

## **Nullifying the income tax**

Editor's note: Devvy Kidd is on a mission. As co-founder of the Wallace Institute, an organization dedicated to "restoring America's freedom through judicial activism," Kidd is working tirelessly to get the 16th Amendment legally declared null and void. Through the use of reams of historical documents, Kidd presents evidence that the constitutional amendment authorizing the income tax was never officially ratified. Named after the Scottish hero in "Braveheart," William Wallace, Kidd's organization is in the midst of a legal battle in Oklahoma over the 16th Amendment. WorldNetDaily writer and talk show host Geoff Metcalf recently interviewed Kidd about her work. Article 1-28-01 <http://www.wnd.com/2001/01/7977/>

Metcalf's daily streaming radio show can be heard on TalkNetDaily weekdays from 7 p.m. to 10 p.m. Eastern time.

Question: Frequently I hear from folks who say, "You tell us all this fascinating stuff about things that are wrong. Everybody itches and moans about it, but when is somebody going to try to do something about it?" So Devvy, what are you going to do about the issue of the 16th Amendment?

Answer: We are going to file suit in state court in Oklahoma City on Jan. 18, because it truly is the last remedy the people can seek. The federal courts are compromised beyond any redemption whatsoever. Congress refuses to do anything about the problem of the 16th Amendment and the income tax. As a matter of fact, they really don't want the income tax to go away, and that's pretty apparent by their refusal to come right down the street. When the Bob Schulz organization held four IRS symposiums in July 1999, November 1999, April 2000 and June 29, 2000, Congress was conspicuous by their absence. Congress steadfastly refuses to do anything about this.

That leaves one remedy and one remedy only and, actually, it's the most appropriate since the state legislatures themselves did not ratify this amendment. It only makes sense to take it to the state court, and that's what we're going to do.

Q: Let me throw a couple of things at you. The contention is that the 16th Amendment to the Constitution — the income tax — is bogus.

A: Right.

Q: Why?

A: Because the states didn't ratify it. In fact, the reason we're going to Oklahoma first is because it is the most egregious example of a non-ratification.

Q: They're the ones who actually rewrote it?

A: They actually changed the language. What we do in Oklahoma is file in state court on Jan. 18 and then probably serve the secretary of state Friday morning. Then, Friday at noon, we will have a rally at the State Capitol in Oklahoma City. Next, we're coming to California, because California actually added a sentence to the amendment. Now the law is very specific. You cannot change anything about the amendment as it is forwarded by the United States Congress — not a period, not a comma, you certainly can't switch words around or add sentences.

Q: The last time we talked to Bill Benson he noted he spent about a year going around the lower 48 (states) and checking on the ratification, and the amazing thing — and correct me if I'm wrong — but Bill said it wasn't properly ratified by anyone.

A: That's true. Actually, 11 states did not even vote. They did not even vote on the amendment.

Q: Benson told us last year that he was approached by some lawyer from Sen. Orrin Hatch's office. They essentially tried to bribe him, didn't they?

A: Yes. In 1985, Warren Richardson, who was then legal counsel for Sen. Orrin Hatch did approach Mr. Benson and told him that they would pay him whatever he wanted for those 17,000 certified documents that prove conclusively that the amendment wasn't ratified. In other words, that they would make him rich. Of course, Bill Benson is a man of honor, and he said no. Amazingly, 16 years have gone by and, last year, Bill received a letter from Mr. Richardson, who is a big shot D.C. lawyer. In the letter, Mr. Richardson specifically says that your [documentation] proves that the 16th Amendment wasn't ratified. Then he goes on to say what a shock this would be to Congress.

Well, it's not a shock, because every member of Congress and every federal judge in the United States has been provided a copy of "The Law that Never Was – Volume One" with their names embossed in gold. And last year, one woman bought enough copies to give to every member of our state legislature because, as you know, in this state, like others, you are not required to file a state tax return unless you're required to file the federal one. The whole thing is just one big, gigantic lie.

Q: One unfortunate fact not in evidence is the assumption that once delivered — one of these very handsome leather bound books — that they will read it. Most of the legislators don't ever read the legislation they vote on or, in some cases, author. What makes you think they even read it?

A: That's true. When I ran for Congress, my opponent, Mr. Herger, admitted on talk radio he never read NAFTA.

Q: I did!

A: I did, too. I have watched C-SPAN for years, and I tell you there are people serving in

Congress who are functionally illiterate. I have watched them at the podium — they cannot even read the newspaper they are referring to.

Q: Why is the 16th Amendment so important?

A: Section 9, Article 1 of the Constitution reads, “No capitation or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken.” Since a capitation means a tax of the same amount for every person, this provision makes doubly sure that all federal taxes must be at the same uniform rate for everybody. This limitation that direct taxes be levied by the federal government must be in proportion to a census and apportioned among the states in accordance with numbers is the only provision in the Constitution stated twice. The only reason that our Constitution required a census to be taken every 10 years was to count the people to determine how many representatives should go to Congress and how direct taxes should be levied.

Q: Why were the representatives and direct taxes linked together and apportioned among the states in accordance with the population?

A: It was understandable that representatives should be chosen in accordance with numbers, but why should taxes be apportioned the same way?

Q: Didn't I just ask that?

A: “Representatives and direct taxes shall be included within the Union according to their representative numbers. No capitation or other direct tax shall be laid unless in proportion to the census.” In those two sentences, our forefathers bound fast the hands of Congress to secure the liberty and freedom of the American people.

Q: How did they do that?

A: By making it utterly impossible to levy an income tax. An income tax is certainly a direct tax — probably the most direct tax of all — since it cannot be shifted but must be paid by the person receiving the income. By specifying that direct taxes must be levied in accordance with the number of people, not upon what they produce — as in the days of, say, ancient Egypt — an income tax is simply out of the question. It cannot be levied upon a man, but must be levied upon what he receives. So, the bottom line is that, when the 16th Amendment was fraudulently ratified, it unlawfully nullified the apportionment clause of the Constitution.

Q: I found that Warren Richardson letter so readers can look at the whole thing. It helps crystallize the whole flap about the 16th Amendment and whether you folks are tilting at windmills.

Richardson wrote to Bill Benson: “Before going into the subject of your books — the 16th

Amendment to the United States Constitution was not properly ratified — I wish to lay some groundwork. In 1895, the United States Supreme Court ruled a direct income tax to be unconstitutional in the case of Pollack v. Farmers Loan and Trust. Since our forefathers, who established our form of government (a republic, not a democracy) by splitting the federal power into three equal branches (legislative, judicial and administrative), it was clearly within the court’s discretion to render the verdict in the Pollack case.”

His P.S. is kind of interesting: “Since a personal letter cannot be distributed or even shown to anyone other than the recipient without permission of the author, I hereby authorize you to show it (not publish it) to other people at your discretion.” OK, Bill has done that, and the obvious question is, since you have it posted to your website, does this violate that prohibition in any way?

A: I asked Bill about that and he said, “Let Richardson sue me.” But the point you brought forward about the Pollack case — this is one of the problems that has existed about this income tax and taking it to federal court. Federal courts have ruled differently in so many different cases. One rules it is a direct tax; one rules it’s not a direct tax. The courts themselves cannot even define it. And that is a problem with due process of law. That’s why that movie that is being made is called “Without Due Process.”

Q: We’ll talk about that a little bit.

A: We don’t have due process — besides the fact that there is simply no remedy in federal court. Every single argument under the sun has been tried in the federal courts. Congress does not want the income tax to go away. The bottom line is, are we a nation of laws or lies, because we cannot be both? And the Congress is operating under a lie — and they continue to lie to the people. The federal courts won’t back up the people, so we are going to state court.

Q: What if you lose in court? Are you guys just tilting at windmills?

A: Absolutely not. We feel very confident, because documents out of their own archives, coupled with their own laws — and we have these posted on the Web — clearly show that the legislatures did not properly ratify this amendment to the Constitution. We are prepared to go all the way to the Supreme Court in Oklahoma.

Q: I have said many times over the years that “academically” you guys win. There is clearly an abundance of evidence to support that the 16th Amendment was not properly ratified. So you file this lawsuit in Oklahoma City. There are two “what ifs”: What if you win? And, what if you lose?

A: If we lose, we go to the appellate court. If we lose there, we go to the Supreme Court. If we win, that just sits there, because I’m sure it would then be appealed immediately. We come to California after Oklahoma and probably Kentucky after that.

But what makes this unique is that we will be going for what is called a summary judgment. There is no trial, no jury. We're asking the judge to look at the documents, adhere to the law and declare it not ratified. It's really not a complicated thing. It's just that this movement to restore us to a country of laws just has not had the "juice" (which translates to money) until we put together our Institute. We have been very, very fortunate with people who have been blessed with adequate income to support and sponsor our Institute to allow us to do this.

Q: Joe Banister is a mutual friend of ours. In fact, Joe had his epiphany listening to you and me on the radio some eight years ago. Joe was a badge-carrying, gun-carrying IRS agent. He was tasked with enforcing the laws.

A: Yes, he was. He was a criminal investigator.

Q: And after listening to you mouth off, he had some questions. So he did some very scholarly work that took him about a year. He submitted a 90-page memo to his bosses at the IRS and basically said, "Take a look at this and render a judgment. Because if what I found here is true, I have a problem since I swore an oath to defend and protect the Constitution."

A: That's exactly what he said.

Q: So they told him they wouldn't even look at it, but they would accept his resignation. Joe was no longer a badge-carrying, gun-carrying IRS agent.

A: And he was out an \$80,000-a-year paycheck.

Q: You were the first to tell me that apparently someone is now making a movie of Joe's story.

A: There is a serious effort being made right now. The screenplay is finished. I can't tell you the movie stars that have been approached because that's how they do that stuff. The movie will be titled, "Without Due Process." The five main characters are Joe Banister, Bill Benson, Bill Conklin on his Fifth Amendment issue, Larry Becraft and myself. Of course, they've taken some creative license to include the shoot 'em up bang-bang stuff.

Q: All I want to know is, do they spell my name right?

A: Yes, they spelled your name right, and they actually spelled my name right. They hope to have it in the movie theaters by the first of June. This is a very serious undertaking. There are very serious heavy hitters involved in this. While I'm not a big supporter of the Hollywood crowd, they themselves are starting to get their panties in a bunch over this taxation issue. These people get gouged big-time, despite their write-offs. But they have found out the whole thing is a big lie, and they don't like it. And a lot of them have put a lot of time in without pay to put this whole project together. The screenplay is great.

Q: My producer asked, “Who plays Geoff?” I talked to Banister and then the writer-producer, and they are going to actually let me do it. They think the movie will be out in June?

A: Yes, June.

Q: I wouldn't count on that. That's kind of fast.

A: If you read the screenplay and understand the background, probably the most time-consuming part is where Joe and his staff go out and serve these warrants. But my favorite part in the movie — and I've worked with the man who wrote the screenplay quite a bit ...

Q: My favorite part is when he's listening to you and me on the radio.

A: No, my favorite part is where Joe's boss calls me a “witch,” using a different letter than the “w.”

Q: He wouldn't be the first one to do that.

A: The ending is really dynamic. Just really cool.

Q: Oklahoma first for the lawsuit, then California and then Kentucky. How many different states do you intend to file in?

A: Only three. We need three.

Q: Why three?

A: Because it takes three-fourths of the states to ratify, and if we can get three on our side of the win column, Congress will have nowhere to hide.

Q: Why? These guys are professional obfuscators.

A: Because it would reinstate the apportionment clause of the Constitution. Remember the big flap about the census?

Q: Sure.

A: I only answered question No. 1 (on the census form) — how many bodies are there in the house?

Q: That's what I did, too. They came to my door three times — and I told them the same thing three times and invited them to come on the air.

A: I told them it is the only constitutional question. It is only to set the number of representatives, and all this other stuff is just to hand out all this welfare. All of that would go away because Congress would be forced to run the limited form of republican government on constitutional revenues: tariffs, imposed duties, excise taxes. This is the most serious strike against this out-of-control government since the fraudulent ratification.

We have some chances with this lawsuit. Let me tell you the problems we've got with the 16th Amendment. First, let's start off with a state like Kentucky. Kentucky never sent to Washington, D.C. — as they were required to do — any documentation like a resolution from the House of Representatives, or a joint resolution from the whole legislature, telling Congress that they had ratified the 16th Amendment. Instead, what happened was a bunch of officials got together and typed up some copies of the legislative journals and sent it in and said, "We ratified it."

They said they ratified it on Feb. 6, but when you go take a look at the actual legislative journals for the state of Kentucky, nothing happened regarding the 16th Amendment on Feb. 6. What happened was on Feb. 8, the Senate voted against the 16th Amendment. So, Kentucky is an example of a lie by public officials.

Q: I remember our discussion last year with Bill Benson and being shocked. I knew a lot of the problems in Kentucky and Oklahoma and elsewhere from various interviews I have had over the past decade, but I didn't realize that none of the states properly ratified the 16th Amendment. None!

A: You can say that none of them ratified, but the government sits there with a bunch of documentation in Washington, D.C. We have been to the federal courts, and we have raised this issue. None of them have the guts to look at the issue and address the issues being presented. Instead, they have said, "Gee, this is a political question. The courts can't decide it." And that's the reason we have decided to go to a place like Oklahoma.

Q: What did Oklahoma do?

A: Oklahoma did something that the Constitution doesn't allow. The cases say you cannot do this. There are a wide variety of cases from all over the Union where courts have decided questions of legislative bodies passing laws that you can prove from the legislative journals that both houses did not agree on the same precise wording of the same bill. The courts say there is no law in that type of situation.

Q: Let me ask you this procedural stuff. On Jan. 18, you file the lawsuit. Do you actually make arguments to a judge after that?

A: We have to file the complaint first. That is done Jan. 18. After the lawsuit gets filed, the state has 30 days to reply. I'm sure one of the first things they are going to do is come back with a motion to dismiss. They'll argue it's a political question, things of that nature.

In Oklahoma, however, the problem that the government has is that their Supreme Court says questions regarding the adoption of an amendment to the state constitution presents a judicial question that they can address. We're saying that the same situation arises in reference to a federal constitutional amendment. The states can address it.

Q: What if they just decide they are not going to hear it? Can they just say, "Go away"?

A: That's a distinct possibility. And then we go to the appellate court.

Q: Which court would that be?

A: They have a court of civil appeals.

Q: And if they blow you off?

A: We would just keep on going. In Kentucky — I'm using a parallel, if you will, for supporting authority — the first resolution from Kentucky, the Senate amended the amendment and left out the words "on incomes," and it got rejected by the governor of the state. The governor sent it back and said, "This makes it void when you leave out words of the amendment." They did it deliberately. Every action you can see taken by the Senate in regards to the 16th Amendment was an effort to stop the 16th Amendment. So there you have the governor of Kentucky in 1910, Augustus Wilson, saying it makes it void. Well, we have the same situation in Oklahoma. They changed the wording of the 16th Amendment.

Q: As a purely academic exercise, you could take this to a college kid and show him the process and what is supposed to happen, and he could conclude, Hey, it wasn't properly ratified, so it's null and void. Given the fact Congress doesn't want it to go away — in fact, they want and need it like breath — why don't they just say: "Whoops. There were procedural mistakes made. Historical documents indicate this was not properly ratified, so now we're going to fix it and have a 'do over' and properly ratify it. Buddabing-buddaboom! And they make it law. Why don't they do that?"

A: Why don't they do that? I really don't know why they don't do that. I suppose there is some political reason behind it.

Q: I mean procedurally, they have the capacity to do that.

A: Yes, they do. But they refuse to recognize it. I suspect it is similar to the fed issue in that 99 percent of Congress is so stupid and so ignorant they simply do not understand the issue. The underbelly of the whole thing is that the income tax feeds the central bank.

Q: If it is so important that they maintain it, all they have to do is introduce the legislation, slam it through and fix the problem.

A: But they don't want to fix it because it would restore apportionment, and then there can be no direct taxation against the people.

Q: Not if they rewrite it the way they want it.

A: But then they'd have to amend the Constitution again. Because, you see, the 16th Amendment said without apportionment. That unlawfully wiped out the section of the Constitution that requires apportionment. They can do the whiz-bang thing, but they'd still have to do it through a constitutional amendment, and it won't work.

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