing control over his life and faces a

bleak and uncertain future. But what can he do about it? The Government has grown so huge and complex that he feels helpless in attempting to control it. Where would he begin. Going about it piecemeal—abolishing a welfare program here, a regulation there, and restoring a few freedoms along the way—would take forever.

There is, however, a much faster and simpler way of reducing the size and power of Government and restoring individual liberties: amend the Constitution to reinstate the constitutionally limited Government envisioned by our Founding Fathers. The Constitution is a document designed to limit the power of Government and it is because Government has grown far outside the bounds of the Constitution that we are losing our liberty. An amendment that restored proper limits on Government power would automatically eliminate programs and policies that have infringed on the rights and freedoms of Americans.

Such an amendment already exists. It was introduced in the present Congress as House Joint Resolution 23 by John Rousselot of California, Steve Symms of Idaho, and myself. Known as the Liberty amendment, it has been introduced in previous Congresses and has been approved by the legislatures of seven States, including my own State of Georgia.

Since its introduction on January 14 of this year, I have had numerous requests for information on just what it would accomplish. Often these requests are in the form of questions, the answers to which in turn generated further questions. In response, I have prepared the following series of questions and answers on the Liberty amendment.

1. "What is the Liberty amendment?"

The Liberty amendment is a proposed amendment to the U.S. Constitution which would put an end to the Government engaging in business enterprises that are not constitutionally authorized. Getting the Government out of these businesses, returning them to State jurisdiction and private taxpaying enterprise, would cut the cost of Government more than half, and thereby end the need for the Federal individual income tax, which would be repealed.

The first section provides:

"The Government of the United States shall not engage in any business, professional, commercial, financial or industrial enterprise except as specified in the Constitution."

This clause will cut the cost of Government in half, making possible the repeal of the 16th—income tax—amendment, cut the national debt tremendously, get us back to a balanced budget and stop inflation.

2. "Just what are some of the businesses the Government is in?"

Some of the larger are the Commodity Credit Corporation, a loan company; the Tennessee Valley Authority, a gigantic producer and distributor of electric power and fertilizer; and the Federal Crop Insurance Corporation, an intrusion into the Insurance field. The book, "Where the Money Went," by Willis Stone, lists over 500 others.

3. "But how about all those people who will lose their jobs if the Liberty amendment is adopted?"

Employees of Government businesses that are bought will be better off than before because under private ownership and management the business will prosper. This happened in the case of the General Aniline & Film Co.—now the GAF—and others already sold. Employees of Government businesses with no valid economic purpose, will probably have to look for other jobs, but if they want work they will have no problems. When people have money now taken by the income tax, their increased purchasing power will expand all kinds of business which will create a great need for more employees. There will be more jobs than people to fill them.

4. "How would you get the Government out of these businesses? Who would buy them?"

These business enterprises would be bought by people who want to invest their money, just as other businesses are bought and sold. In 1965 the General Aniline & Film Co., which the Government seized at the beginning of World War II, was sold as a stock corporation. The shares were offered on the open market, and in 1 day 11 million shares of stock were bought for more than \$300 million.

A few years earlier the Inland Waterways Corp. was sold in a matter of days for \$11 million, although its book value at the time was only slightly over \$3 million.

Any businesses that have a valid economic reason for existing would be salable. Those which are economically unsound and guaranteed money losers would be liquidated through the sales of their assets. The proceeds of these sales would reduce our national debt by approximately 25 percent.

5. "How can Government get along if the income tax is repealed? What will they do for money?"

The latest Federal budget shows that individual income taxes supply only 42 percent of the Federal revenue; the rest comes from other sources. There is ample documentation to prove that getting the Federal Government out of these unauthorized businesses would cut the cost of Government at least 50 percent, while revenue is reduced only 42 percent, would give a surplus of 8 percent.

6. "Is the only purpose of the Liberty Amendment just to get the Government out of business and to repeal the income tax?"

Partially. The Liberty Amendment will get the Government out of those businesses it operates without constitutional authority. As a consequence, Government costs will be reduced to such an extent that the Federal Government will not need the personal income tax. The main purpose of the Liberty Amendment, however, is to restore the Constitution to full force and effect. Then the Government will be confined to the business of governing—of protecting individual liberties—and no longer compete with its own citizens.... Repeal of the income tax will increase take home pay 20 percent without changing the rate of pay or the price of things.

7. "Why amend the Constitution? Is not there an easier and quicker way?"

In almost two centuries our Constitution has been amended a comparatively few times. The first 10 amendments—Bill of Rights—were added almost immediately after the Constitution was ratified—in December, 1791—and there have been only 16 added since then. This may seem too slow, but any amendment is unique in that it supersedes anything preceding it which is contrary to it.

Only through an amendment, will we be able to correct the present distortion of our basic law. The Liberty Amendment will clarify the terms of our freedom, rectify the current conflict between Government and people, define our economic liberties and force the Government to abide by that definition.

8. "What freedoms have I lost?"

Year after year our freedoms have been shrinking, by restriction upon restriction, tax upon tax, edict upon edict. Here are a few of the many freedoms lost which were once considered your natural right as Americans.

You do not have sound money any more.

You are not free to plan your future as inflation makes you dollar buy less and less.

You can neither rent, sell, buy, nor exchange without political control.

Neither an employer nor an employee can establish a wage by mutual consent.

You can not operate a business without Government consent and restrictions, and without acting as tax collector.

A doctor can no longer keep his patient's history confidential, or serve patients without Government intervention.

You no longer can receive a full day's pay for a full day's work.

You no longer have any real privacy.

Bank accounts are open to scrutiny, personal affairs

are fed into computers, and the last vestiges of privacy are fading into memory. Your private life is no longer private.

9. "If Government continues to grow bigger and bigger, what is going to be the outcome?"

The answer is simple. Growing at its present rate, there is but one ultimate answer—we shall soon have a totalitarian government. Whether we call it communism or by some other name, the despotism imposed will be as terrifying as any other in history.

10. "Haven't there always been waste and corruption in government?"

Waste and corruption in government are nothing new. The bigger government grows, the greater are the opportunities for pork-barrel politics, and the takeover of economic power and resources.

It was this that caused the American Revolution, and our Founding Fathers tried to prevent its recurrence through our Constitution of strictly limited powers.

11. "Was the progressive income tax invented by Karl Marx?"



No, Karl Marx did not invent it. The progressive income tax is almost as old as recorded history, and is the historic way by which people have been subjugated. Every tyrant in history has used it successfully, in one way or another, so Karl Marx included it as one of his 10 rules in the communist Manifesto. The men who drafted our Constitution carefully prohibited a progressive income tax, but this was nullified in 1913. Therefore, the income tax is part of the Constitution and part of our law

and the only way to get rid of it is through another amendment.

12. "Is not the Federal income tax unconstitutional?"

The Federal income tax is completely constitutional as long as we have the 16th amendment. The statement that it is unconstitutional is wishful thinking. All of the hideous consequences of the 16th amendment will remain with us until it is repealed as the Liberty Amendment provides.

13. "Is not the progressive income tax the fairest kind of tax because it is based on ability to pay?"

It may be made to sound fair, but it does not work that way. Actually, it is a form of slavery, draining the life energy of a person, penalizing success, and destroying initiative.

If you are poor enough, you do not pay; and if you are rich enough, you do not pay either. If you are a responsible productive worker, you carry the load. Tax foundation figures prove you work until the middle of May each year just to pay taxes.

14. "Why eliminate the personal income tax? Why not reduce taxes gradually?"

This question is usually asked to divert attention from the Liberty amendment, designed to cut spending not authorized by the Constitution, which will remove the need for the income tax. Eliminating the Federal income tax is the only way to get tax relief for the people.

Political candidates may talk about cutting taxes, but historically this never happens. The application of the Liberty amendment can actually do it.

15. "What will replace the income tax?"

Nothing need replace the income tax. Reduced spending imposed by the Liberty amendment will remove the need for income taxes. Recent Government budgets estimate that only 42 percent of revenue comes from individual income taxes. Excise taxes, duties and imposts and other miscellaneous revenues provide the other 58 percent of revenues. The amendment will cut spending 50 percent, removing the need for income taxes and make tax cuts possible in other areas.

16. "How are you going about getting the Liberty amendment passed?"

The fifth article of the Constitution prescribes two valid methods for amending the Constitution. An amendment may be proposed by two-thirds of both Houses of Congress concurring; or the legislatures of two-thirds of the several States—34—may require Congress to call a Constitutional Convention to propose such amendments, which, in either case, become a part of the Constitution when three-quarters—38 States—ratify a proposed amendment.

The Liberty Amendment resolution is being advanced in both ways. It is now pending in Congress as House Joint Resolution 23. It has also been approved by the Legislatures in seven of the sovereign States and is pending in several others.

17. "Why are you going to State legislatures to amend the Federal Constitution?"

The fifth article of the Constitution provides this method of causing the amendments to be proposed. Then, too, the States must eventually ratify to make it a part of the Constitution. This country consists of a union of sovereign States which hold the only power to ratify amendments and State legislatures hold concurrent power under the Constitution to initiate such amendments as they, the States and the people within them, require.

18. "Who's behind the Liberty Amendment? Where does the money come from?"

The folks behind the Liberty Amendment are just ordinary people with an extraordinary desire to hold fast to the ideals on which this country was founded. The organization is nonpolitical, nonpartisan, nonbigoted, nonsectarian, and certainly nonprofitable. Its aim is to educate the public on the values of the Constitution and the means of restoring it before it is too late. Neither big business nor big labor, per se, has subscribed to the Liberty Amendment. Its financial support depends upon contributions—some small, some larger—from folks in every State. With the exception of an understaffed headquarters office, everyone is an unpaid volunteer, including national chairman, directors, State chairmen, committeemen and members.

19. "Why allow only 3 years for the Government to sell all those businesses? Won't they need more time than?"

Three years is adequate and we have ample proof of it. Inland Waterways Corp. was sold in a matter of days. The General Aniline and Film Corp., nationalized in World War II, was sold on the open market in a single day for more than \$300,000,000. The liquidation of the entire synthetic rubber industry was accomplished and fully paid for by private enterprise in less than 9 months. These and many other cases are discussed in the book, "Where the Money Went," by Willis Stone.

Properties and facilities affected that are not sold within the 3 years will revert to state jurisdiction.

20. "I think the Liberty Amendment is a good idea, but isn't it too late?"

No. It is not too late. It is never too late to stop the process of political confiscation as long as the amendment process can still be employed.

21. "Why do politicians make wild promises to give 'something to everybody' even when they know they cannot according to the Constitution?"

Men of high integrity in their personal lives often enter politics and adopt a new set of values in a game of bargaining for power. When they acquire a thirst for power, they resent being hampered by the Constitution, the Liberty Amendment, or anything else.

Legislators can be restrained, however, by the voter at the polls who will vote against every candidate who violates the Constitution. Know what the Constitution guarantees, and then require all candidates and office holders to support basic American principles.

22. "Is not the Constitution too oldfashioned for today's complex society?"

Our Constitution, written almost 200 years ago, appears made for today's world which accents youth and change. The Constitution of the United States is a most revolutionary document, because it was based upon the radical idea that men should be left largely free to pursue their own affairs.

The men who drafted the Constitution foresaw that our life style would change, but human nature would not.

They built into the Constitution safeguards to make it possible for people to control the avarice and bullying instincts of politicians when they taste power. As Thomas Jefferson said:

"Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

23. "Does the 'general welfare' clause in the Constitution mean that the Government is responsible for our well-being?"



Probably one of the most misused phrases is the "general welfare clause." It is often taken out of context and distorted unmercifully. The term "general welfare" appears only twice in the Constitution: once, in the Preamble as one of the general purposes of the Constitution, and again in article 1, section 8, as one of the reasons why the Constitution grants to Congress certain specified powers. The two words—general welfare—are just two descriptive words in a phrase, within a clause, within a single sentence which is 18 paragraphs in length. It is used by the unscrupulous as a peg on which to hang their pet schemes which violate the intent and purposes of the Constitution.

24. "Do you think the courts that now ignore the Constitution will abide by the terms of the Liberty Amendment when it is added to the Constitution?"

Of course they will. Once the people speak, and the Liberty Amendment is added to the Constitution, all courts and other Federal agencies will be compelled to abide by it.

As a classic precedent for this: more than a century ago slavery was lawful in certain States. The courts were ruling that it was lawful in other States, regardless of

State laws and State constitutions. This is the conflict which brought about the Civil War. The 13th amendment resolved the question by abolishing slavery and involuntary servitude. That amendment invalidated hundreds of court decisions and statutes, and the question was settled with apparent permanence. Similarly, the Liberty Amendment will restore the equities and justice of the Constitution as written and wipe out all court decisions, statutes, Executive Orders, or bureaucratic directives and regulations which are contrary to it.

25. "If only Congress has the power to write Federal laws, where does the President get his authority to issue Executive Orders, such as ceilings on rents, prices, and wages?"



Executive Orders originally were issued by the Chief Executive to members of the executive branch relating to the conduct of their assigned duties. This has changed until now they have the power of law. The fact that it has been accepted as law by the administration does not make it any more legal.

An Executive Order which assumes a legislative power is improper as it has no constitutional authority. The President has no legitimate power to issue Executive Orders that legislate. Neither does any agency of Government have any power to issue "regulations" which legislate. Congress alone has the power to legislate, as provided for in article 1, section 1 of the Constitution and limited as article 6, paragraph 2 provides.

26. "The book, 'Where the money Went,' says the Patent Office, the Central Intelligence Agency, Defense Department, and other agencies will be affected by the Liberty Amendment. Would these have to be sold?"

No, these agencies and a great many others on the list will not be abolished, because they do have important

constitutional functions but those activities which are not constitutionally authorized will end.

These agencies appear in the book because their activities have extended into areas not constitutionally authorized.

The Patent Office, for instance, has produced electronic equipment in competition with private enterprise. The Defense Department is operating railroads, barge lines, hotels, restaurants, saloons, and they even manufacture ladies underwear. The Central Intelligence Agency, according to the U.S. budget, is engaged also in roadbuilding, real estate, and property management.

27. "Who, other than the Federal Government, could possibly carry out the really big jobs, such as flood control, or drought relief?"

Individuals, local districts, and States have the ability to handle all such problems themselves without depending upon Washington, D.C.

Actually, the Federal Government spends our tax money lavishly, while pretending to do for us what we can do better for ourselves. The big jobs they undertake almost invariably are badly done and cost twice as much as they should. When a crisis arises the problems are of a local nature, interest is high, and the people directly affected are far better able to know and work out their own problems than someone from the Federal Government.

Hoover Dam was built by private enterprise, whereas Tennessee Valley Authority was built by the Federal Government and so far it has cost the taxpayers billions of dollars. Our Constitution grants to the Federal Government no authority to take on responsibility for such things as disaster relief or flood control.

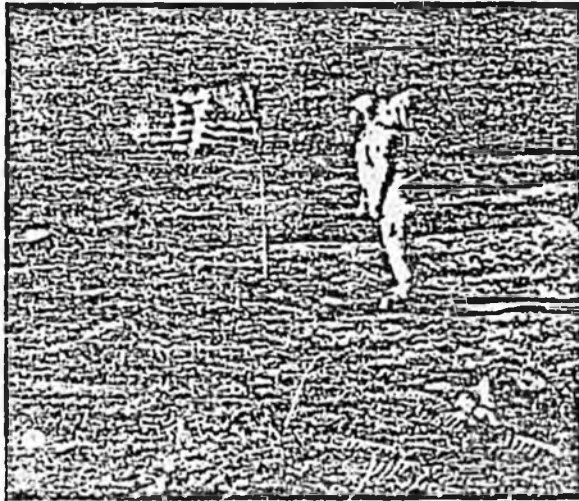
28. "How could local and State government get along without Federal aid to finance such things as care of the handicapped and the needy?"

The only way the people within our States and localities can ever handle these local problems is by stopping federal intrusion into our domestic affairs. The Federal Government's job is to govern and regulate and protect us from external dangers. It is failing in this, its assigned task, while assuming the power to invade sovereign

States to meddle in the problem of people and their localities.

It is commonly believed that the Federal Government owes its citizens help in every form, but it has no such authority. When the Federal Government gives to one person, it must take from someone else. If you are a taxpayer, it is your money that is being thus-misused. As a people, Americans are the first to rush to the aid of those less fortunate. If we could take home a full pay check, we would provide our local facilities and private charities with the means for handling all problems of the handicapped and needy.

29. "Will the Liberty Amendment force us to abandon such projects as space exploration and super-highways?"



Not necessarily. It will return to the people only those activities which the Federal Government has taken over without constitutional authority. A great highway system was built under local jurisdiction and paid for by local taxes or gasoline taxes at the pump. These expanded from country lanes to superhighways, and only recently has the Federal Government invaded this field, expanding the costs and producing not a single mile of road that could not have been done better within the local jurisdiction at far less cost.

The Federal Government has a valid interest in space from a military standpoint, but the assumption that only Government can carry through large projects is not correct. For example, Telstar was designed, built, and launched by American Telephone & Telegraph Co.

30. "Do you not believe that Federal aid to education is essential if every child is to have an equal opportunity?"

No one will disagree that every child should have a good education. The question is, whose responsibility is it?

"Education" *per se* is not mentioned in the Constitution, and consequently, under the 10th amendment, this activity is reserved to the States. Federal aid to education produces Federal control of education, and this has proved most detrimental.

31. "How will the Liberty Amendment affect civil rights for minority groups?"

When the Constitution is restored, everyone, regardless of race, will enjoy equity and equality before the law. The Liberty Amendment is a friend to all minority groups, for its purpose is to preserve and guarantee true civil rights to all people—equally. Some people have been encouraged by certain politicians to expect very unequal "civil rights," through the enactment of special interest laws and special subsidies.

32. "What effect will the Liberty Amendment have on veterans' benefits?"

Almost every family numbers a veteran among its members. Adding the Liberty Amendment to the Constitution would in no way nullify the obligation of Congress to recruit and provide for an armed force and to care for that force and everyone in it. Service-connected disabilities would be an obligation, as always, and the powers and obligations to care for the Armed Forces would be in no way affected. The abuses developed in this field will, of course, stop.

33. "How will the Liberty Amendment affect the Indians and their reservations?"

The Liberty Amendment will emancipate Indians, as the 13th amendment emancipated the slaves in 1863.

The Bureau of Indian Affairs controls those lands, and the Indians cannot improve their environment or themselves.

Indians must be elevated to the status of first-class citizens, rather than wards of the Government. Because the Liberty Amendment deals specifically with economic freedom for all people, the Indians will be set free—free to administer their own lands, to improve, develop, buy and sell—just the same as every other person in this country.

34. "If the Federal urban renewal program should end, how could we possibly modernize our cities?"

The modernization of cities must rest with the people, at the local level of government, for that responsibility is not given to the Federal Government under the Constitution.

The Federal urban renewal program has used our tax dollars to drive out property owners, often in the lower income group, and then turn them over to affluent and generally politically powerful persons for renewal devised by the bureaucrats.

Private citizens, unhampered by the horrendous burden of taxes, Government restrictions and regulations, would proudly invest their money and effort to keep their cities up to date.

35. "What will happen to farm subsidies? Can the American farmer survive without help from the Federal Government?"

The farm subsidy program is probably the most tragic example of what happens when government disregards the Constitution and intervenes in free enterprise.

Farm subsidies have raised the price of farm products and consequently increased the consumer's food bill. The bulk of the billions in subsidies go to the factory-type operations which have driven out the real farmers. And every farmer—big and small—has lost the freedom to plant the crops of his choice and sell the product of his toil at the best possible price in the free market.

John Scott of Gilby, N.C., states the case:

"We who remain on the farms and ranches of this nation are fighting for survival. We simply cannot endure a continuation of the restrictions, regulations, and meddling that beset us these forty years . . . We need an end to federal farm programs . . . We ask for a free market of supply and demand."

And we who pay the food bill, ask for the same.

36. "What about the social security system?"

Until recently there were few dissenting voices on the

subject of social security but it is now being given much scrutiny. The facts now being revealed show social security is: First, not insurance because the so-called premiums we are forced to pay are really a tax on wages, paid into a general fund. The Congress appropriates those funds to many Government agencies. The tax on wages and funds appropriated to Social Security are not necessarily similar. Second, the operation is not social, because it is compulsory. Third, it is not secure, as it is subject to any alteration at any time, and there is no contract. Neither is funding as required of insurance companies, and is therefore, hopelessly in debt with contingent liabilities of almost half a trillion dollars.

Unfortunately, Social Security is so many different things that its ultimate fate must be left to the Supreme Court for decision. If the Supreme Court decides it is not constitutional, benefits will stop instantly, which would be a tragic situation for many elder citizens.

The Liberty Amendment, on the other hand, provides 3 years in which to transfer the operation from unfunded political mismanagement to funded, economically sound, private management, controlled by law so that present and future beneficiaries will go right on receiving their checks.

37. "What about medicare? Will this be eliminated?"

The "medicare" program is similar to that of the Social Security system as a whole. With or without the Liberty Amendment the Supreme Court will some day have to settle the question. With the Liberty Amendment in force, the basic structure can be returned to private enterprise which has adequate medical and hospital plans working advantageously. The present system is unfunded and deeply in debt because of its contingent liabilities.

Actually, all our people will be in much better position with private insurers under a firm contract supervised by law.

38. "Is not the Federal Government responsible for seeing our air and water is not polluted?"

Polluted water and smog-filled air is of deepest concern to the people of the community. Only they can solve the problem. Absentee bureaucrats in Washington, D.C. can not. As an example, Pittsburgh was once our dirtiest city and politicians kept it that way. A Smoke

Committee was organized by private manufacturers and industrialists and whipped the problem, with the result that today it is a clean city. The same can be done elsewhere.

39. "Our entire transportation system is in terrible shape, particularly railroads and local rapid transit. If the Federal Government does not take over, who will?"

Once upon a time we had the most efficient transportation system the world ever knew, all built and operated by private enterprise. Over an interval of a great many years, our local and national systems have been destroyed by the strategy of freezing revenue while increasing costs and taxes to the point of bankruptcy.

The only solution is to confine the Government to constitutional limits and permit the people themselves to build the network of transportation needed by today's mobile millions.

40. "If the Liberty Amendment gets the Government out of business, what will prevent large companies and wealthy individuals from creating monopolies?"

Competition in a free market prevents monopolies, because the rewards for production, invention, development, and service are profits. Profits are dependent upon giving the customer what he needs or wants to survive. If one fails to serve the customer, he is out of business and his competition takes over.

The exception to this is when political pressure is applied, and politicians take over... The Liberty Amendment would tend to eliminate monopoly and open up a truly free market.

41. "How did the Federal Government get so much land? What will happen to all the 'public lands'?"

The Federal Government had no authority to hold back any public lands from the States as they were created, or to "take" any land in any State except as the Constitution provides.

The Constitution confirmed the terms of the Northwest Ordinance. All States were to come into the Union with

rights and powers equal to the original States—in which the Federal Government had no property rights whatsoever—except first, as land might be purchased, second, with the consent of the legislature of the State in which the same shall be, and third, for agreed upon and needful purposes, such as arsenals, magazines, forts dockyards, et cetera.

Now we find that only two-tenths of 1 percent of Alaska was originally subject to the jurisdiction of the State. In Nevada the Federal Government holds 87 percent of the land area, in Utah 66 percent, and in Oregon 52 percent, in Idaho 64 percent, and in California 45 percent of the land area. Under the Liberty Amendment the 40 percent of the land area now under Federal control will be restored to State jurisdiction.

42. "Much of the land under Federal control seems to be worthless desert or rugged mountains. Who would buy land like that?"

Land that appears worthless to one may be highly regarded by another. An example is the land just north of California-Mexico border which was the most barren area imaginable, but men of vision saw possibilities in the arid desert land well below sea level, and now the Imperial Valley is a garden without compare. There is no worthless land.

43. "If private land developers get control of this land, would not they destroy the natural beauties and add to the problem of ecology?"

Federally controlled lands, turned back to State jurisdiction, will be under the watchful eye of the people most concerned with preserving their beauty and usefulness. State and local authorities will make the laws regarding them. An absentee landlord in Washington is not as concerned with the future of the land as are the people of the community involved.

44. "What will happen to our national parks and forests?"

There is no reason to fear that parks and forests will be destroyed because they will be in State jurisdiction. There is nothing to indicate that Federal control has any merit. State, city, and county parks are generally better maintained than national parks, because the local interest is higher.

The same may be said of forests. Records show that the ravages of fire and disease in a national forest are far greater than in State forests, and greater in State forests than in private forests. The obvious reason is that trees in a private forest represent a salable crop, while in public hands they are an avenue to political power.

45. "Can the States be trusted to maintain their parks and monuments and preserve these for posterity?"

Under the Constitution each State was sovereign and held complete jurisdiction over the land and activities within its boundaries. As the Parks and Monuments are located within States, the States are naturally better stewards of their own property than any Federal agency could be.

The Constitution intended the state would hold exclusive jurisdiction over all land and activities within its own boundaries. The Liberty Amendment will restore that concept.

46. "What will be the effect on the Federal Trade Commission?"

According to the U.S. Government Organization Manual of 1971-72 (page 439), the Federal Trade Commission was established to "promote free and fair competition in interstate commerce through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, and other unfair methods of competition." Nice words but this agency has become along with others, the proponent of price fixing, boycotts, and various restraints of trade that hamper private enterprise. This may well be an attempt to cripple private enterprise and clamp a tighter political grip on private affairs. Under the Liberty Amendment the Federal Trade Commission will hold limited regulatory powers.

47. "How will the application of the Liberty Amendment affect the Federal Communications Commission?"

The Federal Communication Commission holds some valid regulatory powers, but they have no constitutional authority to control, punish, or dismember any channels of communication. Like so many Government agencies, the Federal Communications Commission has assumed powers that it simply does not have. Media slanting is one

of these. The Liberty Amendment will stop the despotic control of broadcasting privileges of stations at odds with FCC bias.



48. "What about the effect of the Liberty Amendment on the Labor Relations Board?"

The National Labor Relations Act of 1935 authorized a National Labor Relations Board to investigate and settle labor disputes. It has no constitutional authority for existence, but it has wielded enormous power. We can assume the Liberty Amendment will stop the arbitrary control of labor, management, and industry by edicts that have no constitutional authority. Realistically, the only legitimate jurisdiction the Federal Government has over labor and management is within the ranks of Federal employees.

With the National Labor Relations confined to its proper sphere, the terrifying power of labor unions over workers will be drastically reduced. . . .

50. "How will Government be able to control labor and business monopolies if the Liberty Amendment removes or limits the regulatory powers of the Federal Government?"

It is ironic that so many people are worried about labor and business monopolies, and yet it apparently never occurs to them that the monopolist to fear most is Government itself. In Communist countries government has a monopoly on all activities, and the people have no

economic freedom. With our Federal Government controlling 40 percent of the land area and 20 percent of the industrial capacity of this Nation, we are facing the same disaster.

Free enterprise destroys monopolies faster than can government control.

51. "What is the value of the land and personal property held by the Federal bureaus?"

The Committee on Government Operations of the House of Representatives maintains a continuing inventory of the real and personal property held by the Government. Their June 30, 1970, report gives a figure of \$435 billion for the world wide holdings as of that date. The estimate is extremely low and some properties—such as the famous Presidio in San Francisco inventoried at \$1—are under valued in their appraisal. One thing is certain, if even half of these properties—the ones held without constitutional authorization—were sold at half of book value, the recovered amount will be well over \$100 billion.

52. "Supposing all these properties and facilities are not sold off as expected, or do not sell for the prices expected, then that happens?"

If the properties are not sold within 3 years, the Federal Government must relinquish them anyway, and anything left unsold will revert to State jurisdiction for disposal or retention, as the case may be. Prices may vary in the liquidation process, but the main point is that these properties will be removed from Federal hands and restored to State jurisdiction and private taxpaying ownership. The consequent saving from not maintaining these bureaucratic empires will exceed what we now pay in income taxes.

53. "Now that you have the activities of these agencies that are not authorized and listed, why not get Congress to eliminate them?"

Theoretically this sounds like a good idea, but do you know of anyone who has enough power in Congress to override the pressure of the Federal bureaucracy? The bureaucracy has billions of our tax dollars at their disposal every year, and their lobby keeps the pressure on Congress for more power and more appropriations, endlessly. The only way to remove their power is to dry

up the tax fountain with the Liberty Amendment.

54. "What effect would the Liberty Amendment have on the plan for regional government, which would concentrate all power in Washington?"

A concerted effort is being made to brainwash the American people into accepting not only regional government, but a new Constitution. Books advance the idea, articles in prominent magazines, TV programs and speeches by people who must be misinformed are outright enemies.

The Liberty Amendment will stop these attacks and restore the sovereignty of States. It will automatically outlaw all such designs for the concentration of power from either regional government or a Constitution other than the one we now have, which provides for individual freedom.

55. "Will the Liberty Amendment have any effect on unemployment?"

Unemployment is a tragic fact of life to many people. Surprisingly, the Liberty Amendment will solve much of the unemployment problem. Getting the Government out of business enterprises it operates without constitutional authority would eliminate the staggering losses. This would make possible the elimination of income tax. Workers would then receive about 20 percent more take home pay without any change in their rate of pay. This increased purchasing power would stimulate production and make the economy boom.

56. "Isn't the Liberty Amendment just a scheme to shift the load of responsibility from the Federal Government onto the back of the State government?"

Not at all. The idea is to get the responsibility back into the hands of each individual. When Government deprives the individual of self determination and individual responsibility, it tends toward a nation of slaves or robots. In a free society, a free man must be self-reliant and help maintain the society of which he is a part. Our Government was limited in power by the Constitution. The purpose of the Liberty Amendment is to stop the concentration of despotic power and redistribute it to the people.

57. "Does not Congress already have the power to sell such properties and repeal or reduce taxes?"

Yes, Congress has such power and used it on various occasions, sometimes very strangely. For example, Congress did abolish the Reconstruction Finance Corporation, after it had dissipated an estimated \$50 billions in tax dollars. While title I of the act abolished the Reconstruction Finance Corporation, title II of the same act created the Small Business Administration, enlarged the General Services Administration, and divided all the residuary powers of RFC between them. The name on the door changed, but now there were two doors instead of one.

The sale of the Synthetic Rubber Industry and General Aniline and Film Corp. was accomplished, but while these were being sold, other businesses were issuing from the prolific bureaucracy. Reinforcing the Constitution will stop this sleight-of-hand process.

58. "If Federal agencies are operating businesses without constitutional authority, why do not you take them to court?"

A good idea, and many persons have tried it; but there is a catch—there is no way to sue Government without the Government's permission, and this is rarely given. The Constitution provides that we, the people, shall be able to "petition the Government for redress of grievances," but the courts have repeatedly shut their eyes to the flagrant assaults against the constitutional rights and powers of the people, and have contended that they have no "jurisdiction" when a bureaucratic "regulation" is involved. The only real court available that can change this situation is the court of public opinion which can restore the Constitution by applying the Liberty Amendment.

59. "Do not you think it is necessary for our Government to keep ahead of Russia in the space race, or the arms race, or the merchant marine?"

The United States for a long time has been the first place in most fields. We should continue in that position. The question is, why are we lagging behind now? Is it possible our Government has been so busy playing the dangerous game of world power politics and trying to run

everyone else's affair, that they have neglected our safety and liberty? Now we are warned that we need to hurry to keep up, but we are increasingly being hampered in our efforts by regulations and directives and competition from tax-free governmental agencies that prevent it. The Liberty Amendment will release the vast resources of American inventive genius and production know-how and again give workers the incentive of a full paycheck.

So far as the space race is concerned, the Space Act strangled private incentive by declaring that all inventions dealing with space belong to the Government, instead of to the inventors, as the Constitution provides.

60. "Exactly what is the Federal Reserve System and what will the Liberty amendment do about it?"



There is probably more misinformation about the Federal Reserve System than about any other one thing. Some say it is a Federal agency; others say that it is privately owned. In 1913 an act of Congress created the FRS to provide us with what was defined as "an elastic currency." This has been done, and in the process our stable currency, based on silver and gold standards, has been replaced by printing press money. The Hoover report of 1955 declared the Federal Reserve to be the first of the 104 banking and lending organizations then being operated by Government. A recent U.S. Government organization Manual confirms this. The article "Who Gets The Plunder?" in Freedom magazine reproduced a page from the 57th Federal Reserve report to Congress, showing that in 1970 the U.S. Treasury received 98.9 percent of the earnings, while only 1.2 percent went to the banks compelled to own FRS bank stock. The Liberty Amendment will remove the Government from the banking business.

61. "Can the inflation we have experiencing for years be stopped by the Liberty Amendment?"

The spiral of inflation will be stopped when the Federal Reserve System's endless stream of printing press money is stopped. Webster's International Dictionary defines

"Inflation" as "an increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level." In other words, when money is printed faster than actual production of goods and services, we have inflation.

Our president and Congress constantly spend more money than all the American people combined can funnel into Washington through taxes. Then they translate these deficits into unredeemable printing press money and we have inflation. In 1971, \$40 billion of new paper money was printed for the FRS to cover the Government's deficit—thus was created that much inflation.

Yes, the Liberty Amendment can stop inflation.

62. "Does the Government have anything to do with setting interest rates, and what will the Liberty Amendment do about it?"

Economists and the news media have a great deal to say about interest rates, although it is baffling to most ordinary individuals. These days our credit is at the mercy of the bureaucracy that controls money. Interest rates are manipulated by the politically appointed directors of the Federal Reserve System. This manipulation will stop when the Liberty Amendment is in operation. When the happy day comes, credit arrangements will be strictly between the borrower and the lender, based upon the borrower's integrity and ability to repay. Interest rates will become realistic, also, when they are no longer manipulated through political control. After all, it is on this basis America was built.

63. "How about all the tax money that is spent on wars. Will the Liberty Amendment change this?"

The sole function of the Defense Department is to defend this country from foreign aggression. The Liberty Amendment will not cut the obligations of Defense Department to carry out its specified duties, to defend this Nation on the ground, in the air, at sea, and even in space. The Constitution enforced by the Liberty Amendment, will not permit undeclared "no win" wars, and our defense posture will be improved enormously by getting our defense establishment back into the business of defending, rather than competing with us, as they do now, through thousands of business, industrial and commercial establishments.

64. "Will the Liberty Amendment have any effect on the present law regarding the draft?"

While there is no longer a draft in this country, every eligible male who attains the age of 18 years must register and carry a draft card, presumably to keep a record of eligible strength in case of emergency.

The 13th amendment very distinctly provides that:

"Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

If we have learned anything from history it is that no conscripted army has ever proved the equal of a free people defending themselves. Returning to the Constitution will prevent the draft, and increase our defense posture because we will be free to defend the most priceless possession of all—Liberty.

65. "Exactly what effect will the Liberty Amendment have on our membership in the United Nations?"

The United Nations building is located in New York City. This country contributes by far the largest amount of money in support to this organization. Some people believe that the United Nations Charter supersedes our Constitution, but this is not true. Nothing supersedes our Constitution as the supreme law, and certainly not the United Nations Charter. The Liberty Amendment will end the pretense that treaty law, the Genocide Treaty, or any other such device can have a valid impact on our domestic affairs, our industries, our lands, or our activities. It will reduce the United Nations Organization to a forum for the discussion of international affairs and international relations.

66. "Will the Liberty Amendment have any effect upon Communist countries?"

Time and again the wealth and resources of the United States have been diverted to the aid of Communist controlled countries. Apparently the Communist system is incapable of sustaining its own existence. When our Government is confined again to the terms of the Constitution, it can no longer bail out Communist countries

when their economy falters, and the enslaved people may be able to establish forms of government of their own free choice.

67. "Unless we have a hand in managing the affairs of some small nations, is there not danger that they will fall under Communist control?"

When the torch of freedom burns brighter in this country through the re-establishment of our Constitution, we will be in a better position to set an example for other nations. The Constitution does not permit this country to maintain the economy of other nations or control their political lives, yet that is what we have been doing. Foreign aid around the world cost the United States people, from 1946 through 1971, a total of \$212,880,797,000. The rulers of 3½ billion inhabitants of this world, have received aid from the United States. The Liberty Amendment will stop with this madness which is destroying us.

68. "Would it not be a good idea to continue foreign aid to help the more friendly countries?"

Foreign aid does not reach the people of any country, friendly or otherwise. It is a gift from the Chief of State elsewhere. It only enriches the tyrant. Our constitution protects us from this device for plunder. Our Government was empowered to gather taxes to protect this Nation from the avarice and cupidity of all the other nations of the Earth. It did not grant any administration the power to hand our tax dollars, or the production of our people, to any foreign power. The Liberty Amendment will stop this dissipation of our substance by Government, and will restore the right of people to assist whom ever they will around the world, as they once did.

69. "How will the Liberty Amendment affect such treaties and alliances as NATO, SEATO, and others like them?"



The Liberty Amendment will not alter the right and

power of the President, with the advice and consent of the Senate, to enter into any treaty that may be within the authority of the Constitution. A review of the Constitution shows that no treaty can be valid which in any way jeopardized the independence of the United States or any of the separate States or permits any foreign power or combination of foreign powers to exercise jurisdiction or control over the internal affairs of the United States or any of the individual States, whether it be with the U.N., NATO, SEATO, or any other.

70. "Will we be able to defend our country properly under the Liberty Amendment?"

We have already touched on this subject of defense, and should be reassured that the Liberty Amendment will accomplish miracles in this area. At the present time the Defense Department is involved in thousands of businesses without constitutional authority. Divorced from these activities, their total attention will be given to the defense of this Nation, and with the Constitution back in force and effect we will not be involved in undeclared wars. The Constitution wisely separated the power of declaring war from the power of waging war, to prevent its being declared for the sake of waging it.

71. "Will we still be able to have a strong economy in the fields of mining, agriculture, manufacturing and transportation with the Liberty Amendment?"

All of these activities will flourish incredibly well. Gold and silver production has been stifled, agriculture has been hampered; manufacturers have been in bureaucratic straightjackets; transportation has been strangled. There is no open market. We can expect spectacular new developments in all these fields and every other area of production when the Liberty Amendment is in force.

72. "If the Government does not finance or underwrite research and development, who will?"

The only research and development of Government has any right to be involved in is in the defense of this Nation. Even here, it has been individuals and companies that have researched and devised all methods of production. A man named Colt invented the revolver, and the Army was reluctant to adopt it. An American

invented the submarine, and our Navy would not even look at it. The airplane was invented here, and the U.S. was one of the last to adopt it to our defense. Gen. Billy Mitchell was discharged from the Armed Forces because he advocated air power. Government has curtailed real research and development, and our weaponry has suffered.

73. "Exactly what effect will the Liberty Amendment have on our local State and city governments?"

Federal aid to state and city governments sounds good, but the Federal government has manipulated the States into very dangerous financial situations through "sharing," "matching funds" and managed inflations.

Cities have been drained of vitality by the Federal individual income tax, which syphons away their potential resources, and federal agencies which inject themselves into essential municipal services and make them more costly. Both States and cities will be better off

under the Liberty Amendment.

74. "What will happen to the Government's revenue sharing plan?"

At first glance revenue sharing looks like a splended idea. The Federal Government gathers a wealth of taxes from the people and then dribbles a little money back to the States and local governments for their own use. Upon further examination, this new device proves to be a take-over of the states, for it is only a small subsidy, and when government subsidizes anything it exerts control.

There are already too many subsidies in existence that undermine our states' prerogatives. Now even their boundaries are being threatened by "regional government" which would replace the individual states with 10 regions.

Restoring the Constitution, as the Liberty Amendment is capable of doing, would take care of all of these questions—regional government included.

THE ALAN STANG REPORT

Tape 561, Week of February 14, 1983

Liberty Amendment
Is Income Tax Legal?
in Schiff's Offer
Corporate Tax
Watt Baiting

Mail
File w/ Bill

TAPE 561, No. 1

Liberty Amendment

This is Alan Stang. Congressman Ron Paul wants the federal income tax abolished. Details in a minute. Please stick around.

A few weeks ago, Congressman Ron Paul, of Texas, who is a member of the House Banking Committee, reintroduced the Liberty Amendment. This historic legislation would eliminate the need for the personal income tax, by abolishing agencies of the federal government that are doing business in direct competition with private enterprise. Congressman Paul points to such examples as the Commodity Credit Corporation, the Tennessee Valley Authority, the Synthetic Fuels Corporation, and various lending institutions.

The Commodity Credit Corporation is of course the bank of the Department of Agriculture. Regular listeners will remember that it is paying your tax money to the monster multinational banks, because Poland is broke. Those payments began last year, with the blessing of the Reagan Administration. Dr. Paul says that the Commodity Credit Corporation and other businesses "are not constitutionally authorized and should be eliminated. This would so radically reduce federal expenditures that the personal income tax — the 16th Amendment to the U.S. Constitution — could itself be repealed, which the Liberty Amendment would accomplish." Of course the Internal Revenue Service would be abolished too. That's right, friends, no more 1040s, no more withholding!

Dr. Paul explains that since income taxes do not supply the bulk of the federal government's revenues, the losses in revenues would be more than made up by the sale of government corporate operations — and the profits could then be used to balance the federal budget.

Congressman Paul says this: "This amendment would go

far toward restoring constitutional government in addressing our economic problems at their cause — excessive government spending — and by so doing eliminating the need for the personal income tax. The Liberty Amendment would leave the government with all revenue sources it ever had from the beginning until 1913 — corporate taxes, excises, imposts, duties and a host of miscellaneous taxes which have always been within the power of the federal government."

Nineteen thirteen is of course the year we got the income tax. Except for the Civil War years, we got along without one from the very beginning of our nation until well into the present century. Our government never collapsed, not once. It didn't need an income tax because it wasn't spending us into bankruptcy. Now, it is, and even with a tax approaching confiscation, the government says it needs still more of your money. I'll be back in a minute.

The Liberty Amendment has been endorsed by state legislatures around the country; most recently by Indiana and Arizona. It certainly has to be considered news, but your reporter can't remember ever hearing it mentioned by his colleagues in the national press. Be with me tomorrow when we'll see whether the income tax is legal.

This is Alan Stang. Think about it.

Tape 561, No. 2

Is Income Tax Legal?

This is Alan Stang. Is the income tax legal? A new discovery. Details in a minute. Please stick around.

Yesterday, as you will recall, we mentioned the proposed Liberty Amendment to the U.S. Constitution, which Texas Congressman Ron Paul recently reintroduced in the House. The Liberty Amendment would repeal the Sixteenth Amend-

The Alan Stang Report is a daily five-minute radio news commentary. The broadcasts are written and narrated by Alan Stang, and are produced by Marilyn White. Printed copies of Mr. Stang's commentaries are available at three copies for one dollar, or twenty copies for five dollars. Information on availability of The Stang Report for broadcast in your area will be sent free of charge upon request.

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ment, which gives Congress the power to impose an income tax. If the income tax is legal, it applies only to a strictly limited, very small group of people and activities, such as corporations. If you are a regular listener to these broadcasts, you know that the paycheck you get for your work is not what the law means by income. It is not subject to the tax.

Is the income tax legal? A fascinating article on the subject appeared in the January issue of *The Justice Times*, which says that "the 16th Amendment cannot be valid law due to the fact that it was not signed by the President of the United States." The Sixteenth Amendment started out as a Joint Resolution of Congress. According to *Black's Law Dictionary*, a Joint Resolution must be approved by the President. But the Joint Resolution that gave us the income tax was signed by Vice President James Sherman, not President William Howard Taft. Does this mean that the law is defective?

There is also the interesting fact that the Sixteenth Amendment is listed in U.S. statutes as a private law, as opposed to public law. Private law governs relations between individuals, and applies only to particular groups. Public law brings the government into it, and applies to everyone, without exception. So, why would the income tax amendment turn out to be a private law, rather than a public one?

The Justice Times says, as follows: "The intent of the framers of the 16th Amendment, which is supported by any number of Supreme Court decisions, was that the income tax was an excise tax and must be limited to an indirect tax which was assessed on corporations in return for the privilege of doing business in a corporate capacity. Is this the reason the 16th Amendment was designated as a Private Law rather than a Public Law? Let the reader be the judge."

This fascinating question certainly deserves further investigation. It is one of the many mysteries of the income tax that research is bringing to the surface. It is important to note that Congress could get rid of the income tax any day of the week. The Sixteenth Amendment doesn't say there has to be an income tax. It just gives Congress the power to impose one, if it wants to. Congress could abolish the I.R.S. tomorrow. I'll be back in a minute.

Why not read the article for yourself. *The Justice Times* is published monthly in Clinton, Arkansas. A yearly subscription is twenty dollars. The address is Post Office Box 562, Clinton, Arkansas, 72031. Be with me tomorrow, when we'll take a look at a remarkable offer by author Irwin Schiff.

This is Alan Stang. Think about it.

Tape 561, No. 3

Irwin Schiff's Offer

This is Alan Stang. Author Irwin Schiff makes a remarkable

offer. Details in a minute. Please stick around.

Regular listeners to these broadcasts are familiar with Irwin Schiff. Mr. Schiff is the author of the book entitled, *How Anyone Can Stop Paying Income Taxes*, the national best seller distributed by Simon & Schuster. In it, Schiff shows that the payment of income tax is voluntary, a fact repeated by one Commissioner of Internal Revenue after another. Now, to use a cliché that fits perfectly, Irwin Schiff puts his money where his mouth is.

Irwin Schiff's Freedom League has launched the \$100,000 I.R.S. Treasure Hunt. Here's what the Treasure Hunt is all about, from the Freedom League's advertising copy: "One hundred thousand dollars will be awarded to anyone who can show any section of the Internal Revenue Code that 'requires' we the people, as individual citizens, to file a personal income tax return (popularly known as the 1040 form). The contest is open to all, including I.R.S. personnel! Let the I.R.S. help you win! If there is any section of the code which 'requires' one to file, then the I.R.S. should know. So call the I.R.S. Ask them if American citizens are 'required' to file income tax returns or if it is 'voluntary.' If the I.R.S. says you are 'required,' then ask them to send you the section of the Internal Revenue Code which states that you are 'required.'"

The ad says you should send the information you get from I.R.S. to Irwin Schiff. The earliest postmark wins. Everyone is eligible. In the event of a tie, the \$100,000 will be divided equally, and it is tax-free. Needless to say, the winner will be paid in Federal Reserve Notes, not in money, because the government has made money unavailable. Still, the Schiff offer sounds like an excellent deal. This is the Internal Revenue Service's chance to prove its case, and make Irwin Schiff look like a fool.

We suspect that I.R.S. is going to have trouble. There is a good reason that various Commissioners of Internal Revenue have said repeatedly that the income tax is voluntary. It has to be voluntary, because when you sign the return — under penalty of perjury — you are testifying against yourself just as certainly as if you were sitting on the witness chair in court. This is a well-settled fact in our system of law. The Fifth Amendment forbids the government to require an American to testify against himself. If the income tax required that, it would be illegal. That's why the Commissioners keep saying it is voluntary. I'll be back in a minute.

To win your \$100,000, send the pertinent section from the Internal Revenue Code to Irwin Schiff, Freedom Books, Post Office Box 5303, Hamden, Connecticut, 06518. For more information, call Irwin Schiff's Freedom League, at (714) 771-6520.

This is Alan Stang. Think about it.

Tape 561, No. 4

Corporate Tax

This is Alan Stang. Some thoughts on the President's remark about the corporate income tax. Details in a minute. Please stick around.

Three weeks ago, President Reagan said in Boston: "I realize that there'll be a great stirring and I'll probably kick myself for having said this but when are we all going to have the courage to point out that in our tax structure the corporate tax is very hard to justify?" The President said we ought to consider abolishing that tax. The theory behind abolition is that corporate profits are taxed twice: once when the corporation earns them; again when they are paid to the stockholders as dividends. Abolition would stop this double taxation.

Let's say a word in defense of the corporate income tax. A corporation is of course a creature of government. It is created by government and could not exist without it. Its existence is a favor granted by the government. Just as the God of most individual Americans is the Lord; the god of the corporation is government. If an income tax should be levied properly anywhere, it should hit the corporation, as a tribute paid to government in return for the favor of the corporation's existence.

The President got into substantial political trouble for suggesting the abolition of the corporate income tax. He would win the gratitude of tens of millions — and stand on much firmer constitutional ground — by calling for the abolition of the *personal* income tax. Indeed, the President could end one of the biggest hoaxes of all time — maybe the biggest — by stating that the personal income tax on individuals has been illegal all along.

We mentioned that the President drew political flak for his suggestion. The next day, he backed away from it quickly. The *Los Angeles Times* reports that his advisers told him he had said "the wrong thing at the wrong time." One White House official said that the President had been "fighting to stay awake" just before he made the suggestion, and just forgot that about three hundred reporters were there. The next day, White House spokesman Larry Speakes was reminded that the President of the United States had said the idea should be looked at. Speakes replied, "Well, it ain't gonna be looked at."

Remember, all these examples come from within the Administration, not from Tip O'Neill, and they certainly lend fuel to the accusations by the President's enemies that he lacks the political courage he talks about, and that he is someone else's tool. We don't pretend to know what is happening in the White House, but this latest fiasco proves something is wrong. I'll be back in a minute.

The monster multinational corporations are happy to pay

the corporate income tax. One of its effects has been to stifle competition, by making it difficult for new companies to challenge the biggies. To do that, the challenger must accumulate capital; but the corporate income tax takes that money away.

This is Alan Stang. Think about it.

Tape 561, No. 5

Watt Baiting

This is Alan Stang. A remarkable editorial about Socialism and James Watt. Details in a minute. Please stick around.

By now you know that a few weeks ago, Secretary of the Interior James Watt made a speech about the shocking problems of many American Indians. Watt said this: "Every social problem is exaggerated because of socialistic government policies on the Indian reservation. If you want an example of the failure of socialism don't go to Russia — come to America and go to the Indian reservations."

Our friends the liberals didn't like this. They don't like much of anything Secretary Watt has to say, but his statement about the reservations seems to have struck the proverbial sensitive nerve. The *Miami Herald*, one of the nation's major daily newspapers, put the following headline on its denunciation: "Red Baiting." We are certainly grateful to the *Herald* for acknowledging that Socialism is Red. Socialism is obviously the *Herald's* hot button. In its remarkable editorial, the *Miami* newspaper worries more than anything else about defending Socialism from Secretary Watt.

The *Herald* says this: "Socialism is that system of political economy that best describes the societies of most nations in Western Europe. Socialism is the Tennessee Valley Authority and Social Security and Medicare and Government subsidies for Lockheed and Chrysler." That's right, that's what the *Miami Herald* says, and, again, it has our gratitude. Social Security and those other things are Socialism, are Red, as the *Herald* says; but until now a man could be labelled an extremist for saying so. Now that the *Miami Herald* says so, presumably it's okay. It has always been okay to call government subsidies to Lockheed and Chrysler "Socialism for the rich." That what it is.

But, if the disaster on the Indian reservations isn't Socialism, what is it? The *Miami Herald* has the answer. "America's Indian reservations are not socialism. They are failures of something more properly understood as paternalism, and a cruel, uncaring paternalism indeed. The Government maintains them, but the Government does precious little for them."

In short, the *Herald* is angry because the government hasn't given as much to the reservations as it has to the corporations. Our friends the liberals don't want to change the reservation system; they made it. Their complaint is the fact that "Socialism for the poor" isn't luxurious enough. Would the *Miami Herald* please comment. The more that newspaper editorializes, the better we like it, and the more grateful we are. I'll be back in a minute.

The Miami Herald's problem is that paternalism and Socialism go together like two legs on the same bug. Indeed, paternalism is the *essence* of Socialism, which is impossible without it. British Socialist George Bernard Shaw once explained that you would live fairly well under Socialism if you did as you were told. If you didn't you would be shot. This is Alan Stang. Think about it.