No. _____

In The

Supreme Court of the United States

JERRY PRESTON MCNEIL,

Petitioner,

v.

THE STATE OF OKLAHOMA, *et al.*,

Respondents.

On Petition For A Writ Of Certiorari To The Court Of Civil Appeals Of The State Of Oklahoma

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Prologue: This is a bill in the equity jurisdiction, grounded in the decisions of this Court, where there is no adequate remedy at law in Oklahoma. It involves a dispute as old as the Nation itself. Elbridge Gerry and others, refused to vote for adoption of the new Constitution in 1787, on grounds that it gave Congress a power *"to make what laws they might please to call necessary and proper;"* Article I, Section 8, Clause 18; Elliot's Debates, vol. ii, 327, 328.

Oklahoma and each of the several States, through the Council of State Governments, have become, by operation of the Constitution of the United States of America, *"illegal organizations,"* in contemplation of the bar contained therein in Article I, Section 10; Syllabus 1., *Williams v. Bruffy*, 96 U.S. 176 (1877). In this current illegal character, indistinguishable from the Confederate States in rebellion, each member State of the Council invades the immunities reserved to their *people*.

"Belligerent rights cannot be exercised when there are no belligerents." – *"but no Nation can make a conquest of its own territory;" Ford v. Surget*, 97 U.S. 594, 614 (1877).

Whether civil governments shall be restored to each of the several indestructible States of this indestructible union of American States, and sovereignty restored to their *people*?

Whether federal and State jurisdictions shall be restricted by the supreme law of the land?

PARTIES TO THE PROCEEDING

Jerry Preston McNeil, American State citizen, Petitioner, Plaintiff-Appellant below, for himself.

The State of Oklahoma, Defendant-Appellee below.

County Officers as stated in App. 1.

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INTRODUCTION

In 1885, Woodrow Wilson penned his book *Congressional Governance*, bemoaning the fact that the Constitution restrained rapid governmental changes:

> "*The legal processes of constitutional change are so slow and cumbersome that we have been constrained to adopt a serviceable framework of fictions which enable us easily to preserve the forms without laboriously obeying the spirit of the Constitution, which will stretch as the nation grows.*" P. 242.

That dream did not end with the death of President Wilson. With the passage of the Social Security Act, President Roosevelt insinuated the war power granted the *federal* government in the Constitution at Article I, Section 8, Clause 1, into American *State* governments:

> "*There are, then, in the authority of Congress and in the Executive, two classes of powers altogether different in their nature and often incompatible with each other – war power and peace power. The peace power is limited by regulations and restricted by provisions in the Constitution itself. The war power is only limited by the usage of nations. This power is tremendous. It is strictly constitutional, but it breaks down every barrier so anxiously erected for the protection of liberty and of life.*" *De Lima v. Bidwell*, 182 U.S. 1, 30 (1901). Underlines added.

A covert unreported purpose for the federal government's use of its war power, was to change American State citizens into alien enemies of the United States government, and subject to its belligerent rights of war.

OPINIONS AND ORDERS BELOW

A. Unpublished Opinion of the Oklahoma Court of Civil Appeals, in re Quiet Title Actions began in the Rogers County Court, in 2014, App. 1.

B. Opinion, Oklahoma Supreme Court denying Petition for Certiorari to the Court of Civil Appeals, App.8.

C. In September, 2014, Petitioner/Appellant Jerry McNeil brought a QUIET TITLE ACTION in Rogers County, OK, against County Officers, to defeat a State tax lien on his private real estate. Order, Rogers County District Court, App. 6.

JURISDICTION

This Court has equity jurisdiction given expressly by Article III, Section 2: "*The judicial power shall extend to all Cases in Law and Equity, arising under this Constitution.*" Statutory jurisdiction is expressly provided by 28 U.S.C. §1257. The eleventh amendment does not preclude suits against a State by its own citizens when it violates rights in property; *Hans v. Louisiana*, 134 U.S. 1, 20-21 (1890); quoting:

> *"Whilst the State cannot be compelled by suit to perform its contracts,* ***any attempt on its part to violate property or rights acquired under its contracts, may be judicially resisted****, and any law impairing the obligation of contracts under which such property or rights are held is void and powerless to affect their enjoyment."* Emphasis added.

See also; *The Paquete Habana*, 175 U.S. 677 (1900), reiterating that *"International Law is Part of our law."*

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. The Constitution of the United States of America grants to Congress a power to lay and collect taxes exclusive of the several States, at Article I, Section 8, Clause 1.

B. The authority to lay and collect direct taxes on private property without apportionment is not provided by the Constitution to any American government, State or federal, in time of peace or in war.

C. No American government may enact any Bill of Attainder; Article I, Section 9, Clause 3.

D. This Court alone has power to construe the Constitution of the United States of America relative to the facts in this case, and has done so many times previously beyond any dispute; *Marbury v. Madison*, 5 U.S. 137, 177 (1803); *Ex Parte Young*, 209 U.S. 123, 136 (1908).

E. The Constitution is *written* and does not change; *South Carolina v. United States*, 199 U.S. 437, 448 (1905).

INCORPORATED MATERIAL

War Powers Under the Constitution, Military Arrests, Reconstruction, and Military Government, William Whiting, Solicitor General of the War Department during the American Civil War, Lee and Shepard Publishers, 1871, Library of Congress control No. 09023595. *War Powers* is also available for digital download at books.google.com. The entire volume is incorporated herein by reference, as if reproduced here in its entirety in the Appendix, passim.

Supreme Court Case No. 14-1305, as memorialized in the record of proceedings in this Court by the brief of Dr. John Parks Trowbridge, Jr., in April of 2015, is incorporated herein in relevant part, App. 9.

Excerpt Leitensdorfer et al. v. Webb, 61 U.S. 76 (1857), App. 22.

Internet archives maintained by the Council of State Governments, at *The Book of The States*: http://knowledgecenter.csg.org/kc/category/content-type/bos-archive.

STANDING

Petitioner/Appellant McNeil has Article III standing in equity as an aggrieved party whose title to real estate has been slandered by a State and there is no adequate remedy at law; quoting:

"Equity may be resorted to for relief against an unconstitutional tax lien, clouding the title to real property, if there be no complete remedy at law. P. 46."; *Shaffer v. Carter, State Auditor, et al.*, 252 U.S. 37, 46 (1920).

See also; *Ohio Tax Cases*, 232 U.S. 576, 577 (1914); Syllabus, *Ex Parte Young*, 209 U.S. 123, 155-156 (1908); *Ward v. Maryland*, 79 U.S. 418, 430 (1870). The judicial act of the highest court of a State, in authoritatively construing its laws is the act of the State; *Twining v. State*, 211 U.S. 78, 91 (1908).

CAUSE OF ACTION

Oklahoma, and each of the several States party to an illegal Compact Agreement, have enacted taxing laws which reaches the property of every private citizen in contempt of the Constitution of the United States of America. Acting together, the State of Oklahoma, the Congress of the United States, and member States of the Council of State Governments have overthrown and annulled the Constitution of the United States of America and the Oklahoma Constitution. They have erected other and different governments in

their place unauthorized by the American Constitution and in defiance of its guarantees. Details provided infra.

STATEMENTS

A. Facts giving rise to this case.

No *American* government, State or federal, has ever had authority to directly tax private property not devoted to public use, other than by the rule of apportionment; Article I, Section 9, Clause 4.

In 2016 Petitioner/Appellant McNeil paid over the tax demanded by officers of Rogers County, Oklahoma in the currency of the United States, and sued out his case for recovery. In State Courts, McNeil sought both injunction against further statutory collections, and restitution for State invasion of reserved personal immunities from State taxation of privately owned real estate which does not affect any public interest. After consideration in State Courts, including the Supreme Court of Oklahoma, each has denied Petitioner/Appellant McNeil relief for his complaint.

The power *to lay and collect taxes, Imposts and Excises*, to pay the Debts and provide for the common Defence and the general Welfare of the United States, lies exclusively with the Congress of the United States; Article 1, §8, Clause 1; *American Insurance Company v. Canter*, 26 U.S. 511, 542 (1828). This power is a most essential abridgement of State sovereignty; *Chisholm*

v. Georgia, 2 U.S. 419, 468 (1793). State jurisdiction in matters of taxation depends upon the power to enforce the mandate of the State by action taken within its borders, either *in persona or in rem*; *Shaffer v. Carter, State Auditor, et al.*, 252 U.S. 37, 49 (1920), citing to *McCullough v. State of Maryland*, 17 U.S. 316, 428,429 (1819); *Ohio Tax Cases*, 232 U.S. 576, 577 (1914); *Ward v. Maryland*, 79 U.S. 418, 430 (1870); *Tennessee v. Davis*, 100 U.S. 257 (1879). And, the *people* of a single State cannot confer a sovereignty which will extend over them; *McCullough*, at 429.

The right to *exclusive power of taxation of private property* by the Congress formed one of the strongest inducements to the adoption of the Constitution of the United States. See Madison Papers, 171, 217, 2-4, 475, 481, 493, 540; id. 146, 297; id. 109, 218, 488; id. 403; id. 730. See, also, Elliott's Debates in Convention on Adoption of the Federal Constitution, vol. 1, pp. 72, 76, 82, 83, 86 to 88, 95 to 106; id. 298, 304, 320; vol. 2, pp. 189, 461, 441, 133 to 150, 118 to 125; 2 Story's Com. Const. § 977; and cited to in *Cross v. Harrison*, 57 U.S. 164, 176 (1853); and State citizens cannot confer a sovereignty which will extend over them; *McCullough v. State of Maryland*, 17 U.S. 316, 428, 429 (1819).

De facto Military Commissions were substituted for de jure State governments by operation of the Constitution. *De Jure* State governments were and are entirely suspended throughout America during any period in which the federal government exercises its war power, and Civil governments thereby become

rendered non-existent; *American Insurance Company v. Canter*, 26 U.S. 511, 542 (1828), quoting:

> *"The Constitution confers absolutely on the government of the Union, the powers of making war, and of making treaties; consequently, that government possesses the power of acquiring territory, either by conquest, or by treaty. The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace."* Underlines added.

The *de jure* status of union *State* governments, in contrast to *military occupations*, was established by the founders of our Nation and was early defined by this Court:

> *"For all national purposes embraced by the federal Constitution, the states and the citizens thereof are one, united under the same sovereign authority and governed by the same laws. In all other respects, the states, are necessarily foreign and independent of each other."* Syllabus, *Buckner v. Finley & Van Lear*, 27 U.S. 586, 590 (1829). Underlines added.

Moreover, the sovereign status of the *people* in the several States which were established as States foreign and independent from each other, has been declared by this court:

> *"The several states of the United States, in their highest sovereign capacity, in the convention of the people thereof, **on whom**, by the*

> *revolution, the prerogative of the crown and the transcendent power of parliament devolved, in a plenitude unimpaired by any act, and controllable by no authority, adopted the constitution*;" Syllabus, *Rhode Island v. Massachusetts*, 17 U.S. 657, 720 (1838). Emphasis added.

In 1935, Congress invoked the War Powers contained in the Constitution, at Article I, Section 8, Clause 1, by enacting the Social Security Act, hereinafter SSA. And, *by operation of constitutional law*, contained in Article II, Section 2, thereby made each of the then forty-eight American States into extensions of the military powers (Military Commissions) controlled by the Executive office of the President; *Ex parte Milligan*, 71 U.S. 2, 18 (1866). This rendered each of the several de jure States into *United States' occupied territory governed by military commissions*.

Military Commissions arise **not** from offenses against military law which are dealt with by Courts of Inquiry, and Courts Martial. They arise **not** from the acts of any legislature, nor from the common law of war, but from the effects and necessities of warlike operations which give power to their operation; *Ex parte Milligan*, 71 U.S. 2, 14-15 (1866). The sovereignty of the United States over occupied territory is *absolute*; *Cross v. Harrison*, 57 U.S. 164, 166 (1853).

Through means of these and other changes, Oklahoma, acting in the character of a *de facto federal military commission*, and *agent of the federal government by agreement*, presumes and vigorously enforces a

complete sovereignty over a *people* who cannot confer such sovereignty over them; *McCullough v. State of Maryland*, 17 U.S. 316, 468-469 (1819).

By operation of the Constitution, no American State government, in peace or in war, can lawfully tax directly the *private property* of *people* within a union State, not affecting any public interest and not engaged in rebellion against federal power, other than by the rule of apportionment; Constitution, Article I, Section 9, Clause 4; Bill of Rights, fifth amendment; *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1, 11-13 (1916); *Budd v. New York*, 143 U.S. 517, 550 (1892); *United States v. Russell*, 80 U.S. 623, 629-630 (1871); "*all peace provisions of the Constitution, and, like all other conventional and legislative laws and enactments, are silent amidst arms.*" *Ex parte Milligan*, 71 U.S. 2, 20 (1866). Underlines added.

B. The Bills of attainder:

Oklahoma ad valorem statutes, OS 68 §3101-3150, work a bill of attainder as defined in the holdings issued by this Court; by providing for punishment for non-payment of taxes on privately owned real estate without a judicial trial. Oklahoma, and each of the members of the Council of State governments are constitutionally without power to lay and collect such taxes, when *not* acting in the service of the United States military as a *military commission*; Syllabus, *Cross v. Harrison*, 57 U.S. 164 (1853) supra; *Ex parte Milligan*, at 14-15. Refusal to pay an unconstitutional

tax is *past conduct*, punished in Oklahoma by State sale of private real estate for tax delinquency without a judicial trial. Oklahoma, and Texas do the same by providing for a Sheriff's sale of tax delinquent property after public notice. *If* the Constitution be not silent, no American government, in peace or in war, has a power to enact any such law; Constitution, Article I, §9, Clause 3; *Cummings v. Missouri*, 71 U.S. 277, 278 (1867); *United States v. Lovett*, 328 U.S. 303, 315-316 (1946); *Ex parte Garland*, 71 U.S. 333, 377-378 (1866).

As reported below, Plaintiff-Appellant McNeil brought his Quiet Title action against County Officials in Rogers County, Oklahoma, alleging immunity of his private property from taxation under the fifth Article of amendment, and by reserved personal immunities; *McCullough v. Maryland*, supra; *Shaffer v. Carter, State Auditor, et al*, 252 U.S. 37, 51 (1920), and praying for a statewide injunction against enforcement of Oklahoma Statutes, Title 68, Sections 3101 to 3152. Restitution of previous sums paid in error was demanded. Almost four years later, the Oklahoma Supreme Court denied all claims without comment, leaving the opinion of the Oklahoma Court of Civil Appeals undisturbed. The Oklahoma Court of Civil Appeals has accepted as true Petitioner McNeil's claims.

Unless the Constitution be "*silenced*" by this unseen war initiated by the Congress upon enactment of the SSA against the American *people*, – "*Fines and Penalties*" imposed administratively by any government upon *people*, for alleged statutory violations or for failure or refusals to comply with taxing demands

made by various governments, equally suffer condemnation by the supreme law of the land.

Likewise, all member States of the Council of State governments impose property taxes upon the *private property* of American State citizens, who cannot confer a sovereignty which will extend over them; *McCullough v. State of Maryland*, supra. Because the sovereignty of the United States is *absolute* over occupied territory, each State *necessarily* imposes property taxes while acting as a United States' *military commission* in the guise of a union State, exercising the belligerent powers of war possessed exclusively by the United States government; "The sovereignty of the United States over occupied territory is *absolute*;" *Cross v. Harrison*, 57 U.S. 164, 166 (1853).

C. The Intergovernmental Interdependency Agreement.

Oklahoma is a signatory party, as are each of the other "States," to the "Declaration of Interdependence of the Governments within the United States of America in Common Council," hereinafter "Compact Agreement," which originated at Washington, District of Columbia, on January 22, 1937, by delegates to the Third General Assembly of the Council of State Governments. Each of the several states not present at the 1937 signing has since formally accepted it. The Compact Agreement is an act by the State which waives its immunity from lawsuits under the Eleventh Amendment by implication, *Petty v. Tennessee-Missouri*

Bridge Comm'n, 359 U.S. 275 (1959), *West Virginia ex rel. Dyer v. Sims*, 341 U.S. 22, (1951), and cases there cited.

What was the precise character of this unitary de facto government created by the Compact Agreement in contemplation of law?

> "*The ~~Confederate States~~* [Council of State governments] *was an illegal organization, within the provision of the Constitution of the United States prohibiting any treaty, alliance, or confederation of one State with another; whatever efficacy, therefore, its enactments possessed in any State entering into that organization must be attributed to the sanction given to them by that State.*" *Williams v. Bruffy*, 96 U.S. 176, 183-185 (1877).

After agreeing to the terms of the Compact Agreement, each State functions as an agency of the United States Military [there are no other governments in America during a civil war], and as a de facto military commission; *Ex Parte Valandigham*, 64 U.S. 243, 249 (1864); *Ex parte Milligan*, 71 U.S. 2, Syllabus #7. & 12., (1866).

Each member State of the Council of State Governments exercises the War Powers under the Constitution of the United States within the union of States when not actually invaded. Each taxes, or seizes private property by violating the immunities reserved to its residents by the Constitution of the United States.

D. The Alien Registration Act of 1940.

The "Alien Registration Act of 1940," 54 Stat. 670-676, was enacted on June 28, 1940, prior to the onset of World War II and was *wholly unrelated to it*. Its true purpose was to provide the *New Deal* de facto military rulers of the United States with access to the birth records of American State citizens wherever resident. This enactment caused the Texas Department of Vital Statistics in Bowie County, Texas, to register the birth of Appellant McNeil as an "alien," on January 15, 1943, thirteen years after his birth in 1930. See proof of claim requiring mandatory judicial notice at App. 16.

Little notice was taken at the time of these changes in government, or of the *New Deal Alien enemies* created thereby, because the entire nation was focused on the efforts being made in order to ultimately prevail in the real military contests underway during World War II. Nevertheless, every American already an enemy of the United States by operation of International law, and subject to its war power by the SSA, was now also made a statutory *alien enemy* to the United States in the Nation of his birth. Today in Oklahoma and elsewhere, every American infant is provided with a number connecting it with the federal government located in the District of Columbia as an *alien enemy* registered under the Alien Registration Act of 1940. No separate identification card was required by the Act, since the Social Security card provided that function. While concealing from the registrant his status as an *alien enemy of the United States*, the act further prevented that citizen from working for others in the

nation of his birth as criminal punishment if not so numbered.

In 1939, a year prior to enactment of the federal Alien Registration Act of 1940, Pennsylvania enacted a similar statute. It required every *alien* 18 years or older, with certain exceptions, to register once each year; provide such information as is required by the statute, plus any "other information and details" that the Department of Labor and Industry may direct; pay $1 as an annual registration fee; receive an alien identification card and carry it at all times; show the card whenever it may be demanded by any police officer or any agent of the Department of Labor and Industry, and exhibit the card as a condition precedent to registering a motor vehicle in his name or obtaining a license to operate one. In *Hines v. Davidowitz*, 312 U.S. 52, (1941), this Court struck down the Pennsylvania law, explaining:

> *"The federal Act provides for a single registration of aliens 14 years of age and over; detailed information specified by the Act, plus "such additional matters as may be prescribed by the Commissioner, with the approval of the Attorney General"; fingerprinting of all registrants, and secrecy of the federal files, which can be "made available only to such persons or agencies as may be designated by the Commissioner, with the approval of the Attorney General." No requirement that aliens carry a registration card to be exhibited to police or others is embodied in the law, and only the willful failure to register is made a criminal*

> *offense; punishment is fixed at a fine of not more than $1000, imprisonment for not more than 6 months, or both.*" Underlines added, internal quotation marks in original. *Hines v. Davidowitz*, at 62.

On January 15, 1943, a *second and fraudulent birth certificate* was created by the Texas Department of Vital Statistics acting under federal compulsion, for the clear purpose of complying with the federal statute which required the registration of *American State citizens as alien enemies* before their fourteenth birthday. Petitioner/Appellant McNeil was nine months short of his fourteenth birthday, in January 1943. See App. 20. The material contained in that appendix requires mandatory judicial notice in this court inasmuch as it contains documents provided by a State government under seal.

Since that date in 1943, appellant McNeil has been forced to live under military rule, suffered threat of physical restraint, or physical injury, by the use or threat of law or the legal process. He has had his private property taken without just compensation, and has suffered destruction of his reserved immunities by *military government* usurpation of his birthright sovereignty.

Judicial notice must be taken that this is a further example of the results which obtain when the Congress have a power "*to make what laws they might please to call necessary and proper.*" Today, every American infant is numbered as a *registered alien enemy* under compulsion of the Alien Registration Act, usually

within a day or two of its birth; thus placing every American infant under complete dominance and control of military governance in America created by International Law, untethered by the American Constitution.

E. Military Commissions.

> *In a military department the military commission is a substitute for the ordinary State or United States Court, when the latter is closed by the exigencies of war or is without the jurisdiction of the offence committed. Ex parte Milligan*, at 57.

Military Commissions arise not from offenses against military law which are dealt with by Courts of Inquiry, and Courts Martial. They arise not from the acts of any legislature, nor from the common law of war, but from the effects and necessities of warlike operations which give power to their operation; *Ex parte Milligan*, 71 U.S. 2, 14-15 (1866).

In a brazen, cunningly calculated, and intentionally deceitful way, the "*New Deal*" was foisted upon the American people in a manner designed to move American sovereignty from each of the *people* of the several States, to the federal government, and to destroy their reserved immunities from taxation. By means of substituting a unitary military government of paramount force in the rightful place of *de jure* civil State governments, this federal ambition has been accomplished and masked under the euphemism of "*emergency*

powers." In his first inaugural address to the nation on March 14, 1933, President elect Franklin Delano Roosevelt telegraphed his intention to insinuate a military government throughout the American union of States, as exposed in the complaints lodged by Petitioner/ Appellant McNeil in the Oklahoma Courts:

> *"But in the event that the Congress shall fail to take one of these two courses, and in the event that the national emergency is still critical, I shall not evade the clear course of duty that will then confront me. I shall ask the Congress for the one remaining instrument to meet the crisis – broad Executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe."*

Those men who planned and undertook this grand deception in the name of the United States, understood and knew perfectly well that by operation of International Law:

> *"In a state of war, the nations who are engaged in it, and all their citizens or subjects, are enemies to each other." Jecker v. Montgomery*, 55 U.S. 110 (1855). *"The rules governing war, consist more in fact than law;"* – "[I]*n war every thing done against an enemy is lawful; that he may be destroyed, though unarmed and defenceless; that fraud, or even poison, may be employed against him; that a most unlimited right is acquired to his person and property." Armitz Brown v. United States*, 12 U.S. 110, pages 123, 124 (1814). *"Property of the enemy*

is subject to unlimited confiscation or taxation as a belligerent right in time of peace or in time of war." War powers, p. 18, 19. *"There is no limit to the kinds or character of property which may be appropriated by the government of the United States under the general welfare clause* (under discussion herein) *and the Confiscation Acts."* War Powers, pg. 18.

"The legal consequences resulting from a state of war between two countries, at this day, are well understood, and will be found described in every approved work on the subject of international law. The people of the two countries immediately become enemies of each other;" – *"All the property of the people of the two countries, on land or sea, is subject to capture and confiscation by the adverse party, as enemies' property, with certain qualifications* [fifth amendment restrictions] *as it respects property on land."* War Powers, page 156.

F. The Trowbridge error.

In his impeccable analysis of the jurisdiction of inferior federal Courts, submitted to this Court in his Petition to avoid being defrauded of his property by the IRS under color of law, Dr John Trowbridge, Jr., asked: "which provision of the Constitution of the United States of America gives the Congress a power to lay and collect direct taxes *in Tyler County, Texas*." That analysis in relevant part appears in an appendix to this bill in equity at App. 9-15.

He did not ask or answer *why* the Congress broadcast *Territorial Courts* across the entire Nation, substituting Article IV Legislative Courts of general jurisdiction in the place of Article III Courts of limited jurisdiction.

Doctor Trowbridge had not observed that the federal *military* jurisdiction extends exclusively, absolutely, and without limits over the entire union of States, and to the exclusion of all other governments when the United States exercises its belligerent rights of war. This change in jurisdictional limits occurred by operation of constitutional law at the very instant the SSA was enacted in 1935; Article I, Section 8, Clause 1. The totality of the effects of this change would be decades in coming. *"The sovereignty of the United States over occupied territory is absolute;" Cross v. Harrison*, 57 U.S. 164, 166 (1853).

When acting under belligerent rights of war, no *jurisdictional* limits to the taxing powers of Congress exist; *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1, 12 (1916); *War Powers*, pages 18-19. The Ninth and Tenth Amendments do not restrict powers of the general government during prosecution of war; *Ashwander v. Tennessee Valley Auth*, 297 U.S. 288, 330 (1936). *In war every thing done against an enemy is lawful; that he may be destroyed, though unarmed and defenceless; that fraud, or even poison, may be employed against him; that a most unlimited right is acquired to his person and property. Armitz Brown*, supra.

The IRS, pretending to be Congress, or a part of it, collects taxes in Tyler County, Texas, in exercise of Congress' belligerent rights of war.

Few would have known, and Doctor Trowbridge clearly did not, that a Civil War legally exists under laws enacted by Congress, and is being prosecuted throughout America by the United States government resulting in the total elimination of the reserved immunities from taxation enjoyed by American State citizens under civil governments.

G. State governments non-existent in war.

"The Constitution confers absolutely on the government of the Union, the powers of making war," American Insurance Co., supra, at 542. At least a part of the motivations for creation of the illegal organization known as the Council of State Governments was misdirection; a ruse to conceal the true reason for the pretense of forming a more *unitary* form of government than is permitted by the Constitution of the United States of America. That document created *States* that are necessarily foreign and independent from each other, and reserved to the *people* the prerogatives of the Crown; *Wheeler v. Smith*, 50 U.S. 55, 78 (1850).

This Supreme Court has explained carefully:

> *"And by the 2d section of the 2d article of the Constitution it is declared that "The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual*

> *service of the United States." These provisions show that Congress has the power to provide for the trial and punishment of military and naval offences in the manner then and now practiced by civilized nations; and that the power to do so is given without any connection between it and the 3d article of the Constitution defining the judicial power of the United States; indeed, that the two powers are entirely independent of each other." Dynes v. Hoover*, 61 U.S. 65, 78-79 (1857). Internal quotation marks in original.

Petitioner/Appellant McNeil has shown that the jurisdictions of war, when exercised by a *de jure* State, transforms its character. State governments become *federal military commissions* to meet the 'necessities of war' by operation of the Constitution itself.

Civil wars are never declared; *Prize Cases*, 67 U.S. 635, 666 (1862). It becomes such by its accidents, the number, power and organizations that carry it on; Id. War is simply the exercise of force by bodies politic, or bodies assuming to be bodies politic for the purpose of coercion. The means and modes of doing this are called belligerent powers. Id., at page 652. War was defined by this Court as "*That State in which a nation prosecutes its right by force.*" Id., at 666. It is not necessary to constitute a war that both parties be acknowledged as independent nations or sovereign states. A war may exist where one of the belligerents claims sovereign rights as against the other. Id., page 686.

More than a Century ago, some in the general government of the Union began to scheme as to how the Congress might adopt International Law for all of America in defiance of the Constitution. Reference to this intention is found in dicta in this Supreme Court case styled *Downes v. Bidwell*, 182 U.S. 244, at pg. 380 (1901):

> *"The idea prevails with some-indeed, it found expression in arguments at the bar-that we have in this country substantially or practically two national governments; one, to be maintained under the Constitution, with all its restrictions, the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to exercise."* Emphasis added.

The need for some alternate means for the United States to transfer sovereignty *from* the *people* of the United States *to itself*, became obvious *because this Court say*:

> *"The war power of the United States, like its other powers and like the police power of the states, is subject to applicable constitutional limitations." Ex parte Milligan*, 4 Wall. 2, 71 U.S. 121-127; *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 148 U.S. 336; *United States v. Joint Traffic Assn.*, 171 U.S. 505, 171 U.S. 571; *McCray v. United States*, 195 U.S. 27, 195 U.S. 61; *United States v. Cress*, 243 U.S. 316, 243 U.S. 326; *"but the Fifth Amendment imposes in this respect no*

> *greater limitation upon the national power than does the Fourteenth Amendment upon state power." In Re Kemmler*,136 U.S. 436, 136 U.S. 448; *Carroll v. Greenwich Ins. Co.*,199 U.S. 401, 199 U.S. 410." *Hamilton v. Kentucky Distilleries & Warehouse Co.*, 251 U.S. 146, 251 (1919).

Mr Justice Clifford of this Court in *United States v. Russell*, 80 U.S. 623, 627 (1871) say:

> *"Private property, the Constitution provides, shall not be taken for public use without just compensation, and it is clear that there are few safeguards ordained in the fundamental law against oppression and the exercise of arbitrary power of more ancient origin or of greater value to the citizen, as the provision for compensation, except in certain extreme cases, is a condition precedent annexed to the right of the government to deprive the owner of his property without his consent." – "Private rights, under such extreme and imperious circumstances, must give way for the time to the public good, but the government must make full restitution for the sacrifice.* Page 80 U.S. 630. *Beyond doubt, such an obligation raises an implied promise on the part of the United States to reimburse the owner . . . "*

The legal consequences of the use of the war power within the American States are very far reaching, and were well understood by previous justices in this Court. What was desired by President Woodrow Wilson, and by President Roosevelt's New Deal government, was a way to make *government* sovereign in

America, and eliminate the sovereignty of its *people*. Resorting to the powers of war contained in the Constitution with the effects of the change concealed and carried out in secret, was plainly the method chosen to do that.

The change from de jure State governments, necessarily foreign and independent from each other, – into unitary *de facto* military governments of paramount authority exercising the war power contained in Article I, Section 8, Clause 1, has been carefully concealed from public view for more than eight decades. This change formed the entire basis for the New Deal United States' government, and for all existing State governments. It completely integrates the machinery of all governments and municipal powers into the war efforts. Hence arise both the existence of Military Commissions, and the complete destruction of de jure civil governance. "*The sovereignty of the United States over occupied territory is absolute.*"

This honorable Supreme Court of the United States, in the case of *Cross v. Harrison* 57, U.S. 164, 185 (1853), approvingly reciting remarks made by the President of the United States:

> "*This government de facto will, of course, exercise no power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land. For this reason no import duties can be levied in California on articles the growth, produce, or manufacture of the United States, as no such duties can be*

imposed in any other part of the union on the productions of California."

Current taxing practices on internet sales engaged in by the de facto State of Oklahoma, and regulations issued by federal agencies, are done with complete disregard to Article I, Section 9, Clause 4, and of the ninth and tenth amendments through use of federal war power. Such practices also do not comport with settled *constitutional* mandates during war as previously decided in this Court.

By unwittingly permitting the operation of International Law (Laws of War) within each Union State in America, through means of the illegal alliance created with the Counsel of State Governments, the State of Oklahoma and each member State of the Council of State Governments, have become party to the destruction of each's own Constitution and government, and to the overthrow and annulment of the American Constitution.

The Social Security Act of 1935, is grounded upon that authority in the Constitution for the United States of America, at Article I, Section 8, and that part of Clause 1 which provides: "*and provide for the common Defence and general Welfare of the United States.*" Congressional power "*to make what laws they might please to call necessary and proper,*" has made every American State citizen slave to the belligerent powers of war possessed exclusively by the United States government.

All peace provisions of the Constitution like all other conventional and legislative laws and enactments, are silent amidst arms. *Ex parte Milligan*, 71 U.S. 2, 20 (1866).

Manifestly, the intentions of those federal actors who passed the SSA, included among other things, reversal of the locus of sovereignty from the American *people*, to a *de facto* unitary military government of "paramount force;" described by the Chief Justice of this Court in *Thorington v. Smith*, 75 U.S. 1, at page 9 (1868). In that same case, the illegal nature of the Council of State Governments and federal administrative agencies is identified and equated in exacting language with the Confederate States in Rebellion. Quoting:

> *"But there is another description of government, called also by publicists a government de facto, but which might perhaps be more aptly denominated a government of paramount force. Its distinguishing characteristics are (1) that its existence is maintained by active military power, within the territories and against the rightful authority of an established and lawful government, and (2) that while it exists, it must necessarily be obeyed in civil matters by private citizens who, by acts of obedience rendered in submission to such force, do not become responsible as wrongdoers, for those acts though not warranted by the laws of the rightful government. Actual governments of this sort are established over districts differing greatly in extent and*

> *conditions. They are usually administered directly by military authority, but they may be administered also by civil authority, supported more or less directly by military force.*" Underlines added.

All contemporary American State governments can be seen in *this* description.

In the early case of *Chisholm v. Georgia*, 2 U.S. 419, 471-472 (1793), it was decided that only *States* are subject to federal process of law, not the *people* in them. Mr. Chief Justice Jay of this Court say:

> "[A]*t the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects and have none to govern but themselves; the citizens of America, are equal as fellow citizens, and as joint tenants in this sovereignty.*"

The personal "*sovereignty*" of each of the American *people* ended the very moment they became *American alien enemies* of the United States government, by means of its enactment of the SSA. American freedoms *from the taxing demands of government* that *the people themselves incorporated into their Constitution* lasted from 1797 until 1935.

After enactment of the SSA and other subsequent federal actions, *sovereignty* in its true character was transferred *sub silentio* by operation of *international law*, from each American State citizen to the United States government, using the machinery of the several

State governments to extend the military reach of the President to every imaginable subject, for which the Congress chose "*to make what laws they might please to call necessary and proper.*" Elliot's Debates, vol. ii, 327, 328.

In 1935, federal judicial memory had lost or let loose its focus on the admonition issued by Mr. Justice Harlan in his famous comment in dissent:

> "*It will be an evil day for American liberty if the theory of a government outside of the supreme law of the land finds lodgement in our constitutional jurisprudence.*" *Downes v. Bidwell*, 182 U.S. 244, 382 (1901).

A nation of *people* yearning for relief from the financial depression being experienced at the time, provided fertile ground for enactment of the "*New Deal*" legislation, and its promise of a chicken in every pot. On August 14, 1935, at 49 Stat. 620-648, a scant two years following the inauguration of our New Deal President, the Congress enacted the Social Security Act with the stated purpose of "*enhancing revenues and for other purposes.*" The whole *people* of the United States had reserved a personal immunity from any Capitation, or other direct Tax except by the rule of apportionment; Article I, Section 9, Clause 4. In *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1 at page 12 (1916), this Court eschewed the notion that one provision of the Constitution could be allowed to be destroyed by another. Enhancement of federal revenues by directly *taxing people*, is possible only through the exercise of

the belligerent rights of war and International Law independent of the Constitution.

Each of the several States have become mere corporate agents of the federal government by entering into the Compact Agreement, and each an extension of the federal military contingent; each a *Military Commission*.

H. *War Powers* excerpted

In 1871, William Whiting, Solicitor General of the War Department, caused to be published the Forty-Third edition of a collection of private papers written for his own use. The papers were of an explanatory nature of the legalities and consequences surrounding federal use of its war powers during the Civil War period. In *War Powers*, he carefully sets out the doctrines regulating its use, and reports on cases arising under the Constitution relating to the war power and several cases decided in the federal courts. He states:

"The learned reader will also notice, that the positions taken in this pamphlet do not depend upon the adoption of the most liberal construction of the constitution, Art. I. Sect. 8, CI. l, which is deemed by eminent statesmen to contain a distinct, substantive power to pass all laws which Congress shall judge expedient "to provide for the common defence and general welfare." – "Whatever may be the extent or limitation of the power conveyed in this section, it is admitted by all that it contains the power of imposing taxes to an unlimited amount, and the right to appropriate the money so

obtained to "the common defence and public welfare." Preface, War Powers pages v, vi.

"Thus it is obvious, that the right to appropriate private property to public use, and to provide compensation therefor, as stated in Chapter I.; the power of Congress to confiscate enemy's property as a belligerent right; the power of the President, as commander-in chief, as an act of war, to emancipate slaves ; or the power of Congress to pass laws to aid the President, in executing his military duties, by abolishing slavery, or emancipating slaves, under Art. I. Sect. 8, CI. 18, as war measures, essential to save the country from destruction, do not depend upon the construction given to the disputed clause above cited." Preface, War Powers, page vi. Emphasis in original.

"It will also be observed, that a distinction is pointed out in these pages between the legislative powers of Congress, in time of peace, and in time of war. Whenever the words "the common defence" are used, they are intended to refer to a time, not of constructive war, but of actual open hostility, which requires the nation to exert its naval and military powers in self-defence, to save the government and the country from destruction." Id.

"This comparatively novel and important branch of public law, developed in our recent civil war, ought not to be overlooked by jurists or statesmen. It should be made a subject of special instruction in schools for the education of lawyers. The neglect of it has proved a national calamity." Id., page x.

"It is not the object and purpose of our hostilities to lay waste lands, burn bridges, break up railroads, sink ships, blockade harbors, destroy commerce, capture, imprison, wound, or kill citizens; to seize, appropriate, confiscate, or destroy private property; to interfere with families, or domestic institutions; to remove, employ, liberate, or arm slaves ; to accumulate national debt, impose new and burdensome taxes; or to cause thousands of loyal citizens to be slain in battle. But, as means of carrying on the contest, it has become necessary and lawful to lay waste, burn, sink, destroy, blockade, wound, capture, and kill; to accumulate debt, lay taxes, and expose soldiers to the peril of deadly combat. Such are the ordinary results and incidents of war. War Powers, page 8., emphasis in original.

"A state of general civil war in the United States is, happily, new and unfamiliar. These times have demanded new and unusual legislation to call into action those powers which the constitution provides for times of war." War Powers, page 11.

ARGUMENT

Mr. Whiting should see us now. Every American citizen has become an *alien enemy* to his own government *in peacetime* by legislative enactment; and in consequence *governments* [of paramount force] have acquired *"a most unlimited right – to his person and property." Armitz Brown v. United States*, 12 U.S. 110, pages 123, 124 (1814). Even in *Tyler County, Texas*.

State governments *act today* untethered by the Constitution, or by any other fixed principle of law; they lay and collect taxes on American citizens *as an act of war*; they enact bills of attainder; they impose duties on articles exported from every state; they totally subjugate their *people*, each a joint tenant in the American Sovereignty, to whatever the particular State legislative whims might dictate. All done in the exercise of the belligerent rights of war *as a means of carrying on a* ***non existent contest***. And; *"Belligerent rights cannot be exercised when there are no belligerents." – "but no Nation can make a conquest of its own territory;" Ford v. Surget*, 97 U.S. 594, 614 (1877).

The Supreme law of the land, is today observed more in the contempt of it, than in obedience to it.

CONCLUSION

Mr. William Pitt, the younger, in a clairvoyant moment in 1873 said: *"Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves."* His statement contains both a universal truth and a modern revelation. *Necessity* underpins government's resort to the use of its war powers in order to gain access to the wealth of citizens who cannot confer a sovereignty which will extend over them. *Necessity* drives the need for States to directly tax private property, so that it seems lawful when the IRS does the same.

It is now time for this *supreme* Court established by the whole *people* of the United States for their own protection – to *undertake the judicial actions needed in 2018 for protection of those people*.

The Constitution assigns to the Congress a power to "lay and collect taxes, & etc. "*There are no negative or restrictive words. Affirmative words are often, in their operation, negative of other objects than those affirmed and in this case, a negative or exclusive sense must be given to them or they have no meaning at all*;" *Marbury v. Madison*, 5 U.S. 137, 174 (1803). Excepting the belligerent rights of war untethered from the Constitution, *no government of the union of American States may lay and collect taxes on private property, in peace or in war*; *United States v. Russell*, 80 U.S. 623, 627 (1871).

American State citizens are not foreign born *aliens*, in the sense discussed by the Justices of this Court in *Hines v. Davidowitz*, 312 U.S. 52 (1941), but are made *alien enemies* of the United States though not foreigners, through the compulsion imposed upon State departments of vital statistics between 1940 and 1943 under authority of the Alien Registration Act of 1940; App. Page no. 20.

The Constitution grants to Congress no power to lay and collect direct taxes on private property in any County in America, outside the two which comprise the District of Columbia. And, emphatically not in *Tyler County, Texas*; *Carter v. Carter Coal Co.*, 298 U.S. 238, 295 (1936).

Military Commissions (modern union State governments) have no jurisdiction to try a citizen who was neither a resident of a rebellious State, nor a prisoner of war, nor a person in the military or naval service. And, Congress could not invest them with any such power; Syllabus #7., *Ex Parte Milligan*, 71 U.S. 2 (1866). State Courts are thus *constitutionally* wanting in jurisdiction to try ordinary criminals *in their own Courts*, if they be not untethered from the Constitution.

"*Belligerent rights cannot be exercised when there are no belligerents, and no Nation can make a conquest of its own territory;*" *Ford v. Surget*, 97 U.S. 594, 614 (1877).

In *Perry v. United States*, 294 U.S. 330, 353 (1935), this *supreme* Court say:

> "*The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared.*"

No question arises from this particular (and peculiar) set of facts that has not long since been settled by decisions taken in this *supreme* Court.

What remains now, is for this Supreme Court of the United States to strictly constrain American governments to the exercise of powers granted them by

the whole *people* of the United States through the supreme law of the land, though the heavens fall.

Respectfully submitted,

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