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IN THE UNITED STATES DISTRICT COURT ~

EASTERN DISTRICT OF TENNESSEE

AT CHATTANOOGA

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UNITED STATES OF AMERICA,

Plaintiff,

VS.

NO. CR-1-93-91

LLOYD R. LONG,

Defendant.  
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Chattanooga, Tennessee October 12, 1993

**INTRODUCTION:**

BEFORE:

THE HONORABLE R. ALLAN EDGAR,

UNITED STATES DISTRICT JUDGE

JURY TRIAL

DAY ONE

VOLUME I

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FOR THE PLAINTIFF:

Curtis Collier, Esq.  
Assistant United States Attorney  
Second Floor, Warehouse Row  
Chattanooga, TN 37402

FOR THE DEFENDANT: Lowell H. Becraft, Jr., Esq  
Attorney at Law

209 Lincoln Street  
Huntsville, AL 35801  
-and-  
Russell Leonard, Esq.  
Attorney at Law  
124 First Avenue, N.W.  
Winchester, TN 37398

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BE IT REMEMBERED, the above-entitled cause came on for hearing this 12th day of October, 1993, before the Honorable R. Allan Edgar, when the following testimony and evidence was introduced, to-wit;

THE COURT: Call the case.

THE CLERK: Criminal Action 1-93-91, United States of America versus Lloyd R. Long.

THE COURT: All right. I understand there's something that you wanted to take up at this time prior to selecting the jury?

MR. COLLIER: That's correct, Your Honor. There are three matters. The first one concerns the bill of information. The government submitted jury instructions to the Court about three weeks ago. And we would like to ask the Court to amend Count 1 of the bill of information to comport with what's in the jury instruction. That is, the date that the return should've been filed. April 15th of that year was on a Sunday, and the next Monday was the 16th. date there becomes April 16th instead of April 15th.

MR. BECRAFT: No objection.

THE COURT: All right. Count 1 of the superseding bill of information will be amended then to 16th. All right.

MR. COLLIER: The second thing, Your Honor, concerns discovery in this case. As the Court knows, it's the practice in this district for a discovery order be handed down early on in the case. We provided discovery to defense early on. We provided an opportunity for Mr. Long and his counsel to go over and review almost everything we had in our files, and then provide us with reciprocal discovery. And in fact, they did. They gave us a bundle of materials. This morning in court, I was just handed

by Mr. Becraft a defendant's exhibit list with a lot of materials that I have never seen before. It was just presented to me this morning. I've had and I will have no opportunity to check it out to determine whether it's true. Some of it appears to be coming from third parties, and it's dated after the offenses in this case. So, I think that we would have to object to any late discovery that's being provided to us. And I think that's going to consist of most of the items on their exhibit list.

THE COURT: Do you want to respond to that, Mr. Becraft?

MR. BECRAFT: Yes. I have here my proposed exhibit list, and there are a total of 17 exhibits that we propose to offer into evidence. Now, I will tell the Court that starting with Exhibit No. 9 through 16, all of those are exhibits that the government has had from day one. It was in their discovery. And I called Mr. Collier yesterday and asked him, you know, should I, for our letters that we're going to introduce into evidence, are you going to offer them or should I offer them. So, those exhibits right there that I've just called out are documents that the prosecution has had from the very beginning, you know. It's been provided to us through their discovery. Of course, our copies might be a little cleaner because we made copies from the originals, and they might have several generations of copies. But then that leaves the real question that will relate to Exhibit Nos. 1 through 8 on this proposed list.

MR. COLLIER: Seventeen.

MR. BECRAFT: And 17. Well, I'll tell you about 17 in a minute. They haven't provided anything in that respect. And they're going to bring in a witness from the service center and they're going to be offering documents that I've never seen either, If they want to object in that respect, I'm going to object to the stuff that they're going to bring in from the service center. But nonetheless, in relationship to items one through eight, most of this stuff is just government material.

THE COURT: Let's take a look at one. 1979 CRS report. What is that?

MR. BECRAFT: I have it right here. It consists of a total of four pages out of a government report. Now, I'll tell the Court what's happened. Mr. Leonard, in providing discovery, offered to the government certain reliance material consisting of books and things of that nature, without knowing specifically what we were going to be offering into evidence. Now, this last week when I was working with Mr. Long about what documents we should introduce into evidence -- he's got a quantity of material. I mean, we didn't bring it up. He's got boxes of items, Your Honor. And all I did is I discounted the stuff, the big books that Mr. Leonard brought up that, you know, that simply don't need to be in evidence, that the government would probably have an objection to it. So, all I've done is taken certain selected documents that are important. And most of it is government material.

THE COURT: You haven't answered my question. What's the 1979 CRS report?

MR. BECRAFT: I'll show the Court here. And I haven't had the opportunity, I was going to, during a break, put exhibit stickers on them. But I've got everything divided up into files.

THE COURT: Who is Howard Zoretski?

MR. BECRAFT: Just somebody with the Congressional Research Service, Your Honor.

THE COURT: It says he's a legislative attorney with the American law division. Of what?

THE COURT: Congressional Research Service. The Library of Congress, Your Honor...

MR. BECRAFT: Is that what it is? The Library of Congress? It doesn't say that.

MR. BECRAFT: Yes. CSR, to my understanding, it's a branch of the Library of Congress. They answer questions for Congress. That's a report. You know, let's look down to something like number seven, 1979 annual report. It's a single, one page document. It's a government publication. You know, all we've got here, with the exception of this 1990 -- I mean this Exhibit No. 4, the AM-Tax guide, everything else is government documents.

THE COURT: What's 1988 PA notice?

MR. BECRAFT: That's out of the instruction. booklet, Your Honor, 1040 instruction booklet. This is part of the case. [The Privacy Act Notice is what they are referring to.] eg

THE COURT: I'll tell you what, why don't you hand up Exhibits 1 through 8 and Exhibit 17 and let me take a look at them. Mr. Collier, while he's doing that, you-all have had 9 through 16? Is that right?

MR. COLLIER: The letters, Your Honor, we have no problems at all with. And the problem with these other things is not so much even whether they're accurate or not, it's that we have not had the chance to even look at them and determine. Mr. Becraft may be right. This may be out of some government entity. I have no way of knowing that. All I know is somebody gave me this over the weekend. [Just a second ago, Mr. Collier said it was "this morning."] eg

THE COURT: I understand that. But my question is, first of all, 9 through 16, you don't have any problems with those, right?

MR. COLLIER: That's right, Your Honor, 9 through 16 we don't have any problem at all.

THE COURT: Okay.

MR. COLLIER: They gave that to us early on.

THE COURT: So, we're dealing really about 1 through 8 and 17. Now, hand those up, if you would, Mr. Becraft.

MR. BECRAFT: Well, Your Honor, I've got them all in order here.

THE COURT: Well, give them all up to me. Let me take a look at them.

MR. BECRAFT: I'll do so, Your Honor. Now, on Exhibit No. 2, Your Honor, I think I left it down at my office, but it's a whole lot like Exhibit No. 1. I'll tell the Court, I've got one coming. It's coming Federal Express to your chambers.

THE COURT: Okay. Number 3 appears to be the instructions from 1040.

MR. BECRAFT: I have the whole instruction booklet there, but I've just made copies of the relevant part.

THE COURT: Exhibit 4 appears to be some literature published by maybe one of your organizations?

MR. BECRAFT: That's correct.

THE COURT: Exhibit 5, Avis statement. What's that?

MR. BECRAFT: There's, you know, hearings before Congress, they come out with these big thick books, Your Honor. There's a thing called the serial set which accompanies the Congressional Record. And I don't know whether that thing comes out of something in the serial set. But it's a 1953 government hearing.

THE COURT: Looks like it's some kind of report of a congressional hearing.

MR. BECRAFT: Right.

THE COURT: Okay. Exhibit 6 is an IRS bulletin. Seven is a 1979 annual report, Commissioner of Internal Revenue. Eight is a letter from the IRS to somebody named Dickerson.

MR. COLLIER: Notice the date of that letter, Your Honor. It's in the top right-hand corner.

THE COURT: March 14, 1991.

MR. BECRAFT: Which is before April 15th of 1991, Your Honor.

THE COURT: Okay. Why weren't these matters produced earlier, Mr. Becraft?

MR. BECRAFT: Well, Your Honor, Mr. Leonard, he's never tried one of these cases and --

THE COURT: Yeah, but he can read, though. He can read, can't he?

MR. BECRAFT: Yes, Your Honor.

THE COURT: Mr. Leonard, why didn't you produce these earlier?

MR. LEONARD: Well, Your Honor, that was a failure on my part through inadequate communications with my client. That's one reason that apparently Mr. Long saw fit to bring Mr. Becraft in.

THE COURT: Well, the order says that you're supposed to submit discovery -- let's take a look and see what it says.

MR. LEONARD: In the confusion of dealing with criminal prosecution, Mr. Long just was incapable of remembering everything that he had dealt with, seen, touched, smelled, had related to him, concerning these matters. He's been under considerable emotional strain. His family has been under considerable emotional strain. And it's, to be quite candid, it's taken someone with Mr. Becraft's experience to be able to pull Mr. Long into a position where he was ready to, actually ready for trial. Again, this was due to my lack of capability to get Mr. Long ready. I had informed Mr. Collier that at some juncture, due to the nature of the case and the fact Mr. Long was having difficulty pulling it together, that, in fact, we might make some other relevant material available to, try to make it available as soon as possible. At this juncture, Mr. Becraft has taken lead seat; and he has been able to help Mr. Long reconstruct his past.

THE COURT: Well, the discovery order says, page 2, that upon receipt of the government's discovery you're supposed to permit the government to inspect and copy things that you're going to offer as exhibits.

MR. LEONARD: Your Honor, as Mr. Collier has stated, we did, in fact, do that insofar as we presented what at the time we knew we had available. Again, the point is that Mr. Long took some period of time to reach the decision he made that's brought him before this court, and a great deal of material has passed over his desk. And it's just taken some period of time and some getting Mr. Long prepared for trial to be able to pull all that relevant material in.

THE COURT: What's this --

MR. LEONARD: It may be due to my inadequacy, and I apologize to the Court.

THE COURT: What's this master file?

MR. BECRAFT: It's something that comes out of the service center, Your Honor. It's a computer printout. It may be on the very bottom.

THE COURT: Well, what I'm going to do, Mr. Collier, is to -- I have looked at these things briefly. They do not require considerable amount of review. Basically what they are is materials that I'm sure the defendant claims he relied upon in making his decision not to file tax returns, if he did indeed make that decision. And so I'm going to go ahead and allow them in at this time. But I will allow you, Mr. Collier, any amount of time that you want to review those documents. I don't think we're going to be getting to them until tomorrow anyway. But if you want another day or two to review those, I'll let you have that time.

MR. COLLIER: I would appreciate that, Your Honor. You will recall that on Friday I had commented that as long as a delay would not be occasioned in this case, I had no objection to Mr. Becraft coming on board.

THE COURT: Yeah.

MR. COLLIER: I was in the office on Saturday. Mr. Becraft could've called me then. I was in the office yesterday. In fact, Mr. Becraft did call me and talk to me yesterday. He never ever said anything about additional material being discovered. It is specifically set out in the rules.

THE COURT: I know. It's in the order. They should've been produced. But we find ourselves in this predicament at this time, and we just have to make the best disposition of it we can. That's what I've done. Okay. Anything else?

MR. COLLIER: One last thing, Your Honor. Virginia Sherard's going to be our expert.

MR. BECRAFT: No objection, Your Honor.

MR. COLLIER: And we'd like her to sit in.

THE COURT: Okay. No objection. All right. Are we ready to proceed then?

MR. BECRAFT: Defense is, Your Honor.

MR. COLLIER: We're ready, Your Honor.

## **JURY SELECTION:**

THE COURT: Okay. Call the jury in. (Whereupon, jury panel entered courtroom.)

THE COURT: Ladies and gentlemen of the jury panel, the clerk has previously called the case this morning. It's United States of America versus Lloyd R. Long. At this time I will ask all members of the jury panel, if you would, please, stand and raise your right hands. (Jury panel was sworn.)

THE COURT: Ladies and gentlemen, when your name is called, if you would, please, come up and sit up here in the jury box and in these chairs that are off to the side here of the jury box. The first person whose name is called, please sit on the first row, on my end of the courtroom. Fill in the first row toward the back first, and then fill in the second row. Mr. Fisher here will help guide you to your seat. And then fill in the first row of chairs in the order that your name is called, and then the second and then the third in the same fashion. At this time I'll ask the clerk to call the names and juror numbers of 32 jurors.

THE CLERK: Number 136, Olivia Harvey; number 104, Carter Anderson; 102, George Allen; number 16, Darlene Carson; 75, Nancy Williams; 163, Johnny Olson; number 10, Michael Boling; 169, Sara Richardson; number 161, Kenneth Morrow; 171, Deborah Runyan; number 149, Elmer Layne; number 138, Daniel Hicks; number 4, Charlene Beard; number 182, Darius Wilcox; number 44, W. A. Kilgore; 170, Grace Roark; 126, Raynard Foster; number 116, Elizabeth Clark; number 71, Brenda Tripp; number 180 Leslie Werner; 139, Donald Jamison; number 30, Judy Goodbrad; number 11, Richard Brady; 135, Sadie Hannah; 42, Richard Jones; 141, John Karnes; 143, Gertrude Knight; 127, Johnnie Fritts; 103, Robert Allen; 151, Barbara Locke; number 1, Ames Caldwell, Jr.; number 140, Kelly Johnson.

THE COURT: All right. Good morning to all of you. I want to just tell you, for those of you who have not been through this process before, and I think most of you have, we'll be asking you some questions here. The purpose of the questions is not to be nosy, but just to allow me and also the attorneys in the case to make an informed decision about whether or not you could be fair and impartial as a juror in this particular case. After we ask you these questions, then the lawyers in the case will have a certain number of what we call preemptory challenges that they can exercise, which will excuse some of you. And then some of you will remain as jurors, and those of you who remain will be the jurors who actually serve in this case. Let me explain to you just a little bit about what this case involves. This is a criminal case. The defendant is Lloyd R. Long. He is charged in a superseding information with willfully failing to file his federal income tax returns for the calendar years 1989 and 1990. The defendant has pleaded not guilty. And I should tell you that the superseding information is not evidence of any kind against the defendant. It's just a mechanical means by which the case is brought to this court for trial here this morning. The defendant in the case, of course, as I will tell you later as well, begins with a clean slate, with no evidence at all against him. All right. Having heard that much about the case, has any member of this panel heard anything about this case prior to coming to court here today? Raise your hand if you have. Okay. Let me introduce to you some of the people who will be involved in the trial here. First, seated at the table closest to you, assistant United States attorney, Curtis Collier. Other than

perhaps having seen him here in court, does anybody know Mr. Collier? Okay. Mr. Collier, would you please introduce your agent there?

MR. COLLIER: This is Michael Geasley, with the Internal Revenue Service.

THE COURT: Anybody know -- is it Neasley?

MR. COLLIER: Geasley, G-e-a-s-l-e-y.

THE COURT: Mr. Geasley. Anybody know Mr. Geasley? All right. On the other side of the courtroom, the defendant in the case, Mr. Lloyd Long. Please stand up Mr. Long. Anybody know Mr. Long? Okay. With him are attorney Lowell Becraft. Anybody know Mr. Becraft? Mr. Becraft is an attorney I believe from down in Huntsville, Alabama.

MR. BECRAFT: (Moving head up and down.)

THE COURT: Okay. And Mr. Russell Leonard, also an attorney here representing Mr. Long. Anybody know Mr. Leonard? I think Mr. Leonard practices up on Monteagle Mountain. All of you have received a little list of questions. At this time what we'd like to do is, starting here, if we could, with Ms. Harvey, and if you would, please, just stand and just tell us a little bit about yourself, Ms. Harvey, from the information that's requested there.

PROSPECTIVE JUROR: I'm Olivia Harvey. I am a realtor. I am married. My husband is a manager. I have two children. They are 25 and 26 years old. I love sports. I love working with the elderly and I love working with children.

THE COURT: Thank you, very much. Mr. Anderson?

PROSPECTIVE JUROR: My name is Carter Anderson. I'm an addictions counselor. I work for Cumberland Health Systems. Single. I like to fish and work on old cars.

THE COURT: Okay. Mr. Allen.

PROSPECTIVE JUROR: I'm George Allen. I work for Lanier. I fix copy machines. I'm married. My wife works for the county. I have three sons. They're 20, 18, and 16. And I've got a number of hobbies, but mostly I spend my time woodworking.

THE COURT: Ms. Carson?

PROSPECTIVE JUROR: I'm Darlene Carson. I'm a probation officer for the Hamilton County Juvenile Court. I'm divorced. I have two boys, ages 21 and 14. My hobbies are music, reading, and walking.

THE COURT: Thank you. Ms. Williams?

PROSPECTIVE JUROR: I'm Nancy Williams. I'm a preschool teacher. My husband is a CPA. I have two daughters, ages 30 and 25. And I enjoy reading and tennis.

THE COURT: Thank you. Mr. Olson.

PROSPECTIVE JUROR: My name is Johnny Olson. I'm a manager at TVA. I have three children: two boys, ages 18 and 16, and a daughter age seven. I enjoy fishing and hunting, mostly bowling, hunting.

THE COURT: Okay. Mr. Boling.

PROSPECTIVE JUROR: Hike Boling. I work at Sam's Club. I'm married. I have a six-month-old boy. And I enjoy watching sports and fishing.

THE COURT: Mrs. Richardson?

PROSPECTIVE JUROR: My name is Sara Richardson. I'm a homemaker. I am married. My husband is an electrical engineer. I have two children who are ages 19 and 22. And I volunteer as my pastime.

THE COURT: Mr. Morrow?

PROSPECTIVE JUROR: My name is Ken Morrow. I'm a sales manager with Lowe's Company. Married. I have three children: 22, 23, and a four-year-old. And my hobbies are fishing and reading.

THE COURT: Thank you. Mrs. Runyan?

PROSPECTIVE JUROR: My name is Deborah Runyan. I work for TVA. I'm a contracts administrator. I'm married. My husband is in insurance sales. I have a 15-year-old daughter. And right now my hobbies are taken up pretty much with evening classes.

THE COURT: Mr. Layne.

PROSPECTIVE JUROR: My name is Elmer Layne. I'm retired from TVA. And I'm married. Got two children. One of them is age 40, and 41. Sports and I mess with old model cars.

THE COURT: Thank you, sir. Mr. Hicks?

PROSPECTIVE JUROR: My name is Daniel Hicks. Occupation is inspector. Married. My wife is a machinist. I have four children: 39, 37, 35, and 33. And I like fishing and hunting.

THE COURT: Thank you. Now we'll come back down here to the first row. Ms. Beard?

PROSPECTIVE JUROR: I'm Charlene Beard. I'm with the Social Security Administration. I'm divorced. I do not have children. I do a lot of volunteer work at the library and teaching adults to read.

THE COURT: Okay. Thank you. Mr. Wilcox?

PROSPECTIVE JUROR: My name is Darrius Wilcox. I'm an automated press operator. I'm married. My wife's a seamstress. No children. My hobbies are hunting and fishing.

THE COURT: Mr. Kilgore?

PROSPECTIVE JUROR: My name is W. A. Kilgore. Occupation is heavy equipment operator. Divorced. I have one child, 27 year old. Hobbies are hunting and fishing.

THE COURT: Mrs. Roark?

PROSPECTIVE JUROR: My name is Grace Roark. I'm retired. I'm married. My husband is retired from the foundry. We have two children. One is 37 and one is 41. And my hobbies are reading and sewing.

THE COURT: Okay. Mr. Foster.

PROSPECTIVE JUROR: Raynard Foster. I'm a loan officer. I'm married. My wife's a teacher. Got three children: eight, ten, and 16. And our time is mostly taken up with their sports activities.

THE COURT: Okay. I understand. Mrs. Clark?

PROSPECTIVE JUROR: My name is Elizabeth Clark, I'm a part-time secretary at Southeast Therapeutic. Part-time student. I've got an eight-year-old daughter. My husband is a builder, and I like to read.

THE COURT: Mrs. Tripp?

PROSPECTIVE JUROR: Brenda Tripp. I work at NcKee Foods in production. I'm divorced. I have one daughter that's 15. I like art and camping.

THE COURT: Okay. Mr. Werner?

PROSPECTIVE JUROR: My name is Les Werner. Human resources manager. Married. My wife is a purchasing manager. We have one child, age 30. And I enjoy lawn and gardening and reading.

THE COURT: Mr. Jamison?

PROSPECTIVE JUROR: My name is Donald Jamison. I'm a receiving clerk for Provident. I'm married. My wife works at CADAS. I have two children, grown and gone. I like sports, reading, and pool.

THE COURT: Thank you. Mrs. Goodbrad?

PROSPECTIVE JUROR: My name is Judy Goodbrad. I'm an interior designer for Life Care of America. I'm married. My husband is self-employed. I have a son that's 23 and a daughter that's 21. And my hobby is crafts.

THE COURT: Okay. Mr. Brady?

PROSPECTIVE JUROR: Richard Brady. I work at Bowater. I'm married. I've got child, 16. My hobbies are sports.

THE COURT: Okay. Mrs. Hannah?

PROSPECTIVE JUROR: I'm Sadie Hannah. I'm a homemaker and volunteer. My husband is a group research developer at DuPont. Our children are 24 and 18. And I enjoy volunteering and gardening.

THE COURT: Thank you. Mr. Jones?

PROSPECTIVE JUROR: I'm Richard Jones. Married. Retired. Three children: 41, 38, 33. My hobby is golf.

THE COURT: Mr. Karnes?

PROSPECTIVE JUROR: My name is Johnny Karnes. I'm a mechanical designer with Bowater Southern. I'm married. My wife is an elementary school teacher. We have no children. And my activities include my church, bicycling and running.

THE COURT: Okay. Mrs. Knight?

PROSPECTIVE JUROR: My name is Gertrude Knight. I'm a housewife. My husband is deceased. I have one child, 36 years old. And my hobbies is bowling and reading.

THE COURT: Thank you. Mr. Fritts?

PROSPECTIVE JUROR: My name is Johnnie Fritts. Retired, U.S. Navy, and presently working as a food service supervisor at East Ridge Hospital. I'm married. My wife works in customer service at Photo Finishing. Two children: 30 and 28. Hobbies are fishing and gardening.

THE COURT: Okay. Mr. Allen.

PROSPECTIVE JUROR: My name is Robert Allen. I'm retired from Chattanooga Times. Married. My wife is retired with TVA. Four children: 41, 37, 30, and 25. My hobbies are church and playing golf

THE COURT: Mrs. Locke?

PROSPECTIVE JUROR: Barbara Locke. I'm a branch assistant at Chattanooga Agriculture Credit Association at the Dayton office. I'm married. I have two children, ages 21 and 26. And I like to swim and shop.

THE COURT: Mr. Caldwell?

PROSPECTIVE JUROR: I'm Jim Caldwell. And I'm in the risk management and insurance business. I'm very happily married, to a realtor. We have four boys. And our main hobbies are our church and our travel.

THE COURT: Finally, Mrs. Johnson.

PROSPECTIVE JUROR: I'm Kelly Johnson. I'm a dental assistant. I'm married. My husband is a carpenter. No children. And hobbies include anything outdoors.

THE COURT: Okay. Thank you all for that. That helps us get a brief picture of a little bit about you and who are you, and I think saves in the long run some questions that we don't have to ask now because we know the answers. Just a couple of general questions, and then I'll turn you over and let the lawyers ask you some more detailed questions. You've heard what this case, what the allegations in this case are. Is here anything about those allegations that would prevent any of you. from being fair and impartial to both sides in this case? Raise your hand. And don't hesitate to do so if you have any feelings one way or another about this. Okay. You'll be asked to make your decision in this case based just on the evidence that you hear in the courtroom. Will anybody not be able to do that? Just think in general terms now. Of course, I realize you don't know much about this case. You know just generally what the allegations are and who's involved here. Is there any reason why any member of the jury panel would not be able to be fair and impartial in this case to both sides, to the government and to the defendant? Raise your hand. Okay. Mr. Collier, you may ask. Oh, I should say one thing before you start, Mr. Collier. This case is expected to take two days to try. It's possible that it could be extended to three days or maybe four days, although we wouldn't be in court all that time, My best guess is the case should be able to -- we will definitely complete it this week. My best guess is that we probably should be able to complete it by tomorrow, but there's a possibility that it might be a little longer than that. Does that present any particular scheduling problem for any member of this panel? Yes, sir, Mr. Allen.

PROSPECTIVE JUROR: I'm supposed to be a pallbearer at a funeral Thursday morning in Huntsville at ten o'clock.

THE COURT: Okay.

PROSPECTIVE JUROR: I have no problem with being here today and tomorrow.

THE COURT: That could be a problem. I mean, I don't know. I doubt if it would be a problem, but I don't want to put you in that situation. I don't want you to be here thinking about that and not about this case. So, I think what I'll do is I'll go ahead and excuse you. You can leave now. I would ask you -- well, let's see. I was going to tell you to come back Thursday. I guess you won't be able to be back Thursday. So, we'll just excuse you and we'll call you when we need you again. Thank you very much. Call another name.

THE CLERK: Number 41, Rita Janow.

THE COURT: Mrs. Janow, you heard all the questions that we have already asked so far?

PROSPECTIVE JUROR: Yea.

THE COURT: Do you know anything about this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do you know any of the people who have been identified here?

PROSPECTIVE JUROR: No, sir.

THE COURT: Could you give us a little bit about yourself from the sheet there?

PROSPECTIVE JUROR: I'm Rita Janow. I work at La-Z-Boy Chair Company in Dayton. My husband is disabled. I have two children. One is 16 and one is 14. And my hobbies are hunting and going with the kids to sports.

THE COURT: Okay. Do you know of any reason why you would not be able to be fair and impartial in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay. All right, Mr. Collier, you may proceed.

MR. COLLIER: May I turn the lectern around, Your Honor?

THE COURT: You may.

THE COURT: Oh, wait a minute. We've got Mrs. Harvey.

PROSPECTIVE JUROR: I have GRI classes on Thursday and Friday this week.

THE COURT: What is that?

PROSPECTIVE JUROR: Graduate Realty Institution. Certification class.

THE COURT: And what time are they?

PROSPECTIVE JUROR: From 8:30 to 5 on Thursday and Friday.

THE COURT: Is that something that you have to go to this week? I mean, how does that work?

PROSPECTIVE JUROR: I have already paid my money.

THE COURT: And you have to go this Thursday and Friday? I'm just asking you. Can it be delayed or not?

PROSPECTIVE JUROR: I can take it at another time, but I don't know if I'll get credit for the money.

THE COURT: Well, I don't want to put you out any, certainly any money. So, we'll excuse you then. Thank you. We'll call you when we need you again. Anybody else? Mrs. Goodbrad?

PROSPECTIVE JUROR: Could I have a side bar, please?

THE COURT: Okay. (Side bar conference was held outside the hearing of jury panel, as follows:)

PROSPECTIVE JUROR: I'm close to friend that served time for tax evasion. And so I might have a problem with that.

THE COURT: Do you think that that would prevent you from being fair to the government in this case?

PROSPECTIVE JUROR: I'm afraid I might have trouble.

THE COURT: Okay. You're excused. (Side bar conference was concluded and proceedings continued in open court, as follows:)

THE COURT: Okay. Anybody else? Okay. Call two more names.

THE CLERK: Number 116, James Chunn.

THE COURT: Mr. Chunn, if you could sit up here, please, on the front row, on the hot seat up here.

THE CLERK: Number 137, Sharon Herrod.

THE COURT: All right. Mr. Chunn, have you heard all the questions that have been asked so far?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Do you know anything about this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do you know any of the people who have been identified here?

PROSPECTIVE JUROR: No, sir.

THE COURT: Is there any reason why you would not be able to be fair and impartial to both sides in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Anything about the schedule that I've just mentioned that would prevent you from serving?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay. Could you tell us a little bit about yourself?

PROSPECTIVE JUROR: I'm James Chunn. I'm a manager at Abe Shavin Hardware on Broad Street. I got three kids: 34, 27, 29. I'm married. And my activities is working around the church in my spare time.

THE COURT: Thank you very much. Mrs. Herrod, do you know anything about this case?

PROSPECTIVE JUROR: No.

THE COURT: Do you know any of the people who have been identified in the courtroom?

PROSPECTIVE JUROR: No.

THE COURT: Anything about the schedule that presents a particular problem for you?

PROSPECTIVE JUROR: No.

THE COURT: Could you tell us a little bit about yourself?

PROSPECTIVE JUROR: My name is Sharon Herrod. I work at Erlanger Medical Center. I have two children: nine and 12. I'm married. And I enjoy my children and reading.

THE COURT: Do you know of any reason why you would not be able to be fair and impartial to both sides?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay, I think that does it, Mr. Collier. You can proceed.

MR. COLLIER: Thank you, Your Honor. As Judge Edgar said earlier, my name is Curtis Collier, and I'll be representing the United States in this case. And I would like to ask a few questions. And I'm going to put the questions to everyone in a group. The judge told you that this case involves two counts of failure to file income tax returns. Is there anything at all about the charge, that is, failure to file income tax returns, which creates a problem for you? If so, would you please raise your hand? Is there anyone who has not filed an income tax return, either jointly with your spouse or individually? If so, would you please raise your hand?

THE COURT: Do you expect them to answer that?

MR. COLLIER: Is there anyone who's ever had a problem with the Internal Revenue Service which might cause them some discomfort in sitting on this jury?

THE COURT: You've got one here.

MR. COLLIER: Mr. Anderson?

PROSPECTIVE JUROR: Yes, sir.

MR. COLLIER: And how long ago was that, sir?

PROSPECTIVE JUROR: 1980.

MR. COLLIER: 1980?

PROSPECTIVE JUROR: Yes, sir.

MR. COLLIER: About 13 years ago?

PROSPECTIVE JUROR: Yes, sir.

MR. COLLIER: Was that problem resolved?

PROSPECTIVE JUROR: Yes, sir.

MR. COLLIER: Was it resolved to your satisfaction?

PROSPECTIVE JUROR: Yes, sir.

MR. COLLIER: Do you have any lingering bitterness or hostility because of it?

PROSPECTIVE JUROR: No, sir.

MR. COLLIER: Do you think you were treated properly?

PROSPECTIVE JUROR: I believe I was.

MR. COLLIER: Anyone else? Is there anyone who's familiar with what is called the tax protest movement? Does anyone have any philosophical disagreement with the requirement that we all have to file income tax returns? Is there anyone who thinks they'd have difficulty following an instruction from the judge that even though you disagree with a law, you still have to obey that law? Does anyone think they'd have difficulty following an instruction from the Court, if the Court gave such an instruction? That's all I have, Your Honor.

MR. BECRAFT: May it please the Court. Ladies and gentlemen, let me introduce myself again. I'm Lowell Becraft, and I'm here to represent Lloyd Long. And just like Mr. Collier did a moment ago, I have a few questions to ask of you. And when I ask a question, I'm going to ask it as a group question. And if you've got a response, just raise your hand. First and foremost, I notice that when we were asking -- when the Court was asking you some questions, there were a number of people that were retired themselves or they had a spouse that was retired. Now, rather than going through my little list here, for those people who responded and said that they were retired, could you raise your hand now? What I'd like to know is, if you've been retired, could you tell us what you did when you weren't retired?

PROSPECTIVE JUROR: Do which?

MR. BECRAFT: What did you do before you retired?

PROSPECTIVE JUROR: I was a laborer at Sequoyah Nuclear Plant.

MR. BECRAFT: Basically all your adult life?

PROSPECTIVE JUROR: No. I retired from Roper Corporation as a supervisor.

MR. BECRAFT: And the other parties? Back row.

PROSPECTIVE JUROR: I'm retired with Chattanooga Publishing Company. I was a district manager there.

MR. BECRAFT: For how long?

PROSPECTIVE JUROR: Twenty-eleven years.

MR. BECRAFT: Thank you. Let's take the lady first on the front row here.

PROSPECTIVE JUROR: I'm retired from the Soddy-Daisy Water Company. I was a billing clerk.

MR. BECRAFT: Okay. Yes, sir?

PROSPECTIVE JUROR: I was director of service operations for Maytag Corporation.

MR. BECRAFT: Anyone else? Yes.

PROSPECTIVE JUROR: I'm retired from Varnell Construction.

MR. BECRAFT: From what? I didn't hear you.

PROSPECTIVE JUROR: Varnell Construction.

MR. BECRAFT: How long were with them?

PROSPECTIVE JUROR: Thirteen years.

MR. BECRAFT: Okay. Yes, sir?

PROSPECTIVE JUROR: I'm retired out of the United States Navy. Twenty years.

MR. BECRAFT: has there any other hands go up in response to that? Okay. How many of you have been involved in either a civil case or a criminal case personally? You know, a civil case, you know, you either sue somebody or you're getting sued. And in a criminal case, you know, you're the defendant, like Mr. Long. Now, has anybody ever been in that position? Yes, ma'am.

PROSPECTIVE JUROR: Yes.

MR. BECRAFT: And was it a civil case?

PROSPECTIVE JUROR: Yes, sir. I had an automobile accident and I was sued.

MR. BECRAFT: Okay. Can you -- you know, I don't care to know about the details of that. Did it go to jury trial?

PROSPECTIVE JUROR: Yes.

MR. BECRAFT: Okay. Now, you realize that, you know, you've been kind of in the role here of being a defendant. Could you lay that experience aside and let it not have any effect upon, if you're chosen as a juror here, not let it have any effect on your decision in this case??

PROSPECTIVE JUROR: Yes.

MR. BECRAFT: Any bad feelings you had about the court system, having been in that role?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Yes, sir.

PROSPECTIVE JUROR: I've had a civil lawsuit with some people before.

MR. BECRAFT: Did it go to court?

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: Jury trial?

PROSPECTIVE JUROR: No.

MR. BECRAFT: In front of a judge?

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: Is there anything about that experience -- you were a defendant in the case; is that right?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: Is there anything about that experience that you'd like to tell us about that might cause you to be reluctant to sit as a juror in this case?

PROSPECTIVE JUROR: None at all.

MR. BECRAFT: So, you can cast aside and forget about that experience and, if you're chosen as a juror here, be independent and not have it affect you, and base your verdict on the evidence in this case?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Were there any other hands? Yes, sir.

PROSPECTIVE JUROR: When I was road commissioner for Marion County, I was always getting sued for something.

MR. BECRAFT: A number of times, right?

PROSPECTIVE JUROR: A number of times.

MR. BECRAFT: Those were civil cases, right?

PROSPECTIVE JUROR: Most of them.

MR. BECRAFT: Were you involved as a defendant in any criminal cases?

PROSPECTIVE JUROR: I was always defending my position.

MR. BECRAFT: Now, that was a number of times then, right?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: This is an entirely different matter. But you've had some experience with the court system. Is there anything that would cause you to be reluctant to sit in this case, from that experience?

PROSPECTIVE JUROR: No, sir. Not that I know of.

MR. BECRAFT: So, that experience you can lay aside and not have it be any influence on a decision in this case; is that correct?

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: I'm sorry, I didn't catch all the hands. Were there some more in response to that question? Okay. Now about, have any of you ever been witnesses in a case, civil or criminal case? Next question., relating to jury service. And it's obvious that you're having to come to court now, but prior to this occasion, did any of you have to sit as a juror or were you called for jury duty in any state or federal case?

THE COURT: I think maybe you'd better re-ask that.

MR. BECRAFT: I'll do that. Let me just see a show of hands of people who have just been called, like you're going through right now, called but have never sat on a jury. Let me see those hands. Now, for everybody that raised your hand --

PROSPECTIVE JUROR: Speaking of county? I've served in the county.

MR. BECRAFT: I'm talking about state or federal. You've been called, but haven't sat on a jury. For those that have responded, raised your hand, is there anything that any of you that raised your hand can tell me as to whether or not being called and not serving on a jury, would it have any impact in this case upon your decision? All right. Now, how about can I see a show of hands of people that were called and did sit on a jury, state or federal? Well, could I do this? Could we just go row by row? And I'll just point to you. Is that all right? Let's start over here, seat number two. Sir, did you raise your hand?

PROSPECTIVE JUROR: Yeah. I've been here but never sat on a jury.

MR. BECRAFT: Well, that's my question. You know, my first question was, if you've been called but didn't sit on a jury. Now, this question relates to actually sitting on a jury. Okay? You know, like in a civil or criminal case, in state or federal court. How about first on the row here? Yes, ma'am.

PROSPECTIVE JUROR: Civil trial.

MR. BECRAFT: Was it in state or federal court?

PROSPECTIVE JUROR: Federal. Downstairs.

MR. BECRAFT: Recently?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: During the last couple of months maybe?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: Now, you recognize this is a criminal case?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: Can you lay aside your experience in that case and impartially look at the evidence in this case and make a decision.

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: Civil and criminal. Recently.

MR. BECRAFT: Anything before that time?

PROSPECTIVE JUROR: No.

MR. BECRAFT: So, you've been on civil and criminal service here in this building the last couple of months?

PROSPECTIVE JUROR: Right.

MR. BECRAFT: Okay. Is anything that would affect, the fact that you've sat on those other juries, would it affect your sitting here on this jury?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: Criminal. Recently.

MR. BECRAFT: Here?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: Anything that came up during the course of that trial you learned, any feelings or emotions that would maybe not make you suitable for service here?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Okay. Anyone else in the front row? How about the back row? Down near the end.

PROSPECTIVE JUROR: I had a criminal. Recently. Here.

MR. BECRAFT: Any service before that?

PROSPECTIVE JUROR: Not state or district. Just local.

MR. BECRAFT: Anything about that service, would it have an impact upon any decision you might make in this case?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: You can lay aside the facts of that case and the outcome of that case and make a decision solely based on the evidence here, right?

PROSPECTIVE JUROR: Yes.

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: Criminal. Federal court.

MR. BECRAFT: Recently?

PROSPECTIVE JUROR: Recently.

MR. BECRAFT: Okay. You can cast that aside, and it won't have any impact upon you in this case; is that correct?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: How about anybody else on the back row?

PROSPECTIVE JUROR: Criminal. Here.

MR. BECRAFT: Here?

PROSPECTIVE JUROR: Civil. State now.

MR. BECRAFT: The criminal case was here, recently?

PROSPECTIVE JUROR: No. It's been several years back.

MR. BECRAFT: Was it state or federal?

PROSPECTIVE JUROR: It was state.

MR. BECRAFT: This is different here. This is in federal court. Federal crimes. And you've sat on a civil jury in state court?

PROSPECTIVE JUROR: Yeah, in state.

MR. BECRAFT: Would there be anything about your service in those two prior cases that would have a bearing upon any decision you might make in this case?

PROSPECTIVE JUROR: (Moving head from side to side.)

MR. BECRAFT: Let's go to the front row here.

PROSPECTIVE JUROR: Both. Civil and criminal.

MR. BECRAFT: In state or federal court?

PROSPECTIVE JUROR: State and federal both. State recently. Federal, year and a half ago.

MR. BECRAFT: Here in this building?

PROSPECTIVE JUROR: For the federal, yeah. Recently. BECRAFT: Would there be anything -- and you've also sat on a state civil case?

PROSPECTIVE JUROR: State court, yeah.

MR. BECRAFT: Anything about your prior service in those various jury trials that would affect your verdict here?

PROSPECTIVE JUROR: (Moving head from side to side.)

MR. BECRAFT: Anyone else on the front row?

PROSPECTIVE JUROR: Here, recently. State, here, years ago.

MR. BECRAFT: Years ago in the state?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: What kind of case was it?

PROSPECTIVE JUROR: They were criminal. All of them were criminal.

MR. BECRAFT: And here, recently?

PROSPECTIVE JUROR: Here, recently.

MR. BECRAFT: Criminal or civil case?

PROSPECTIVE JUROR: Criminal.

MR. BECRAFT: Can you cast aside your previous experience and --

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: Civil case. Recently. Here in federal court.

MR. BECRAFT: And asking the same questions, you won't have, your prior service in that case won't have a bearing upon your decision here?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Let's take the second row. Yes, ma'am.

PROSPECTIVE JUROR: Criminal. Here.

MR. BECRAFT: Recently?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: Would there be anything about that service that would affect your decision here?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Okay. Anyone else on that second row? Yes, sir.

PROSPECTIVE JUROR: Criminal, federal, about fifteen years ago. Recently, here, criminal.

MR. BECRAFT: Anything about those -- you can cast that aside and base your verdict on the evidence here?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: How about the last row? Anyone?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Here?

PROSPECTIVE JUROR: Here. It was criminal.

MR. BECRAFT: Criminal case?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: You can cast it aside and not have that decision be an influence here?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Okay. Anyone else in the back row? Yes, sir.

PROSPECTIVE JUROR: I've had a couple of cases up at the courthouse.

MR. BECRAFT: The Hamilton County Courthouse?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: They were state cases?

PROSPECTIVE JUROR: State cases.

MR. BECRAFT: were they civil or criminal?

PROSPECTIVE JUROR: Both. I had one of each.

MR. BECRAFT: Okay. Can you cast aside anything you learned in that case or those cases, and base your verdict on the evidence here and act impartially?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: Criminal, recently, here.

MR. BECRAFT: Again, can you cast aside the outcome, the evidence, everything else that related to that other case, and base your verdict on the evidence here?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: For everybody that raised your hand and I've asked questions about jury service, is there anyone here -- I don't know whether I asked the question about everyone, but. can you make certain that you can act impartially and not have that prior service be any influence upon your decision in this case? If so, raise your hand. I'm going to ask a question that's kind of like Mr. Collier's question, but it might be a little bit different and I want to cover it. I know that you've been audited? You had a problem with the IRS?

PROSPECTIVE JUROR: Right.

MR. BECRAFT: Now, is there anyone else here that has ever been audited by the IRS? Meaning, like they say, you know, "We want to question you about your tax return, bring down your books and records and things of that nature." Anybody here in the box? Yes, sir.

PROSPECTIVE JUROR: I was. I don't know how long ago. I forget. But I had to pay back taxes because they audited me about eight years ago maybe. I don't know exactly when it was.

MR. BECRAFT: Now, did that problem with the IRS get resolved on a friendly basis?

PROSPECTIVE JUROR: Yeah. I had to pay it because who my wife was working for at the time, they didn't turn the tax in. So, they audited me and I had to pay back taxes. But it got resolved, you know.

MR. BECRAFT: Do you hold a grudge against the IRS because of this?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Anyone else in the front row? Yes, ma'am.

PROSPECTIVE JUROR: I think it was about '72. We had moved to another state and were questioned about contributions. But everything was fine.

MR. BECRAFT: So, you didn't have to pay any additional taxes?

PROSPECTIVE JUROR: No.

MR. BECRAFT: They just wanted to look at your books?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: That doesn't, you don't have a grudge against the IRS, do you?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Yes, ma'am.

PROSPECTIVE JUROR: I was audited once, some years ago, maybe ten or 15 years ago.

MR. BECRAFT: I don't want the details of it, but is there anything about that experience that would cause you to be angry or mad?

PROSPECTIVE JUROR: I came out ahead. They owed me some more money. It wasn't much, but they owed me some more money.

MR. BECRAFT: Well, obviously that wouldn't affect any decision here. Anyone else on the front row? Okay. Let me take the back row. Anyone ever been audited? Okay. I'll start at the back row back there. Yes, sir.

PROSPECTIVE JUROR: 1980.

MR. BECRAFT: They wanted to see your books?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: What was the ultimate outcome of that?

PROSPECTIVE JUROR: I had to pay some additional taxes.

MR. BECRAFT: Now, does that pose any problem for you? Do you have any animosity or a grudge against the IRS?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: If you're picked as a juror, that won't have an effect upon your decision here?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Anyone else? Yes, sir.

PROSPECTIVE JUROR: About '72 or '73, I just was sent a questionnaire asking questions about some of the contributions or deductions that I had. I answered them and sent them in and never heard anything else from it.

MR. BECRAFT: So, that's not much of a problem. But would the fact that the IRS came and asked you those questions have any bearing upon your decision in this case?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: You don't hold any animosity or grudge towards the IRS?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Yes, sir.

PROSPECTIVE JUROR: I think it was '74. There was a question about hiring my son to do a job for me. And I paid taxes for three years on that. In other words, my children were doing, one of my boys was doing a job for me and I was paying him salary; and there was a question about whether or not I could because the money was brought to the house. We resolved it because I had to pay it.

MR. BECRAFT: So, the taxes that were ultimately determined were of such an amount that it took you three years to pay it?

PROSPECTIVE JUROR: No, no. It was over a three-year period that they backed up on. Penalized me for that.

MR. BECRAFT: Did you ultimately have to pay a large amount of tax?

PROSPECTIVE JUROR: No, sir. Well, at that time it was quite a bit. But not a huge amount.

MR. BECRAFT: Well, is there anything about that particular problem that you had that would have a bearing upon you sitting here in this case and being a juror and listening to evidence about taxes?

PROSPECTIVE JUROR: They never really answered the question of why I could hire your son to work for me and take that money that I paid off my taxes, but I couldn't hire my own son. It's never been resolved. I mean, I don't have any problem with it now.

MR. BECRAFT: That's fine. Thank you. Yes, ma'am.

PROSPECTIVE JUROR: It's been approximately, I guess, 20 years, I don't know. They just went through our receipts and everything, and we paid it. I think that we may have had to pay some, not much. And then my son had a problem approximately five years ago. He worked in the summer, in high school, had a summer job. I think he had to pay a small amount.

MR. BECRAFT: So, those are two different instances?

PROSPECTIVE JUROR: Uh-huh.

MR. BECRAFT: Is there anything that came up during that situation, your little dispute with the IRS, that could in any way affect your verdict here?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Can you cast it aside and not let it bother you?

PROSPECTIVE JUROR: (Moving head up and down.)

MR. BECRAFT: Yes, sir. The last row.

PROSPECTIVE JUROR: I've had one instance where I received a questionnaire similar to somebody else's, and had to prove my contributions. I did that and that was resolved. The other time I had to pay a small amount of money, and it was resolved.

MR. BECRAFT: Does that cause you to have any ill will or feeling about anybody in the tax system?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Now, let's start over here on the second row. Is that everybody on the back row? Yes, sir.

PROSPECTIVE JUROR: I was audited in the mid '70s, I guess. It turned out very pleasant. I had a tax credit.

MR. BECRAFT: So, that's very favorable for you.

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: Well, I don't guess that had any adverse impact on your beliefs about taxes, did it? You can say that -- that doesn't have an effect upon you? You don't have a grudge against the IRS or anything like that, do you?

PROSPECTIVE JUROR: (Moving head from side to side.)

MR. BECRAFT: Anyone else on the second row? Okay. Now, I know we had some on the front row here.

PROSPECTIVE JUROR: The company that my wife worked for paid them off in a lump sue on retirement benefits.

MR. BECRAFT: But it wasn't her personally? Your wife had a problem with her retirement benefits?

PROSPECTIVE JUROR: It was turned in on our income tax together. It was failed to be turned in. They stretched it out for a period of time, then they sent it to us and it was failed to be turned in. And it was corrected.

MR. BECRAFT: How long ago was that?

PROSPECTIVE JUROR: Probably six or eight years ago.

MR. BECRAFT: And all you had to do is provide additional information to the IRS?

PROSPECTIVE JUROR: They provided us with the information that. it had been turned in, and we returned it and it was corrected through them.

MR. BECRAFT: Were there any additional taxes that arose out of this?

PROSPECTIVE JUROR: None. I think there was just a very small amount.

MR. BECRAFT: Okay. Would that have an impact upon your decision of a tax case?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Yes, sir.

PROSPECTIVE JUROR: I was audited in '79.

MR. BECRAFT: What happened?

PROSPECTIVE JUROR: They just made me bring all my receipts and bills and stuff down. Took about two weeks to clear it all up.

MR. BECRAFT: Did you have to pay any additional money?

PROSPECTIVE JUROR: I don't think so. Not at that time.

MR. BECRAFT: Would that have any effect or bearing upon your decision in a case involving taxes?

PROSPECTIVE JUROR: No.

MR. BECRAFT: Anyone else on this front row? Okay. This might be a -- you-all might've responded to this, but I want to specifically ask this question. Is there anybody here that's ever been forced to carry a dispute with the IRS to the United States tax court? Let's talk about returns. How many people prepare -- you know, I know that probably during the course of your life, some of you might've used return preparers and at other times you might've done your own return. Let me just ask you this question first. How many people over their lifetimes have always prepared their own returns? Let me see a show of hands. You-all are the only three that have ever -- you've always prepared your own returns? Okay. Can I see your hands again? Sir, did you have any problems with it?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: You never found it necessary to go to see somebody like H & R Block?

PROSPECTIVE JUROR: No, sir.

MR. BECRAFT: Or another return preparer?

PROSPECTIVE JUROR: I don't make that much money.

MR. BECRAFT: And you, sir, you've always prepared your returns?

PROSPECTIVE JUROR: That's correct.

MR. BECRAFT: Is it difficult for you? Do you have any problems with it?

PROSPECTIVE JUROR: (Moving head from side to side.)

MR. BECRAFT: Okay. Yes, ma'am.

PROSPECTIVE JUROR: I've always done mine. I mean, it's just a short form.

MR. BECRAFT: Find it relatively easy to do?

PROSPECTIVE JUROR: Yeah.

MR. BECRAFT: Now, I take it the rest of you have at least at some time in the past had someone else that has prepared the return for you; is that right? Can I see a show of hands of somebody that's had somebody else prepare them? I'm going to have to parcel this down here and ask a little bit different question. I want to see a show of hands of everybody that raised your hands just then. How many people here really do it for just convenience? Rather than doing it yourself, you'd just rather not take the time. You just carry all your paperwork down to a return preparer and just don't want to bother with it. It's convenient. How many people do that? Now, let me ask you this, of those who raised your hands and said you had somebody else prepare your returns, how many of you do it because of, you know, it's difficult, it's hard to understand, you don't know anything about the tax laws? How many of you do that, that's your reason? Have any of you ever worked with the IRS, like representing other people? If they've got a dispute with the IRS, you go in and represent them? Anybody like that? Any of you return preparers? Anybody ever had any accounting education background? Have any of you ever studied the tax laws, like big thick books, Internal Revenue code, tax regulations? Any of you ever studied the laws themselves? Is there anyone here, -- you know, this case, as the Court has told you, involves someone charged, Lloyd Long, charged with tax crimes. Specifically, the government says he willfully failed to file federal income tax returns for two years, '89 and '90. Is there anyone here that, just knowing the nature of that, just has a possible bias against or you think lowly of someone that's charged in that way? Do you have any mental reservations, you possibly don't like someone that's been charged for such a crime? Anyone feel that way? Now, the Court is going to give you -- I want to ask you some questions about just some general law involving a criminal case. Is there anyone here that doesn't recognize or can't abide by this principle of law, that Lloyd Long right now is clothed with a presumption of innocence? Anyone have any problems with that? Anyone disbelieve that? The mere fact that he might be charged, there's some credibility in it? Do each of you realize that in this case the government, the people here at this table, have got to prove that Mr. Long committed these crimes, committed these offenses, and the proof has got to be beyond a reasonable doubt? Is there anyone that disagrees with that principle of law? Okay. Is there anyone here that doesn't understand that, you know, in a civil case the burden of proof is on the party that's bringing the lawsuit, so to speak. It's a balancing of the scales of justice, you know. The proof is, you know, preponderance of evidence. Everyone realize that? But yet in a criminal case, here in America things are a lot different. We've got to prove the guilt of someone beyond a reasonable degree. No one has any problems with that principle of law? How about, does anyone have a problem with a case, -- you know, this is a little bit different case. This is not like your Perry Mason murder cases, things of that nature. You know, the crime in this case depends upon intent. And you've got to determine the intent of someone, which is what's locked up in their mind. Is there anybody here that's going to have a difficult time or possibly doesn't want to have to decide a case where if you've got a certain intent, you're guilty, if you've got a certain other type of intent, an innocent intent, you're not guilty? Does anyone have a problem with that? How about, I knew the Court was asking about scheduling, about the length of this case. I know the Court's being extremely cautious, but it looks like to me and from what Mr. Collier said, we might be able to complete this case today or tomorrow. I doubt if we'll go over to Thursday. But, you know, if it did go over to say, like Thursday possibly, is there anyone else that didn't have an answer to what the judge asked about problems going through to Thursday? Is there anybody that has, you know, these -- this is a nice courtroom. You can hear real well, and the speakers are adequate, more than adequate. But, you know, if I step back like this or if somebody was speaking low, would any of you have a problem with hearing what's going on in the courtroom? Is there anybody here that has a problem with seeing? You know, there's going to be documents. I can't believe that. Yes, sir.

PROSPECTIVE JUROR: I just had RK surgery on this eye yesterday. My vision comes and goes. So, it could possibly present a problem if there were exhibits or something. Mostly my vision is clear, but because of the recency of the surgery...

MR. BECRAFT: What kind of surgery was it?

PROSPECTIVE JUROR: RK surgery, where it corrects your vision.

MR. BECRAFT: Where they reshape the cornea so you can have better vision?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Have you done one eye already?

PROSPECTIVE JUROR: Yes, sir. Yesterday.

MR. BECRAFT: Does it work?

PROSPECTIVE JUROR: Yes, sir.

MR. BECRAFT: Good. I don't think that there's a whole lot of reading that's going to be involved in this case, but, you know, even if you found a document, let's say there was an important letter, would you have any problem, if you're back there in that jury room and needing to read something, do you think you could?

PROSPECTIVE JUROR: I believe so, yes, sir.

MR. BECRAFT: How long does it take to heal?

THE WITNESS: well, I could see well within hours.

MR. BECRAFT: Okay. Very good. Thank you. Can each of you here, if you're picked as a juror, listen to the evidence? You're going to have evidence that's going to come into this case through two primary ways: one, we're going to have people who are going to testify, and they're going to tell you certain things. And another part of the evidence in this case is going to be based on documents. And hopefully, I've seen Mr. Collier, he's done his best to keep down the number of documents, and we'll try to keep down the number of documents so there's not a whole lot of reading possibly. But that's the type of evidence that's going to be introduced in this case. Now, is there anyone here that can't assure me that when they get back there in that jury room and they consider these two types of evidence, that they can't base their testimony solely on the evidence that was presented in the trial? Is there anyone that can't do that? Would anyone here, since we've got the IRS involved in this case, that would possibly be reluctant because, you know, this is a tax case, and you might have some fear of the IRS. Is there someone here that would let something like that creep into your decision making process and have it affect your verdict? Everybody can lay aside the fact that the IRS is involved and not let it affect your verdict? That's it, Your Honor. Thank you very much.

THE COURT: All right. Complete the forms and submit them to the court officer. Ladies and gentlemen, this will take just a few minutes. we're going to take a break as soon as we get through with this, but the lawyers will have to prepare their challenges here. So, if you could, just hold off just for a few minutes. You can relax in place for just a moment. It's okay if you want to talk or whatever you want to do at this time. Just briefly relax while the lawyers get their challenges together.

MR. BECRAFT: Your Honor, could we approach side bar? (Side bar conference was held outside the hearing of the jury, as follows;)

MR. BECRAFT: If we're not going to alternate, do you just want to me to hand you the slip with all the strikes?

THE COURT: All the strikes.

MR. BECRAFT: I've got about four more to go, Your Honor.

THE COURT: Okay. (Side bar conference was concluded and proceedings continued in open court, as follows:)

THE COURT: All right. The following jurors will be excused. Please don't leave the courtroom yet, because I want to make sure that before I excuse you that I haven't made any mistakes. The following jurors can at this time reseal yourselves in the spectator portion of the courtroom. Those people are: Ms. Carson, 16; Ms. Williams, 75; Ms. Richardson, 169; Ms. Runyan, 171; Ms. Beard, 4; and everybody in the back two rows of the chairs. All right. That's 14 jurors remaining. Have I made any mistakes, gentlemen?

MR. BECRAFT: No complaints from me.

THE COURT: Acceptable to you, Mr. Collier?

MR. COLLIER: Yes, Your Honor.

THE COURT: Okay. Mr. Olson, if you'd move down two seats. And then if I could get you, Mr. Boling and Mr. Morrow, would you-all sit in these front two seats down here? Move down there. And then Mr. Layne and Mr. Hicks, you need to move out and let them move down. And then if you-all would move down to the end. Just reverse your seating there, if you would, sir. There you go. We're just trying to keep all this straight here. Okay. And then, Mr. Wilcox, you and Mr. Kilgore and Ms. Roark and Mr. Foster, if you would please come up and sit in the back four. And then Ms. Clark and Ms. Tripp, if you'd come down and sit in these two seats here, please. Okay. If you-all would please then, I'm going to administer one more oath to you. So, if you'd please stand at this time and raise your right hands. (Jury sworn.)

THE COURT: All right. Those of you who came but either were not called or were excused, you are now excused. Thank you for coming. Please come back Thursday, day after tomorrow, at nine o'clock. We're going to take a break right now. I'll just give one cautionary instruction at this time, and then I'll give you some more in just a moment. Do not discuss this case with anyone or permit anyone to discuss it with you until, of course, you're given the case to decide after the close of all the evidence. All right. We'll be in recess now for about ten minutes, or until 11 o'clock. (Morning recess was had.)

## JURY INSTRUCTIONS:

THE COURT: Members of the jury, now that you've been sworn, I will give you some preliminary instructions to guide you in your participation in this trial. It will be your duty to find from the evidence what the facts are. You and you alone are the judges of those facts, and you'll have to apply those facts to the law that the Court will give you, and you must follow that law whether you agree with it or not. Nothing that the Court may say or do, the Court being me, may say or do during the course of the trial should be taken by you as indicating what your verdict should be. The evidence from which you will find the facts will consist of the testimony of witnesses, documents, other things that are received into the record as exhibits, and any facts that the lawyers may agree or stipulate to or that the Court may instruct you to find. Some things, however, are not evidence. Among those things are statements and arguments and questions by the lawyers. These are not evidence. Lawyers do have an obligation to their client to make an objection when they feel that the evidence that's being offered is not properly admissible here under the rules of evidence. But you shouldn't be influenced by the objection itself or by my ruling on it. If I sustain an objection, then the witness will not be allowed to answer it; and you should just ignore the question. If I overrule it, then treat the answer that the witness will then give just like you would any other answer that a witness might give here. Any testimony that I have excluded or told you to disregard is not evidence and must not be considered by you. Anything that you may have seen or heard outside the courtroom is not evidence and must be disregarded because you must decide the case solely on the evidence presented here in the courtroom. There are two kinds of evidence: direct evidence and circumstantial evidence. Direct is direct proof of a fact. For example, the testimony of an eyewitness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist. I'll give you some further instructions on these as well as other matters at the end of the case, but keep in mind that you may consider both kinds of evidence, direct and circumstantial. It will be up to you to decide which witnesses to believe, which witnesses not to believe, or how much of any witness's testimony to accept or reject. And I will give you some guidelines for determining the credibility of witnesses at the end of the case. As you know, this is a criminal case. There are some basic rules about a criminal case that you must keep in mind. First, the defendant is presumed innocent until proven guilty. The superseding information against the defendant brought by the government is only an accusation, nothing more than that. It's not proof of guilt or anything else. So, as I've said earlier, the defendant starts out with a clean slate. Second, the burden of proof is on the government. The defendant has no burden to prove his innocence or to present any evidence or to testify. And since the defendant has the right to remain silent, the law prohibits you in arriving at your verdict from considering that the defendant may not have testified; that is, of course, if he elects not to testify. Third, the government must prove the defendant's guilt beyond a reasonable doubt. And I'll give some further instructions on this point later. Bear in mind, however, that in this respect a criminal case is different from a civil case. Some of you have sat on both. Just a few words about your conduct as jurors. During the trial you should not discuss the case with anyone or permit anyone to discuss it with you. This includes members of your family. So, until you retire to the jury room at the end of the case to deliberate on your verdict, you are simply not to talk about the case. Second, do not read or listen to anything about the case should there be anything on the news media about the case. Third, do not do any investigation or research about the case on your own. And finally, do not form an opinion about the case until you've heard all the evidence. Wait until you hear both sides until you make up your mind. If at any time during the trial anybody wants to take a break, there's a personal problem or need we can help you with, don't hesitate to let us know, because we want to make sure we accommodate you in any way that we reasonably can. All right. The trial is now about to begin. And what will happen is the government will make an opening statement first. That's just an outline to help you understand the evidence as it comes in. Next the defendant's attorney will, but is not required to make an opening statement. Opening statements are neither evidence or argument. It's just outlines of what that party intends to show in the case. The government will then present its witnesses whom the defendant may cross-examine. Following the government's case the defendant may, if he wishes, present witnesses and the government may then cross-examine. After all the evidence is in, the attorneys will present to you their closing arguments in which they summarize and interpret the facts in the case from their particular point of view. And then after that I will instruct you on the law as applicable to this case, and then you will retire to deliberate on your verdict. Any party wish to invoke the rule with respect to sequestration of witnesses?

MR. BECRAFT: I've only got one. I don't imagine there's going to be any other government witnesses in here, but if they have I might as well invoke the rule.

THE COURT: Any other witnesses other than the expert, Mr. Collier?

MR. COLLIER: No, Your Honor.

THE COURT: Okay. Well, we'll just say for the record that the rule is invoked, and that applies, of course, to both sides. Any people, other than the matters that we've already discussed, who are going to be testifying should remain outside the courtroom until they're called. They should be advised, and I put responsibility on the counsel in the case for this, that they should not discuss with witnesses who have previously testified anything about their testimony nor should they discuss that testimony with the lawyers. All right. Ready with opening statements, Mr. Collier?

## OPENING REMARKS:

MR. COLLIER: Yes, Your Honor. May it please the Court, ladies and gentlemen of the jury, again, I am Curtis Collier. I am an assistant United States attorney, and for this case I will be representing the United States of America. Assisting me in this case is Special Agent Michael Geasley of the Internal Revenue Service. He's the case agent in this matter. That means that he's the person who investigated the underlying facts and brought those facts to the attention of the United States attorney's office which resulted in the United States filing charges in this particular matter. As the Court told you, this is an opening statement, and this is the time when the lawyers for each side tell you what they think the evidence in the case is going to be and what that evidence should mean to you. You can look at an opening statement as a road map. If you're about to set out on a trip and you have a road map, then you know what route you're going to take. You also know what you're going to see along the way, and in case there's a detour you'll know how to get back on course. Sometimes, for scheduling problems or other problems, we have to call witnesses out of their logical order. And an opening statement helps you understand the evidence that comes in, if it does not come in in any logical manner. As you know, this is a tax case. It is a criminal tax case. The specific crimes, and there are two crimes charged here, are failure to file income tax returns. The defendant is charged in a document called a bill of information. There are two counts. The first count of that bill of information relates to the year 1989 and the second count relates to the year 1990. Other than the amount of money that the defendant earned in those two years and the difference in the years themselves, both charges read exactly alike. In order to find a person guilty of a crime in this country, it is necessary to find a person guilty of certain elements of the offense. And Judge Edgar at the conclusion of the case will tell you what those elements are. And I submit that Judge Edgar will tell you that to find Mr. Long guilty -- Mr. Long is the defendant in this case. To find him guilty, you have to find that, one, he was required to file income tax returns; two, that he failed to file those returns when they were due; and three, his failure to file his returns was willful, that is, it was not due to a mistake. In determining the guilt or innocence of a person, you have to rely upon the proof. And the proof in this case will be from witnesses who will testify, be sworn and will testify from that stand, and also certain exhibits that the Court will admit into evidence. The evidence in the case is going to show you that Mr. Long was employed in 1989 and 1990. In each of those two years he earned more than \$45,000 in income. He worked for Maury County, Maury County, Tennessee, in each of those two years. And you'll have a chance to see the income that he earned from Maury County. You'll be able to see this income in the form of Form 1099s that he was issued and that also was provided to the Internal Revenue Service. And you will see that just from Maury County, in 1989 he made \$47,750. For the next year, 1990, from the same entity, Maury County, he made \$48,657. You will hear this from a witness who will take the stand. He also did some work for a company called Grower's Chemical. Again you will see the income that he earned from this company. Again this will be in the form of a Form 1099. And you will hear that he made \$742.50 in 1989. That's in addition to the money he received from Maury County. Lastly, you will hear from someone from the ADEC Federal Credit Union. ADEC stands for the Arnold Engineering Development Center, and that's Arnold Air Force Base. That's what the operation of Arnold Air Force is called over near Tullahoma, the Arnold Engineering Development Center. In 1989, he received \$810.91 from them, and in 1990 he earned or he made \$843.02 from them. Again, this evidence will be presented to you in the form of the Form 1099, along with testimony from a witness. Next you will hear that the defendant was required to file an income tax return. And you will have a witness who will come before you and who will show you this chart. And this chart will tell you that there are certain requirements for people to file income tax returns. And giving Mr. Long the benefit of the doubt, taking into account that he is married and could've filed a joint return and that he had two children, that for a person in his circumstances, in 1989 if he made more than \$9,200 you have to file an income tax return. For the next year, 1990, the amount was \$9,550. There are certain time elements when these returns have to be filed, and that's set out in number two here. And it has to be filed by April 15th of the next year, unless April 15th falls on a holiday or weekend. If it falls on a holiday or weekend, then it's the next business day. And in 1990, April 15th happened to fall on a Sunday. So, the next day, the 16th, was a Monday, so that's when that return should've been filed. And lastly, the return should've been filed with certain offices of the Internal Revenue Service. It could've been filed with the service center. And from Mr. Long's home that service center would've been in Memphis, Tennessee. It could've been filed with the district director for the Internal Revenue Service in Nashville, Tennessee, or Mr. Long could've taken it to any local IRS office and just filed it himself. Now, you will hear that Mr. Long did not file his income tax returns for those two years. You will hear that a search was made of the records of the Internal Revenue Service and no evidence could be found that he had filed his returns for those two years. You will also hear evidence that Mr. Long's failure to file his income tax return was willful. And you're going to be able to conclude that it was willful because you're going to learn that Mr. Long is a very mature individual. He's very intelligent. He's educated. He's experienced. Mr. Long has a college degree. He went to college and received a bachelor's degree. After he received his bachelor's degree, he went back to college and received a master's degree. Additionally, Mr. Long was told that he had to file an income tax return. After all the evidence is in, you must decide whether the defendant is guilty or not guilty. That decision must be made based upon the evidence that comes into this court and the instructions which you'll receive from Judge Edgar. The United States submits that after listening to the judge's instructions and considering the evidence, you're going to conclude that this defendant knew what he was doing and that he willfully failed to file his income tax returns and, therefore, that your decision in this case will be that the defendant is guilty as charged as to both counts in the bill of information. Thank you.

THE COURT: Mr. Becraft?

MR. BECRAFT: May it please the Court. And before I proceed I have one question. I know that the Court told me on Friday that there might be a fire drill at 11:45. If it happens then, I can make it. But Mr. Collier told me a minute ago we might be breaking at 11:30.

THE COURT: It's my information it's 11:45. I hope you'll be through by then.

MR. BECRAFT: Thank you, Your Honor. May it please the Court, ladies and gentlemen of the jury. Mr. Collier, I know, feels this. I know the Court does, I do, Mr. Leonard and Mr. Long, we all realize that you could've come down here and come up with a reason to get out of service in this case. Nonetheless, by your own choice, you've been through this process of asking questions and you've indicated a willingness to be jurors in this case when you could've been doing something else, such as being home with your family or being at work. And on behalf of everybody on this side of the courtroom, I want to tell you we appreciate it. Thank you very much. Now, Mr. Collier mentioned a moment ago that the government has got to prove their case beyond a reasonable doubt. And he also told you that there are certain elements that the government has got to prove in this case. And I want to restate those for you again so that, you know, you'll understand what your task is when you decide this case. First the government has to show that Lloyd Long was required to file a return. Secondly, they have to prove that he didn't. And that third element, and this is the element I want to talk to you right now in the brief ten [the trial transcript is obscured by a "post it note" at this point It says, "Line 22-24 (which are the lines obscured) Criminal State of mind." And you can probably see where Mr. Becraft was going w/ this part. There are about 7 lines obscured, sorry, that's how I got it, but really there isn't much lost as you'll see in a second.] The question is did Lloyd Long willfully, meaning with a criminal state of mind, deliberately fail to file his returns or did he have an innocent good faith belief, a reason that he's done what he's done. Now that's the bottom line issue. Now, I know that during voir dire when we were asking you some questions, you were told by everybody on this side of the courtroom, the Court, Mr. Collier, myself, were told this is a failure to file case. And it seems like to me that the most logical question that would pop into anybody's mind would be, "Well, why did this happen? What's the reason?" And I want to tell you what the reason is. First let me tell you a little bit about Lloyd Long. He was born here in Tennessee in 1948. We went to --

MR. COLLIER: Your Honor, I'm going to object. Mr. Becraft has gone on about five or six minutes and he hasn't once said what evidence he's going to present or what type of theory he's going to have. He's really making an argument.

THE COURT: We want just a summary of what your evidence is going to be.

MR. BECRAFT: That's exactly -- I was just getting ready to get into that, Your Honor. That was my, the last words out of my mouth. He went to school, a small school over in the county in which he lived. He ultimately graduated from high school and then he went to college. He graduated from college and went on to become a master's -- to get a master's degree. Now, Lloyd has some education behind him. But I think you're going to find that the evidence in this case is going to show that, you know, what Lloyd has done basically in his lifetime, he's been a shop teacher. The first couple of jobs that he had was mechanical. He would teach students in school how to, I guess, turn wood and how to make metal instruments. But, you know, that's Lloyd's background. And he did that for a number of years. And then I think in the mid '80s he didn't do this, and he was, I think, selling Shakley products. And later on, for the years that we're dealing with, he went back to teaching, and he went over here to Saturn. He lived about a hundred miles away from the Saturn plant. But they needed somebody to teach people that worked at Saturn how to make tools, how to make parts, things of that nature. So, Lloyd is very mechanical and he teaches. And that, in essence, is who Lloyd Long is. Now, in explanation of the charges here, he's going to tell you why he did what he did, and it's going to start off back 'n 1982. In 1982 he went to a meeting, and there was a fellow by the name of George Gordon there. And it was up at the Smokehouse Inn in Sewanee, which is right up the hill from where Lloyd lives. And he attended this meeting and he learned, you know, that he has certain rights, you know. He had learned them in high school; but, you know, as time went by he began to forget a lot of rights, like we all do. He learned to appreciate that, you know, the United States Constitution protects an undefined amount of rights, one of which is the right to work. Now, he came to the realization that he has a right to work and, therefore, he can take his labor and he can go out here and swap his labor for a paycheck for whomever he's working. And as a result of attending that meeting he learned that, you know, the United States Constitution authorizes the federal government to impose two types of taxes. And he'll explain these to you in better detail than I can. But there are two types of taxes: direct and indirect taxes. And he came to the conclusion, after much studying, which includes reading materials such as this little book here, hopping into his car with a bunch of people and going up to the Vanderbilt law library, coming down here to the Hamilton County law library, going to other law libraries, I believe up in Sewanee and a few other places around mid Tennessee. He did some studying, and he reached the conclusion that in a constitutional sense, the federal income tax is an excise. And then he read some Supreme Court cases and he was told what an excise tax is. He learned that an excise tax is one that's imposed upon corporations, the manufacture and sale of commodities, and people who are in licensed, privileged positions. So, he reached the conclusion in his own mind and based upon what he had read and based upon some government reports and statements of that nature that he's not in a privileged position. He doesn't have to have a license to do what he's doing. And therefore he reached the conclusion that, you know, the federal income tax applies to a limited group of people and he's not somebody that falls in that class. Now, that's one belief that he had. Later on in time he learned something. He attended another meeting, and he watched a video, and I think he saw -- he attended a meeting with George Gordon in person and he watched some videotapes of this fellow by the name of

George Gordon. And you're going to hear a lot more about him. But on another occasion later in time, I guess about '85, '86, '87, somewhere right along there, he was looking at another videotape, a fellow by the name of Carter, I believe. And this fellow was talking about a law that Congress passed back in 1974, the Privacy Act. And that law required that the government go out here when they're asking questions -- when the government expects you to do something, they got to tell you the laws that require you to do something. So, Lloyd Long was told about this, and he was told that the IRS publishes a thing known as a Privacy Act notice. We're going to introduce it into evidence. And there are just three laws mentioned in this notice. And what Lloyd did is he studied those laws. Now, I want tell you something about the evidence in this case. As the Court told you a moment ago, all the law that you're going to get in this case is going to come from the Court when this case is over with and it's about time for you to decide this case. Now, Lloyd Long, when he gets up here and he talks about the things that he read, such as Supreme Court cases, books, the code, he's not going to be telling you what the law is. What he will tell you is his belief about the law. And you've got to take what he says and imagine in your mind that this is a belief, and then you're going to have to compare it with the jury instructions that the Court gives at the conclusion of the case. But even when you make that comparison, you've got to say, well, was Lloyd right or was he wrong? If he was wrong, you've got to determine whether it's an innocent mistake, good faith belief, or whether this is, you know, he's guilty, you know, he really knew that he had to do these things. And I say this at this point in time because I'm getting ready to tell you some things about what Lloyd Long believed the law to be. He believed, after reading some sections out of the Internal Revenue code, and he's going to tell you what they were, Section 6001, 6011, 6012 of the Internal Revenue code. He studied those, he watched a video and he deliberated and read cases. And he reached the conclusion that the people who are required to file a return under the laws the IRS told him about are people who are liable for a tax. A specific term of art, so to speak. And so, knowing that only people are liable to file a -- who are liable for a tax are required to file a return, he sat down and went through -- well, this is the only one that's in easy reach, but it's a book like this. This is a different type of book. But it's big paperback book called the Internal Revenue Code. And he commenced a study of that, and he was looking for one thing: is there a law in the Internal Revenue code that makes me liable for the income tax? And he studied and he studied and he studied. And lo and behold, over a period he reached a conclusion it's not there. Now, Lloyd, in summary, has two beliefs. First and foremost, he believes that the real nature of the federal income tax is that it's an excise tax. And he also believes that, you know, an excise tax is a very specific thing, applies, insofar as people are concerned, to people who are in privileged occupations. And he's not in a privileged occupation, so he believes as a consequence of that that he's not required to file a return. Secondly, this argument about relying upon what the IRS said, he studied those laws and he reached another conclusion that, hey, the people who are required to file a return are people who are liable for a tax, and I don't find in the Internal Revenue code where I'm liable for the tax. And at this stage in time both of these beliefs kind of fell together, kind of like a hand in a glove. The reason why he couldn't find a section in the Internal Revenue code that made him liable for the tax is because he's not in an occupation that's a privileged position. Now, ladies and gentlemen, that is a thumbnail sketch of what I expect the evidence in this case to be. Lloyd Long, after the government gets through with their case, which might take them a couple of hours to present this afternoon, after that happens he's going to take that witness stand and he's going to tell you this same story. And we're going to offer, not many, but we're going to offer some of the documents that he relied upon. And then we're going to also offer a string of letters. When he reached these conclusions, he started writing the IRS, "Well, tell me if I'm right or wrong." And you know what, ladies and gentlemen? They wrote back such letters as there's no definition of the word income in the Internal Revenue code, which is a mindblower to him. And they never answered his questions. Now, I think the facts that are going to come from the witness stand from Lloyd Long's mouth and from the documents he's going to introduce into evidence, there's but one conclusion that you can reach in this case: he may be wrong, but his belief is an innocent belief. His belief is a good faith belief. He attempted to learn what the law is. He reached a certain conclusion. That conclusion might be wrong, but it's an innocent belief and it's one you don't send people to -- you don't convict people for. And that's what the evidence in this case is going to show. And I feel confident that after this case is over and Lloyd gets down off the stand and we get ready to sum up in this case, Mr. Collier is going to give you a closing argument and I'm going to give you a closing argument. But I think by the time we reach that stage of this trial, you will comprehend and understand one thing, what the evidence in this case shows: Lloyd Long is not guilty of any crime in this case. And I expect you to return a not guilty verdict. Thank you very much.

THE COURT: All right. Since we do have a fire alarm I'm told scheduled for in about seven minutes, I guess we probably ought to go ahead and evacuate the place. So, ladies and gentlemen, please come back at 1:15. That'll give you a little over an hour and a half for lunch. Be back here at 1:15 and we'll resume the trial at that time. While you're away from here, remember what I told you about not discussing the case and the other admonitions I gave you.

MR. BECRAFT: Your Honor, before we dismiss could we approach the bench for a minute?

THE COURT: Sure. Do you want it on the record?

MR. BECRAFT: No, Your Honor. (Bench conference was held outside the hearing of the jury and court reporter, following which proceedings continued in open court as follows:)

THE COURT: Remember what I told you, ladies and gentlemen. The parties in the case obviously can't talk to you. So, when they don't talk to you, don't feel offended or anything like that. That's part of the program. Okay. We'll be in adjournment until 1:15.

(Luncheon recess.)

AFTERNOON SESSION 1:15 p.m.

**ARGUMENT:**

BARBARA BELANGER, called as a witness at the instance of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. COLLIER:

Q Please state your name, please.

A Barbara Belanger.

Q And how do you spell your last name?

A B as in boy, e-l-a-n-g-e-r.

Q And how you spell your first name?

A Barbara, B-a-r-b-a-r-a.

Q In what city and state do you reside?

A Lawrenceburg, Tennessee.

Q And are you employed at this time?

A Yes, I am.

Q How are you employed?

A I am employed by Nauru County Board of Education as an industrial training administrative assistant.

Q Do you know the defendant in this case, Lloyd Long?

A Yes, sir.

Q Is he present in court today?

A Yea, sir, he is.

Q Would you please point him out?

A That's Mr. Long (indicating).

MR. BECRAFT: We'll stipulate it, Your Honor.

THE COURT: No need to. Let's go.

Q I'm going to show you some documents and ask you if you can identify them.

A Yes, sir. This is Mr. Long's payroll checks, copies and endorsements, and invoice records, ledger sheets, and contracts.

Q And are those records of Maury County?

A Yes, they are.

Q Were those records kept and maintained in the regular course of business of Maury County?

A Yes.

Q And the entries depicted in those records, were they made at or near the times depicted?

A Pardon me?

Q Were the entries that you see in those records, were those entries put in those records at or near the time that the records indicate? For example --

A Yes.

MR. COLLIER: Your Honor, we would move the introduction of Government Exhibit No. 1.

MR. BECRAFT: No objection.

THE COURT: Received. Government's 1. (Government Exhibit 1 was received into evidence.)

Q I'm going to show you what has been marked as Government Exhibit No. 2 and ask if you can identify that?

A Yes. Mr. Long's 1989 1099 form.

Q And is that a record of Maury County?

A Yes, sir, it is.

Q Was that record maintained and kept by Maury County in the regular course of business?

A Yes.

Q Were the entries on that document made at or near the times shown on that document?

A Yes, sir.

MR. COLLIER: We offer that, Your Honor.

MR. BECRAFT: No objection.

THE COURT: Received. Government's 2. (Government Exhibit 2 was received into evidence.)

Q Now, I'm going to show you what has been marked as Government 3. What are those records?

A We have 1990 checks, endorsements, contracts, ledgers, copies of his checks, invoices, and contract.

Q And are those records of Maury County?

A Yes, sir.

Q And were they kept and maintained in the regular course of business?

A Yes, sir.

MR. COLLIER: We'd offer those, Your Honor.

MR. BECRAFT: No objection.

THE COURT: Received. Government's 3. (Government Exhibit 3 was received into evidence.)

Q Number 4, what is that?

A This is a copy of Mr. Long's 1990 1099 form from Maury County Board.

Q For what year?

A 1990.

Q And is that a record of the Maury County?

A Yes, sir.

Q Was it maintained and kept in the regular course of business?

A Yes, sir.

MR. COLLIER: We offer that, Your Honor.

MR. BECRAFT: No objection.

THE COURT: Received. Government's 4. (Government Exhibit 4 was received into evidence.)

Q I'm going to ask you to take a look at Government's Exhibits S-1 and S-2, summary sheets. And what I'd like you to do is to write on the bottom for each year the income that Mr. Long earned from Maury County. Can you do that? Do you need something to write with?

A (Witness complies.)

MR. COLLIER: Your Honor, we'd offer those and we'd ask that those be published.

THE COURT: Okay. S-1 and S-2. Received. (Government Exhibits S-1 and S-2 were received into evidence.)

Q The last document is Government Exhibit No. 5. Do you recognize that?

A Yes, sir.

Q What is that?

A This is a resume from Mr. Long.

Q Was that in the records of Maury County?

A Yes, sir, it is.

Q And was it kept and maintained in the regular course of business of Maury County?

A Yes.

MR. COLLIER: We offer that, Your Honor.

MR. BECRAFT: No objection.

THE COURT: Received. Government's 5. (Government Exhibit 5 was received into evidence.)

MR. COLLIER: We tender the witness, Your Honor.

THE COURT: Cross-examination?

MR. BECRAFT: Yea, sir, very briefly.

CROSS EXAMINATION BY MR. BECRAFT:

Q Ms. Belanger?

A Belanger.

Q Thank you. Did you know Lloyd Long before, say, June of 1988?

A No, sir.

Q Did you meet him sometime around the first of July of '88?

A No, sir. I met Mr. Long January of 1990.

Q Okay. The first time in your life was then?

A Yes, sir.

Q Do the records that you've introduced into evidence show basically what Mr. Long was doing during these years?

A They showed his work, yes, sir.

Q Maury County was providing to the Saturn plant?

A We provided Mr. Long -- well, I can't say employment. He was a contractor with the industrial training service program that was administered through the Maury County Board of Education.

Q So, the Board of Education hired him to work out at the Saturn plant to teach people; is that correct?

A That's right.

Q And so, do your records reflect that in July of 1981, July 1st, specifically -- of 1988, I'm sorry, he was hired by Maury County?

A Yes.

Q For this purpose?

A Yes.

Q All right.

A It would be a contract.

Q These contracts are a year long each time?

A No. Some ran for six months, some ran for a year, some ran for three months.

Q So, we've got maybe four or five contracts in the documents you've introduced, right?

A Sure.

Q Now, he quit working for Maury County sometime in 1991, March of 1991; is that correct?

A April 30, 1991.

Q And during that entire time frame he was doing this type of work, the same type of work?

A Yes, sir.

Q At the Saturn plant, teaching people, right?

A Yes, sir.

Q Okay. Now, I didn't catch and you didn't read into the record, the prosecution showed you, Mr. Collier showed you Exhibits No. S-1 and S-2?

A Yes.

Q I'm sure the figure, while circulating with the 5 39, what was (line indistinct) //you [again, the original is obscured for several lines. About 6 lines were missing. It appears as though it was missing from the Court.]eg (line indistinct)

A \$48,675.

Q 675?

A Yes, sir.

Q How often did you meet with Mr. Long? If you met him sometime in 1990 and he was there for basically a little more than a year, did you meet him on several occasions?

A Well, I met with him quite often. I ordered supplies for him. I picked up his payroll every two weeks. But we did not always have personal contact when I picked up payroll, invoices.

Q And since July -- I mean, since March of 1991, you haven't had any further contact with him, have you?

A No, just one or two telephone conversations.

MR. BECRAFT: Nothing further, Your Honor.

THE COURT: Any redirect?

MR. COLLIER: No, Your Honor. Call Theresa Tucker.

THE COURT: You may step down. You're free to leave. Next witness. Theresa Tucker. (Witness excused.)

THERESA TUCKER, called as a witness at the instance of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. COLLIER:

Q Please state your name for the record.

A My name is Theresa Tucker.

Q And how do you spell your first name?

A T-h-e-r-e-s-a.

Q And how do you spell your last name?

A Tucker, T-u-c-k-e-r.

Q In what city and state do you reside?

A I live in Winchester, Tennessee.

Q And how are you employed at this time?

A I am employed at AEDC Federal Credit Union in Tullahoma, Tennessee.

Q What position do you hold there?

A I'm a collection clerk.

Q I'm going to show you two documents that have been marked for identification as Government Exhibit 6 and 7. Did you recognize those documents?

A I do.

Q And what are they?

A These are 1099 or interest income forms.

Q For who?

A They're for Lloyd R. Long.

Q And for what years are they?

A For 1989 and 1990.

Q Were those records kept and maintained in the regular course of business of the AEDC Federal Credit Union?

A They were.

Q And were the records -- were the entries in those records made at or near the time that's shown in the records?

A They were.

MR. COLLIER: Your Honor, we would offer into evidence those two exhibits.

MR. BECRAFT: No objection.

THE COURT: Six and 7 are received. [Government Exhibits 6 and 7 were received into evidence.]

Q I'd now like to show you what has been marked for identification as Government Exhibits S-3 and S-4. And what I'd like you do is to write on those two exhibits the sums that your records indicate Mr. Long received from the credit union in those two years.

A (Witness complies.)

MR. COLLIER: We'd offer those, Your Honor. I'd like those published.

THE COURT: Okay. They're received. That's Government's S-3 and S-4. (Government Exhibits S-3 and S-4 were received into evidence.)

MR. COLLIER: we tender the witness.

CROSS EXAMINATION BY MR. BECRAFT:

Q Briefly, Ms. Tucker, the AEDC Credit Union is located in Winchester, right?

A Tullahoma, Tennessee.

Q Tullahoma, I'm sorry. And Lloyd Long had an account with the credit union, correct?

A That's correct.

Q And basically, that account was a savings account?

A Savings account and a CD account mainly, and a checking account.

Q Okay. And these 1099s, 6 and 7 that you've offered through your testimony, for 1989 how much did you report? We didn't have it read to us. I'd like to know.

A 1989, \$810.91. 1990, \$843.02.

Q So, that was the interest that was paid by your credit union to him for those years as a result of having some funds in the account, right?

A That's correct.

Q And on Exhibits No. S-3 and S-4, what you put down is those figures, 810 and 843; is that correct?

A That's correct.

Q You don't know Lloyd Long personally, do you?

A No, I do not.

MR. BECRAFT: Nothing further, Your Honor.

THE COURT: Can this witness be excused?

MR. COLLIER: Yes, Your Honor.

THE COURT: You may step down. You're free to leave. Thank you. (Witness excused.)

THE COURT: Next witness.

MR. COLLIER: Rebecca Signs. REBECCA SIGNS, called as a witness at the instance of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. COLLIER:

Q Please state your name.

A Rebecca Signs.

Q In what city and state do you reside?

A I live a Milan, Ohio.

Q And how are you employed at this time?

A I've been employed for fifteen years.

Q And who is your employer?

A J. P. Henry.

Q And do you work for a particular company?

A Grower's Chemical.

Q And where is Grower's Chemical located?

A In Milan, Ohio.

Q And what business is it engaged in?

A We make liquid fertilizer.

Q I'd like to show you what we've marked for identification as Government Exhibits 8 and 9 and ask if you can identify those two exhibits?

A Yes.

Q Are those records of Grower's Chemical?

A Yes.

Q Were those records kept and maintained in the regular course of business of Grower's Chemical?

A Yes.

Q Would you explain to the members of the jury what those two records are?

A The one is a payroll check that he earned from commissions and the other one is a 1099.

Q And who's the he" who earned the payroll commission?

A Lloyd R. Long.

MR. COLLIER: We'd offer those, Your Honor.

MR. BECRAFT: No objection.

THE COURT; Eight and 9. They're received. (Government Exhibits 6 and 9 were received into evidence.)

Q I'm now going to show you what's marked as Government Exhibit S-5. What I'd like you to do is to write on the bottom of that exhibit the amount of money shown in your records as being received by Mr. Long for that year.

A (Witness complies.)

MR. COLLIER: We'd offer that. We'd like that published.

THE COURT: All right. That's S-5.

MR. BECRAFT: No objection.

THE COURT: Received. (Government Exhibit S-5 was received into evidence.)

CROSS EXAMINATION BY MR. BECRAFT:

Q Ma'am, Grower's Chemical is the company that you work for?

A Yes.

Q And they sell fertilizer?

A Yes.

Q And at some time in I guess '88, '89, '90, somewhere along there, Lloyd Long was working for the company as a salesman?

A Yes.

Q Now, Exhibits 8 and 9 are precisely what? Are they one payroll check, two payroll checks?

A One payroll check.

Q That would be Exhibit No. 8?

A Yes.

Q How much was that for?

A \$742.50.

Q And so Exhibit No. 9, which is the 1099, is for the same amount; is that correct?

A Correct.

Q All right. Would it be -- is this the relationship that Mr. Long had with your company; he sold fertilizer, he received commission on the sales and you cut one check during 1989, I guess, for the amount of the sales?

A Correct.

Q So this check, Exhibit No. 8, is dated when?

A June 13th of 1989.

MR. BECRAFT: Nothing further, Your Honor.

THE COURT: You can step down, ma'am. You're free to leave. Thank you. (Witness excused.)

THE COURT: Next witness.

MR. COLLIER: Next witness is Libby Jeu.

ELIZABETH JEU, called as a witness at the instance of the Government, having been first duly sworn, was examined and testifies as follows:

DIRECT EXAMINATION BY MR. COLLIER:

Q Please state your name for the record.

A Elizabeth Jeu, J-e-u.

Q And in what city and state do you reside?

A Tennessee. Memphis, Tennessee

Q And do you work at this time?

A I work at the Internal Revenue Service, the Memphis Service Center.

Q And would you explain to the members of the jury what the Memphis Service Center is and what it does?

A The Memphis Service Center is the place where taxpayers send their returns to be processed into the system to create permanent records.

Q And what position do you hold with the service center?

A I'm a tax examiner with the criminal investigation branch.

Q And can you tell the members of the jury where someone who resides in Decherd, Tennessee, would file their income tax returns?

A They would file their returns at the Memphis service center in Memphis, Tennessee.

Q Now, once income tax returns are filed with the service center, can you explain to us what happens with regard to the return once it is filed?

A When we receive the taxpayer's return it's blocked into the types of returns, whether it's a 1040A or a 1040. Then it goes through the system of being edited as far as legibility and numbers. Then it goes to the computer area where it's transcribed and creates the permanent record. Then the paper document itself goes to the files within the service center for a certain length of time and then for its final destination to the Federal Records Center.

Q Now, this procedure that you have described, how long have you been knowledgeable about this procedure?

A Approximately 18 years.

Q Now, the income tax returns themselves, once they're filed with the service center are they kept and maintained in the regular course of business of the Internal Revenue Service?

A Yes, sir.

Q Now, in addition to the returns themselves, can you tell us whether any other records are generated within the Internal Revenue Service showing that a return has in fact been filed and when that return was filed?

A Well, the permanent record would indicate if the return was filed and processed for that particular person under their social security number.

Q And are these records, the records that you just referred to, are they kept and maintained?

A Yes.

Q And are they relied upon within the Internal Revenue Service?

A Yes.

Q And it shows various entries here for money; is that right?

A That's correct. The first line, 8, is taxable interest, line 12 is alimony received, and then line 23 is the total of those two items.

Q And then at the bottom there is a total figure down there of \$23,000?

A Yes. Twenty-three thousand. That's the adjusted gross income.

Q Now, is this the second page of the 1040?

A Yes, sir.

Q And you see that there is some calculations here at the top part?

A That's correct

Q Then at the bottom there are two signatures?

A Yes. The signature, "Your signature" is Lloyd R. Long, and "Spouse's signature," Dana Long.

Q Now, there were schedules attached to the return, were there not?

A Yes, sir.

Q A Schedule C?

A Schedule C, yes.

Q It shows a Mr. Long as a contractor?

A That's correct. Schedule C is a Profit and Loss from a Business.

Q And it shows gross receipts or sales?

A Yes, gross receipts or sales, \$30,000.

Q And then there were certain expenses that were taken off?

A That's correct. Travel, \$5,514; meals and entertainment, \$1,800.

Q Now, attached to the return, do you find these two documents?

A Yes, sir. Those documents are Form 1099. It shows earning from savings and loan association, credit union and bank deposits from AEDC Federal Credit Union, showing that Mr. Long received \$748.98. That's the lower document on the large exhibit. The Form 1099 Miscellaneous from Maury County Board of Education, which is the top document on the large exhibit, shows nonemployee compensation of \$30,000.

Q Now, going back to the second page or the back page of the 1040 again, at the very bottom there's a line for preparer's signature?

A Yes.

Q Did anyone fill in that space, indicating that someone other than Mr. Long and his wife had prepared this return?

A No, sir. It's blank.

MR. COLLIER: Your Honor, we would offer these. These are summary exhibits 10-A through G, I believe.

MR. BECRAFT: Your Honor, you know, I didn't object to the underlying documents. Now we've got the blowups. I don't have any objection to the use of the Court, but my objection goes to, you know, if they want to offer it into evidence for the purposes of carrying it back into the jury room at a later point in time, I do have a little problem with that. They're large. We've already got the other exhibits in evidence. These are nothing more than blowups of it. And I think to have charts like that back in the jury room would be...

THE COURT: This is S-10?

MR. COLLIER: Yes, Your Honor.

THE COURT: All it is blowups of Exhibit 10, right?

MR. COLLIER: That's right, Your Honor. That's what the witness testified to.

THE COURT: They're received. (Government Exhibits S-10 A through G were received into evidence.)

MR. COLLIER:

Q Now, were you asked to do a search to see if you could locate the income tax return for the years 1989 and 1990?

A Yes, sir, I was.

Q And what did you find when you searched for those income tax returns?

A In searching the permanent records for tax years 1989 and 1990, I found that there were no returns filed.

Q I'm going to show you Government Exhibits 13 and 14.

A Yes, sir.

Q What are those?

A Government s Exhibit No. 13 is a Certificate of Lack of Record on which it appears to show I researched the permanent record for a return for 1989 for Lloyd and Dana Long. Government Exhibit 14 is a Certificate of Lack of Record to show that I researched and found no return for 1990.

MR. COLLIER: Your Honor, we would offer those two into evidence.

MR. BECRAFT: No objection.

THE COURT: Thirteen and 14 are received. (Government Exhibits 13 and 14 were received into evidence.)

Q Now, we've talked about the years 1986 through 1990. Did your records show whether Mr. Long had filed returns prior to 1986?

A Yes. Our records show that he had filed returns.

Q And when was the first time he had filed a return?

A Pardon me?

Q Do the records show when he first filed a return?

A Yes. The records indicated 1969 the first return was filed.

Q Okay. Now, I'm going to show you, I'm going to hold it up so the jury can't see it, but have you seen this before?

A Yes, sir. I prepared that.

Q What is that? It is a listing by year as to a return filed by Lloyd Long from 1969 to 1990.

Q You prepared this yourself?

A Yes, I did.

Q And you base what is on this upon your own efforts and your own searching?

A And my own search, yes, sir.

MR. COLLIER: We would offer this, Your Honor. This is S-6, I believe.

MR. BECRAFT: Your Honor, my objection here on this is the prosecution is using a lot of -- there's obviously some other public record that forms the foundation for this. It seems like the prosecution wants to use a bunch of big blowups, I guess to take up space in the jury room. There's got to be an underlying document for this. The witness has said, "I searched the permanent record and I pulled it out off the permanent record and made this chart." I think the permanent record ought to be in evidence to prove the accuracy of the chart. I mean, this is a chart prepared for trial.

THE COURT: Well, do you have the -- where are the underlying documents? Do we have the underlying documents?

THE WITNESS: They're on master file tape.

THE COURT: Do you question the accuracy of the information?

MR. BECRAFT: Well, Your Honor, I have one here I'll be talking about with the witness with it. I glanced at the chart, and I think the chart is probably an accurate reflection of the underlying record that I have. My objection is I don't think this is inaccurate information that's on there, but the original record from which it's pulled off -- the witness just testified that she prepared the chart, she looked at some other public record. I'd rather have the public record, the actual public record into evidence rather than another sizable chart.

MR. COLLIER: Mr. Becraft, of course, can offer any record into evidence he wants to. He can subpoena it. Mr. Leonard was shown this document, I would say, at least two weeks ago. He had a chance to look at it. He told me that it was accurate. They had no objection to it.

THE COURT: Well, under Rule 1006, with the summaries, what we're talking about here, my understanding is that one of the requirements is that the underlying documents must be made available.

MR. COLLIER: And they were, Your Honor. I told the defense about this record and where it came from, and they had no problem with it.

THE COURT: In other words, what you're telling me, you're making the representation to me that you have made the underlying documents available to the defense?

MR. COLLIER: Yes, Your Honor.

MR. BECRAFT: Your Honor, my point is that they're not offering that -- they want to keep offering these huge charts, and I don't know whether they're going back into the jury room or not.

THE COURT: Well, okay, let me just say this, do we have any of the underlying documents available here?

MR. COLLIER: I can check and see, Your Honor. (Brief pause.) We think we probably do, Your Honor.

THE COURT: Here's what we should do then. Go ahead and let's, once you collect those let's offer those as an exhibit, a separate exhibit. And then once we have those, then we can, I'll admit the summary, with a special instruction to the jury as I'm required to do with summaries.

MR. COLLIER: It's Defense Exhibit 17, Your Honor.

THE COURT: Defense Exhibit 17.

MR. COLLIER: Defense Exhibit 17.

THE COURT: That's the master file.

MR. COLLIER: We will offer at this time, not for purposes of showing it to the jury, though, but solely for purposes of establishing the underlying basis for the chart. This is separate from the witness's testimony. But this is an underlying basis. She testified that she looked on the thing and she prepared this herself. This is almost like an oral testimony.

THE COURT: Well, I understand that, but it's based on information in the IRS. Hand this document to Ms. Jeu. Ms. Jeu, do you recognize this?

THE WITNESS: Yes.

THE COURT: What is it?

THE WITNESS: It's a hard copy of the permanent record, the master file.

THE COURT: And the information that's on this chart that Mr. Collier showed you, is that borne out by -- is what's on the chart borne out by what's on that master file?

THE WITNESS: Yes, sir. It shows that he has a period, 1969 through 1986, which is on retention register.

THE COURT: Well, what I'd like to do, if you want the summary in, Mr. Collier, what we'll do is we'll admit the master file and then we'll admit the summary.

MR. COLLIER: Okay.

THE COURT: Okay. So Defense 17 then is received. And ladies and gentlemen, this summary, what we have here, which will be Government Exhibit S-6, and that's, S-6 is received. And I should tell you that the summary itself is not evidence, but it can be used by you in evaluating the evidence in this case. The evidence itself is the master file, which is Exhibit 17, Defense Exhibit 17, which has just been offered. All right. (Defense Exhibit 17 was received into evidence.) (Government Exhibit S-6 was received into evidence.)

MR. COLLIER: We tender the witness, Your Honor.

THE COURT: Cross-examination?

MR. BECRAFT: Before I proceed, Your Honor, that last exhibit, I have one with the exhibit sticker on it. I would like to substitute the one that has the sticker on it for -- the witness can keep that copy.

THE COURT: Okay. As long as they're the same --

MR. BECRAFT: They offered my exhibit.

CROSS EXAMINATION

MR. BECRAFT:

Q Ms. Jeu, you've testified that you've been with the Internal Revenue Service for some 18 years; is that correct?

A It will be 18 years in November, yes, sir.

Q And you've been trained to do a particular job, which is work with the criminal investigation branch at the service center, right?

A For the past eight years, yes, sir.

Q That includes, when people like special agent, our special agent here, want to find out something about whether someone has filed some returns, they contact people like you, correct?

A That's correct.

Q And then you've also come to testify. You testify regularly in court in tax matters; is that correct?

A When subpoenaed, sir.

Q And you come to court for the purpose of testifying, like you've done here, that somebody hasn't filed a return or these are the returns that have been filed; is that correct?

A I testify to present the information that's on the permanent record.

Q Now, you've testified in a variety of cases before, have you not?

A Yes, I have.

Q Do you have a judgment, you can tell the jury about how often?

A I have no idea.

Q More than ten?

A Yes.

Q More than twenty?

A Yes.

Q So, a lot?

A In eight years, yes.

Q All right. And to come to court to testify, you have to -- you've used this term "permanent record" several times when Mr. Collier was asking you questions, right?

A Yes, sir.

Q Now, that permanent record is Defense Exhibit No. 17, correct?

A That's correct.

Q Now, in reference to -- let's take a look at this particular chart here. That permanent record that you have in front of you consisting of, I guess about four or five pages, it says "IMFMCC transcript complete" up at the top, right?

A That's correct.

Q Now, on that very first page you can see down here, about the middle of the page it says, "Modules removed to retention register"?

A Yes, sir.

Q And it's got 30 and then a set of numbers, 6912, right?

A Yes.

Q And so when you say that Lloyd Long first started filing returns in 1969, the source for that assertion of fact comes from this page, that 6912, right?

A Yes, sir. The source is here for 69.

Q So, on the very first page, you can go down through here, it says '69, '70, '71, all the way up through '86, and you can see that returns were filed for those years, correct?

A No, sir, not by looking at this first page.

Q Well, why do you make that statement?

A I made this statement to say that '69 through 1986 has an account, there is activity; but from this page I couldn't tell you what is there.

Q Well, but you've said on direct -- you produced this chart right here to show that he filed from '69 to -- well, you've got all way up through '90, but starting out in '69, and produced this chart. Did you consult some other type of information?

A Sir, if you'll notice on Exhibit 17, it states that the years '69 through '86 is on the retention register.

Q Did you consult that retention register?

A I did, sir.

Q So, that's where you got that information, some other document?

A For '69 through '86, yes.

Q And because some other record showed that for '69 through '86 that there was indicators of returns having been filed, that causes this type of data to show up on the face of page 1 of Exhibit 17, correct?

A No, sir, it did not cause it

Q Well, in any event, this is an accurate depiction that for these years' returns were filed; is that correct?

A It's not an accurate picture that the return was filed. I have to look at each individual module to find out what's there, each individual year.

Q Now, let's take a look -- can I take you -- you've offered into evidence -- we don't have here on Exhibit Number 17, besides this number at the bottom of the page, this isn't a printout of the account that relates to the year '86; is that correct?

A That's correct.

Q It starts off with '87?

A Yes, it does.

Q Now, let's ask some questions about '87. I think Exhibit No. 11 is a photocopy of the '87 return; is that correct?

A Yes, sir.

Q Now, up at the top of the page, in the upper right-hand corner there's a set of 13 or 14 digits, correct?

A That's correct.

Q Now, the way you would locate that particular return is you'd pull up this computer file?

A Permanent record.

Q The permanent. And then the first thing you would do is you would look for some type of notation in the computer record as to where you could find that particular return; is that correct?

A The identifying number of the return, yes, would be there.

Q So, you could look at -- can I get you to take a look at the field of information that applies to 1987?

A Yes, sir.

Q Now, down there at the bottom of the page there's 6010; is that correct?

A Yes, it is.

Q The way the service center keeps up with information that flows into it, you put numbers on the documents, right?

A Correct.

Q And then you take the information off the documents and load it into the computer, right?

MR. COLLIER: Your Honor, I'm going to object. This is beyond the scope of direct examination, first. Secondly, the document has already been admitted into evidence. So, I'm not sure what the purpose of this entire line of questioning is. If he wanted to object to the documents, he could have and could've cross-examined the witness before they were admitted. The documents are in evidence now.

MR. BECRAFT: Well, Your Honor, the Government's offered documents and I think I'm entitled to cross-examine them on it. That's all this is.

THE COURT: Well, overruled. Let's move on, though.

MR. BECRAFT:

Q Now, the way you find the return is you look at computer records, see a number down there, and then you ask the people over at the records center to pull it up, right? Right.

Q Now, even though we don't have a field of information here for '86, you looked at '86, saw the numbers that appeared on a computer printout, and you asked the records center to find the documents bearing those numbers, right? That's correct.

Q And they sent them to you?

A Yes.

Q They produced '86, '87 and '88 because that's what you wanted, right?

A They produced '87, '88.

Q I think 12 is '86?

A Yes, '86, '87 and '88, yes, sir.

Q Now, what you did for the years we're dealing with here, '89 through '90, what you did to determine that there hadn't been a return filed is you looked at this particular record, correct?

A That's correct.

Q Now, this is just, this is one that's printed out on August the 13th of '93, correct?

A Yes, sir.

Q Now, the documents, the certificates of lack of record, Exhibits No. 13 and 14, are dated what?

A September 22, 1993.

Q So, you would've gotten probably a printout, the underlying computer record -- those two documents that you have in your hand here, the Certificate of Lack of Record, are made by looking at this type of a document known as the permanent record, Exhibit No. 17, right?

A Yes, that plus I check further for a return that was filed under another SSN or something of this nature which would've been under his name. But I checked to see if there was any return under his name or under any number. There was nothing.

Q Okay. Now, there are two types of transcripts, is that correct, a complete and specific?

A No, sir. There's more than that.

Q Well, at least those two, correct?

A Yes.

Q Now, did you bring with you to court these types of documents that were used to prepare Exhibits No. 13 and 142

A Not to the courtroom, no, sir.

Q Have you got them in the U.S. Attorney's office?

A Yes, sir.

Q In your purse?

A No, sir.

Q Or briefcase rather. In your possession?

A Yes.

Q And if we pulled those out, they would look like Exhibit No. 17, except maybe with a later date?

A A later date.

Q Now, when the jury takes a look at this document here, we're talking about a lot of symbols, codes; is that correct?

A Yes. It's the permanent record.

Q And you have to -- you're someone that's familiar with the meaning of all these codes; is that correct? Yes, the ones I have to use.

Q Now, the ones you have to use, you had to use one of these symbols of 150, right? You're familiar with transaction -- For the benefit of the jury, a 150 means a return is posted for that year.

Q So, for '86, '87 and '88 you found a 150 appearing on the computer transcript, right?

A Yes. He filed a return for those years.

Q And then you were able to, with the information on the computer record, pull those up. So, you knew he had filed returns, right?

A Yes.

Q Now, we're talking about an absence of records for '89 and '90, correct?

A No. There are records for '89 and '90, but there's no return for '89 and '90.

Q That's the point I meant. And do you draw this conclusion that no returns were filed because there isn't a computer symbol of a 150? Is that right?

A That's correct. That's the only thing that would indicate a return filed.

Q Okay. So, it's the absence of a computer symbol that would indicate the return was not filed. And then from that conclusion you draft the document, Exhibit No. 13 and 14, right?

A I know by looking at the tax years '89 and '90 that there is no tax return filed.

Q Through that process I've just described, right?

A Through the process of me checking the permanent record for any returns filed by Mr. Long.

Q Now, can I get you to take a look at the very front page of Exhibit No. 17?

A Yes, sir.

Q Let's be very specific. You're familiar with the meaning of symbols that appear on here?

A What symbol?

Q well, specifically do you see a symbol called MFR1?

A Yea, I do.

Q And it takes a book to understand the meaning of that term; is that correct?

A We have many handbooks, sir.

Q And one of those handbooks is called Integrated Data Retrieval document, known as Document Number 6209, right?

A Well, that's not a handbook. That's a document.

Q Okay. But it's a document that -- you've seen the document before yourself, right?

A Yes, sir.

Q And you read and rely upon the document, correct?

A No, sir.

Q Well, it contains the descriptions or meanings of some of the symbols appearing on the permanent record, right.?

A Some of them.

Q Okay. It does have MFR1; is that correct?

A Pardon me?

Q It does have the meaning of MFR01, right?

A Yes, it does.

MR. BECRAFT: May I approach the witness, Your Honor?

THE COURT: No. You can hand it to the clerk.

MR. BECRAFT: I'm sorry, Your Honor. I will.

Q Now, Ms. Jeu, can I get you to thumb through the document right there and see if you recognize that as the decoding manual, document 6209?

MR. COLLIER: Your Honor, again I'm going to object.

THE COURT: Yeah. Where are we going with this, Mr. Becraft?

MR. BECRAFT: If the Court wants a side bar, I think --

THE COURT: Yes, I do. Let's go to side bar. (Side bar conference was held outside the hearing of the jury, as follows:)

MR. BECRAFT: I've had her before, Your Honor. But this symbol right here is the one I'm talking about, MFR01. She's told me this stuff before. But the manual she has -- this is a separate manual that's related to this. The meaning for the symbol here on the defendant's permanent record, the symbol is "Return not required to be mailed or filed.

MR. COLLIER. This is beyond the scope of direct examination.

THE COURT: Are you contending that he filed a return?

MR. BECRAFT: No, no, Your Honor. They've admitted that this is the underlying computer record, the permanent record. And when you decode it, there's an admission here. And there's a couple of cases in the shorter trial brief, Your Honor, that I can consider this an admission, a party admission. She knows these. I've had her before. She's identified them, as they all do. They've identified this. I've got a transcript. It's admission --

THE COURT: Admission of what?

MR. BECRAFT: There are two cases that I talk about, one is Van Griffin and the other one I can't remember. But it's an admission, party admission, Your Honor, what this code means here.

THE COURT: An admission by what party?

MR. BECRAFT: The IRS.

THE COURT: An admission about what?

MR. BECRAFT: That they've got a code on here that's says return not required to be filed. That's exculpatory. The government is saying he's required to file, but the computer says --

MR. COLLIER: Did he rely on that?

MR. BECRAFT: No.

MR. COLLIER: Then how can it be exculpatory if he didn't rely on it? What you're talking about is the law. Only the Court can tell the jury what the law is.

THE COURT: Is it your contention he was not required to file a return?

MR. BECRAFT: No, I'm not saying that. I'm just saying I find it extremely interesting to represent to these people -- and now that I've learned how to decode these things, their people come along and they tell me, yeah, this means this and this means this, they identify this document, and then they tell me the computer says return not required to be filed. Now, whether or not

he relied on it is irrelevant. Most exculpatory evidence is not something that somebody relied upon. It's the documents that come out of the government's possession. This one came out of the government's possession.

THE COURT: I'll tell you what, I find this whole thing to be a whole lot of doublespeak. However, I'll let you ask a few questions about it and then let's move on.

MR. BECRAFT: I will do that, Your Honor. (Side bar conference concluded and proceedings continued in open court, as follows:)

THE COURT: We need to take a recess for about ten minutes. (Brief recess.) (Proceedings were held outside the presence of the jury, as follows:)

THE COURT: We have a slight problem in that Mr. Foster just got word that his father-in-law is very ill and not expected to live, and so I have excused him. He was Number 12. So, we will substitute the first alternate, Ms. Clark, 118. We'll do that when we come back in. That's why we have alternates. All right. So, call the jury back. (Jury returned to courtroom and proceedings continued in their presence, as follows:)

THE COURT: All right. You may proceed.

MR. BECRAFT:

Q Ms. Jeu, right before our break we were discussing certain symbols on Exhibit No. 17, the permanent record?

A Yes.

Q Do you have that in front of you?

A Yes, sir.

Q Now, I handed to you a book a moment ago and asked for you to identify the book for us, please. Did you do so?

A No, sir.

Q You didn't?

A No, I did not say anything of what it was.

Q No, I'm sorry. I didn't mean to -- do you recall that that is a copy of document 6209?

A Yes.

Q Okay. And that's an accurate copy of it, right?

A A what?

Q That is an accurate copy of the manual that you use?

A I could not verify that, sir.

MR. BECRAFT: Your Honor, I'm going to object to that question.

THE COURT: Well, overruled.

A (Continuing.) That's the manual that I use, sir.

Q But there's one for every year. If we had them here, they'd have colors on them that say '87, '88, '89, '90. They're little pamphlet type books about this size, right?

A Yes, it's that size, but it's not the book that I use.

Q Okay. But you're familiar with it, right?

A I'm familiar with it, yes.

Q What book do you use?

A I use the normal procedure handbooks for the Internal Revenue Service.

Q Is that --

A Which there are many. 0 Is one of them a law enforcement manual?

A Yes.

Q Would it be this document right here?

A (Reviewing document.) Yes, this is one of the IRS manuals that's used.

Q Now, regrettably I had my finger on the page, but I think it's Section 4.2, the one I just handed to you. Have you found it?

A 4.2, yes, sir.

Q Okay. Is there a section in there that deals with 1040s?

A Yes.

Q Okay. Could the witness be handed this? On Exhibit No. 17, can I get you to, for the benefit of the jury -- I've handed you a yellow highlighter. Could you highlight on that exhibit the MFR that we're talking about?

A The MFR that you're talking about is not on exhibit -- this book that you've given me on 4.2.

Q I'm sorry. Referring back to Exhibit No. 17, on the very front page. I've asked you a question about the symbol MFR01.

A Okay.

Q Now, can you just line through that symbol?

A (Witness complies.)

Q Have you done so?

A Yes, sir.

Q Now, speaking about the meaning of that particular symbol, have you found the place in that particular manual that provides the meaning for that?

A No, sir.

MR. BECRAFT: Your Honor, I could find it.

MR. COLLIER: Your Honor, I would object to this. The witness testified that she did not rely upon this document. Her response in regard to this document was this is one of the things that they use. Now he's trying to get her to, I'm not sure what. But he is way far afield.

THE COURT: This document you've got there, did you rely on that at all in determining whether or not a return was filed?

THE WITNESS: No, sir.

THE COURT: Okay.

MR. COLLIER: Withdrawn.

MR. BECRAFT:

Q However, that is a document that you use to provide meanings to the symbols that appear upon the document that you do rely upon, correct? Let me withdraw this. You have relied upon Exhibit No. 17, the permanent record, correct?

A Yes, I have.

Q And to prepare the documents you offered into evidence, you looked at a document like Exhibit No. 17 and you drew conclusions from it, right?

A Yes.

Q And the manual that you have in your hands right now, one of those law enforcement manuals, provides the meanings to all this computer jargon that is not printed in plain English on the document, right?

A No, sir, it does not. It does not, this one book does not tell you what everything is on this.

THE COURT: Does it say anything on there?

THE WITNESS: It tells you transaction codes which is on the individual year, which would be, like a 150 would symbolize a return, a 610 symbolizes a check, money received.

MR. BECRAFT: Your Honor, it'd be quicker if I found the page.

THE COURT: Okay. Come on up here. Find the page. Let's go.

MR. COLLIER: Your Honor, before anything is read out of the book, I'd like to have the witness, if she can do it, and if she can't do it, someone else, authenticate that particular document. So far we have no assurance that is a true and accurate copy of anything that the Internal Revenue Service ever published.

THE COURT: Let's find out what the question is.

MR. BECRAFT:

Q Ms. Jeu, keep your finger on the page that I have. Okay. Now, you're familiar with the symbol that I brought to you attention, is what we call a mail filing requirement, right?

A That's correct.

Q So, you're familiar with that?

A Yes, I am. It tells us what type of return that the taxpayer filed in the year prior so that we can mail a package out to him the following year, a 1040A or 1040, did you use Schedule C. Or if you had individual income, profit and loss there, you'd get a Schedule C. But if you filed a 1040A, you would get a return with just the 1040A in it.

Q Now, the meaning, there's a section that provides the meanings for the mail filing requirements. And that's, I believe, Section 4.2 in the very manual that you have in front of you, correct?

A Right.

Q So, we're in that section?

A Yes, we are.

Q Now, flip down to -- does it list forms there and have numbers below it?

A Yes, it does.

Q Now, are you at 1040?

A Yes.

Q Okay. Now, we're dealing with MFR01, correct?

A That's correct.

Q And that book provides the meaning of MFR01, correct?

A Yes.

Q And the meaning is?

A The file requirement for 01 is return not required to be mailed or filed.

Q Now, that's the official definition of a symbol that appears on Lloyd Long's permanent record?

A To date, yes.

Q Correct. Now, this particular field, this computer data appears at the very top of the front page on Exhibit No. 17, and then down below it you start off with a year, a field of information?

A Yes.

Q All right. Now, down here at the bottom it says tax period 30-87-12. That means for the year 1987, right?

A Yes. Tax period 30 means Form 1040. That 30 indicates 1040. And 87-12 means the year '87, ending month, year, December.

Q Now, while this stops at the bottom of the page and begins the information, it happens to be down at the bottom of the page, the '87 information, it goes over onto the second page, right?

A Yes.

Q And then after that, the field of information that relates to '87 stops and then we pick up with '88, right?

A Yes.

Q And then we have a field of information on the third page that relates to '88, right?

A Yes.

Q And then after that we have at the bottom page that, we have tax period 30-89-12, one of the years that we're dealing with, right?

A Yes.

Q And then on the following page there's a bunch of computer transactions that relate to that year, right?

A Yes.

Q All right. And then after that we have '90. We also have '91 and '92, correct?

A Yes.

Q And the same document. And this computer symbol, MFR01, applies to everything that's in this document, correct?

A That applies to the entity module, the name and address of this account, yes.

MR. BECRAFT: Nothing further, your Honor.

THE COURT: Any redirect?

REDIRECT EXAMINATION

MR. COLLIER:

Q Ms. Jeu, had you ever seen this particular book Mr. Becraft gave you this morning? Had you ever seen that book before, that particular book? Not another copy or another version of it.

A I have not seen this book before, sir. I have --

Q Do you know if anything or everything in that book is accurate and true?

A No, I don't.

Q Until you took the stand this morning, Mr. Becraft had never showed it to you?

A No, sir.

Q Now, Mr. Becraft asked you some questions about a code. And I think he said that, according to his book, that code may mean that there was not a requirement to file taxes. You don't mean to tell the jury that Mr. Long is not required to file taxes, do you?

MR. BECRAFT: Your Honor, object to leading.

THE COURT: Overruled.

A Repeat the question.

THE COURT: Repeat the question.

Q Your responses to Mr. Becraft's questions did not mean to leave the jury with the impression that Mr. Long was not required to file his taxes, was it?

A No, sir. The mail file requirement is changed by certain transaction codes or the return that you file. One year you may file a Form 1040A, but the next year you're required to file a Form 1040, then our mail file requirement would change. In the tax year 1989, there are transactions codes. These codes that we refer to as, like the 150 for the return, is in this account. There is a transaction code there that changed the mail file requirement to 01, which just, it's for -- I really don't know why. That's from programming. But it was programmed to change the mail file requirement. It does not mean that he is not liable for a tax return. Your income would determine whether you're liable for a return.

THE COURT: Okay. Anything else?

MR. BECRAFT: Briefly, Your Honor.

REXCROSS EXAMINATION

MR. BECRAFT:

Q Are you telling this jury then that you don't know what the computer -- let me withdraw that. Mr. Long doesn't have access to IRS computers. He can't load information into it, can he?

A No.

Q Everything, all these symbols that show up on the permanent record, it's all in computer language?

A It's for the use within the IRS.

Q And you have to -- the only people that load that type of data into the permanent record are IRS people, right, people that work at the service center, like you?

A Employees of the Internal Revenue Service.

Q And so somebody inside the IRS has entered something into the computer that causes the computer to print out this symbol; is that correct?

A Yes.

Q And in this situation you have no explanation as to why?

A No.

Q You don't know when this happened?

A When his account was referred from collection to examination, a transaction, this is a reaction from a transaction code that was input to refer his account to examination.

Q But you don't know when it happened?

A No, sir.

Q It just appears there? The computer says so?

A It appears after it's been input, yes.

Q But it has been input and the computer prints out this symbol?

A Yes.

Q And you don't know the reason why?

A No.

MR. BECRAFT: Nothing further, Your Honor.

THE COURT: Anything else from this witness?

MR. BECRAFT: No, Your Honor.

THE COURT: You may step down, ma'am. You're free to leave. (Witness excused.)

MR. COLLIER: Call Mike Geasley.

MICHAEL DEAN GEASLEY, called as a witness at the instance of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MR. COLLIER:

Q Please state your name for the record.

A Michael Dean Geasley.

Q And how are you employed?

A I'm a special agent with the Internal Revenue Service.

Q And what position do you hold with the Internal Revenue Service?

A I'm a special agent.

Q I'd like to direct your attention back to July of last year, of 1992. Did you have an occasion to speak to the defendant in this case, Mr. Lloyd R. Long?

A I did, sir.

Q And did you have a conversation with him regarding his filing tax returns?

A I did, sir.

Q And did he tell you about when he first started filing tax returns?

A He did.

Q And what did he say?

A He said approximately 1969

Q Did he tell you when he stopped his filing income tax returns?

A He did, sir. He said 1988.

MR. COLLIER: We tender the witness, Your Honor.

CROSS EXAMINATION

MR. BECRAFT:

Q That was so short, Mr. Geasley, I didn't catch the last statement. You say he stopped when?

A In 1988.

Q Okay. Now, was there a reason why you had a conversation with him in July of '92?

A Yes.

Q About the investigation of this case?

A Yes, sir, that's correct.

Q So, you asked for a meeting with him?

A No, sir.

Q Did he ask for a meeting with you?

A He did.

Q So, before this conversation you had been issuing summonses, right?

A It's possible.

Q Okay. well, is that your recollection?

A I believe I did. I don't know the time on that.

Q When you do that, you send a copy to people like Lloyd Long?

A In certain cases third-party --

Q So, somehow, some way that we don't recall right now, he knew that you were investigating him by July of '92?

A I'd gone out to his house and interviewed him on January -- excuse me, February 5th of '92.

Q Oh, okay. That's how you knew of it?

A Yes, sir.

Q Now, on this particular occasion did he initiate the conversation or set up the meeting with you?

A I'm sorry, in which...

Q I'm sorry. I'm confusing. Who requested this July 1992 meeting?

A Mr. Long did.

Q Okay. And where was the meeting?

A It was held at the Federal Building in Winchester, Tennessee.

Q And the two of you showed up at the designated time and designated place, had a conversation for how long?

A Probably about an hour. And it was more than just the two of us.

Q And did he seem to be, in this conversation, hiding anything from you?

A No, sir.

Q And he told you his position, his beliefs?

A To a certain degree.

Q He didn't hide the fact from you that he started filing in '69?

A No, sir.

Q And that's accurate, right?

A I believe it is.

Q And he didn't hide from you the fact that he stopped filing in 1988, did he?

A No, sir.

Q I mean, he freely admitted it?

A We had already had a conversation, yes.

Q Oh, okay. So, he had already previously mentioned the same thing to you on prior occasions?

A No, sir.

Q So, this was the first time he told you he hadn't filed since '88?

A Yes, sir, that's correct.

Q And isn't it true that for the year 1989 when you started investigating this case, you saw that Mr. Long had freely sent to the IRS copies of his 1099s for the year 1989?

MR. COLLIER: Your Honor, I object to that. That's beyond the scope of direct examination. If he wants to make this witness his own, he can in his own case.

MR. BECRAFT: I'll withdraw it, Your Honor. There's no point. It'll be covered on our case.

THE COURT: Okay.

MR. BECRAFT:

Q Now, did he discuss with you certain reasons why he didn't file?

A I believe he did.

Q Did you get the impression that he had anything to hide?

A No, sir.

MR. BECRAFT: Nothing further, Your Honor.

THE COURT: Okay. You can step down, Mr. Geasley. (Witness excused.)

THE COURT: Next witness.

MR. COLLIER: Call Virginia Sherard

VIRGINIA SHERARD, called as a witness at the instance of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MR. COLLIER:

Q Please state your name for the record.

A Virginia Sherard. S-h-e-r-a-r-d.

Q And in what city and state do you reside?

A I live in Rocky Face, Georgia.

Q And are you employed at this time?

A Yes. I'm an Internal Revenue agent.

Q And would you explain to the members of the jury what your duties are as an Internal Revenue agent?

A I examine individual, corporate and partnership returns to determine the correct tax liability.

Q And how long have you been so employed?

A I've been a revenue agent for about three years.

Q And could you give the members of the jury some idea of your educational background that you achieved before you were employed by the Internal Revenue Service?

A I have a bachelor's degree in economics from the College of William and Mary.

Q Now, once you were employed by the Internal Revenue Service, did you receive any training to assist you in your duties?

A Yes, I did. I started out as a tax auditor. I was a tax auditor for eleven years. During the course of my employment with Internal Revenue Service, I've received diversity facility training, I've had advanced corporation training, I've had expert witness training, quality process improvement training.

Q Now, during the course of your employment with the Internal Revenue Service, have you been required to learn what the filing requirements are for various individuals?

A Yes, I have.

Q Why is that? Why do you need to know that?

A We need to know what the filing requirements are in order to determine, number one, whether we should request a tax return from someone who has not filed. Also, when we publicize during filing season, we need to be able to tell people who needs to worry about filing a tax return and who doesn't.

Q Do the filing requirements change from year to year?

A Yes, they do.

Q Now, have you prepared some charts to assist the jury with your testimony regarding the filing requirements for 1989 and 1990?

A Yes, I have.

Q I'd like to show those to you. They're Exhibit S-7.

MR. COLLIER: Your Honor, can she leave the witness stand?

THE COURT: Sure.

Q The Exhibit S-7, using this exhibit would you explain to the jury what the filing requirements were for 1989 and 1990?

A In 1989, the filing requirements for a person filing a joint income tax return was \$9,200. The reason it was \$9,200 is because it's made up of two things. It's made up of what's called the standard deduction for a person filing a joint return which was \$5 200 in that year. And it's made up of two exemption amounts: one for the husband, one for the spouse. Both of those were \$2,000. So, \$5,200 plus \$2,000 plus \$2,000 is \$9,200. So, if you're filing a joint return for that year, if you made under \$9,200 you were not required to file a tax return unless you wished to receive a refund of your income tax withholdings. For 1990, the filing requirement was \$9,550. Again, that was made up of two things: the standard deduction for

that year, which was \$5,450. You can tell it went up that year. And two exemption amounts. The exemptions that year were \$2,050. So, \$5,450 plus \$2,050 plus \$2,050 is \$9,550. I'd like to point out to you that this is for married people and filing a joint return. There were also other filing requirements that were lower. In other words, if you made even lower income you wouldn't have to file. This is the most generous filing requirement. If you were a single person, the filing requirement was only \$5,100, and if you were a head of household it was \$6,450, in 1969. So, this chart shows you the most beneficial filing status and filing requirements.

Q Now, I believe that you have sat throughout this trial, have you not?

A Yes, sir.

Q And you've heard the evidence in this case?

A Yes, sir.

Q I'm going to show you what's been marked as S-8. What is that?

A This is a summary of Lloyd R. Long's gross income from 1989. If you'll notice Maury County, we received a great deal of testimony and also documents admitted into evidence which show that as an instructor at the Saturn plant there was \$47,750 in contract labor income. You heard testimony, Grower's Chemical Corporation, also received documents, that showed commissions for being a sales representative in 1989 was \$742.50. You also heard testimony and received documents that show from AEDC Federal Credit Union there was interest income of \$810.91. The total gross income was \$49,303.41. And if you'll notice, compare it to the other exhibit, this is more than five times the required filing amount.

Q Now I'll show you S-9.

A For 1990, you heard testimony and also received documents and evidence, from Maury County, being an instructor at the Saturn plant, contract labor income was \$48,675, and interest income from AEDC federal Credit Union of \$843.02, means total gross income is \$49,518.02. Again, this is more than five times the filing requirement for 1990.

Q Ms. Sherard, based upon your training and experience and your knowledge, and also the evidence that you've just testified to in these charts, can you tell us whether Mr. Long was required to file an income tax return for 1989?

A Mr. Long was required to file an income tax return for 1989.

Q And can you tell us whether Mr. Long was required to file an income tax return for 1990? He was required to file for 1990.

MR. COLLIER: We tender the witness, Your Honor. We would offer those exhibits into evidence that this witness testified to, S-7, S-8 and S-9.

MR. BECRAFT: No objection.

THE COURT: All right. Ladies and gentlemen of the jury, S-7, S-B and S-9 are received. I should mention to you at this time that these are summaries. Summaries themselves are not evidence, but are to be used, can be used by you, if you wish, in evaluating the evidence. (Government Exhibits S-7, S-8, and S-9 were received into evidence.)

CROSS EXAMINATION

MR. BECRAFT:

Q Ms. Sherard, you don't know Lloyd Long, do you?

A No, I do not.

Q So, before today, Lloyd Long was just a name. And if we hadn't already identified him for you as this gray-haired fellow over here, you wouldn't even know who he was, right?

A Yes, sir.

Q Never even talked to him, right?

A Yes, sir.

Q You've been brought in to testify and summarize the evidence that's been offered, correct?

A Yes, sir.

Q You testified on direct that you've been -- well, let me back up. Did you say that you had a bachelor's in economics from...

A College of William and Mary.

Q And when did you graduate?

A 1979.

Q That was in economics?

A Yes, sir.

Q And I take it sometime after 1979 or within a month or two you went to work for the IRS?

A Yes, sir.

Q Did you work with the IRS before you got out of school?

A No, sir.

Q So, the first time you started was then?

A Yes, sir.

Q So, you've been with them some 14 years?

A Yes, sir.

Q Have you always been stationed in Georgia?

A I spent a year in Atlanta and I've been in Chattanooga since 1980.

Q So, you work here?

A I work in the Chattanooga office.

Q Now, in school did you have any particular training in tax law?

A No, sir.

Q Did you take accounting courses?

A I did take accounting courses.

Q So, when you say you had a bachelor's degree in economics, part of those courses, I don't care how many, but you at least covered a lot of -- well, you had basic accounting and you know how to engage in accounting work?

A Yes, sir.

Q And accounting is something that you need in order to do your work for the IRS, right?

A Yes, sir.

Q And those accounting principles that you've learned are used by you because you examine returns on a regular basis; is that correct?

A Business returns, yes, sir.

Q Okay. How about individuals?

A Accounting skills are not as necessary for individual returns. In fact, the requirement for being a tax auditor who examines only individual returns is only two semesters of accounting.

Q Okay. So, when we're talking about the accounting that applies for an individual, it's real basic?

A Very basic.

Q If you can add and subtract and deal with figures, you can do it, right?

A Hopefully.

Q Now, what training have you had -- I think you've testified that, you know, it's your conclusion that Mr. Long is required to file for these two years. Have you studied the Internal Revenue Code?

A Yes, sir.

Q And since you didn't study it in school, then I take it at some stage of your work for the Internal Revenue Service you picked up training in this area; is that correct?

A Yes, sir.

Q Can you describe for the jury how thorough that training is, how often you have training, what type of classes you've taken?

A When I came on as a tax auditor I received six weeks basic tax auditor training. We have refresher courses similar to the types of courses that we offer during our volunteer income tax assistance, free to the public. As a revenue agent I received six weeks of intensive training in corporate and partnership law.

Q Can you give the jury just a rough ballpark figure how, over the last 14 years how many classes you've attended, a quessimate?

A IRS classes?

Q Yeah.

A Probably about one a year.

Q And these would be for, the first one was six weeks?

A (Moving head up and down.)

Q And how long would, approximately, the rest of them be?

A The revenue agent class was about six weeks and the refresher classes are several days each year.

Q So, total classroom time in 14 years would amount to maybe four or five months of studying?

A That sounds good.

Q And that includes course materials that the IRS prepares, right?

A Yes, sir.

Q Study of the code?

A Yes, sir.

Q Study of the tax regulations, right?

A Yes, sir.

Q So, you've acquired through your training with the IRS an expertise in this field?

A Yes, sir.

Q And you have to have this expertise to do what you do, which is examination of business returns?

A Yes, sir.

Q Which are a lot more complicated than an individual?

A Generally so.

Q And here in this case, what we're talking about here with these charts and everything else, that's real basic, right?

A Yes, sir.

Q Now, you've sat through this case and it's been real quick. We haven't had a whole lot of items of income. You've produced these charts, and you've taken those figures from basically the 1099s that have been offered into evidence, right?

A I believe there were also checks and ledgers offered into evidence.

Q Well, the checks, you know, add up to what the 1099 is. You don't have any doubt about that, right?

A No, sir.

Q Okay. And so you used the 1099s as the items that were providing the broad base figures, when you added them up?

A To come up with the gross income figure, yes.

Q And for '89, you said the filing requirement was \$9,200, right?

A Yes, sir.

Q And for '90 it was what?

A \$9,505.

Q \$9,505. Now, that is, those two figures, according to what you said on these charts, we're dealing in a ballpark figure for both these years, forty-nine thousand plus, right?

A Yes, sir.

Q And let's call it nine thousand as the filing requirement. Right?

A Yes, sir.

Q And so, how much he made exceeded the filing requirement, so you've reached this conclusion that he was required to file a return, right?

A Yes, sir.

Q Now, that opinion of yours, that's based upon a study of the Internal Revenue Code; is that correct?

A Yes, it is.

Q And I don't want to know the substance of it, but can you at least inform us, can you give us a number in the code that would deal with this subject matter, of filing?

A I can.

Q Just give us the number.

A Code 6012.

Q Now, that's the one that directly relates to the filing requirement, right?

A Yes, sir.

Q Now, it doesn't say, if we pull it out right now here, it wouldn't say the nine-thousand-dollar figures, right?

A No, sir.

Q Okay. Those nine thousand figures come from some other place; is that correct?

A It comes from reading the entire text of Code Section 6012A.

Q It depends upon what?

A I believe the code section states that any individual shall file an income tax return if his gross income exceeds his exemption amount.

Q Now, so we'd have to refer to other parts of the code?

A Yes, sir.

Q To determine what those exemption amounts are, right?

A Yes, sir.

Q Off the top of your head do you know what they are?

A The exemptions are at 151, Code Section 151.

Q So, to determine this you'd have to -- would 151 say these figures?

A I believe so.

Q Okay. And they're probably changed every year?

A Generally.

Q Does Congress do that, to your understanding?

A To my understanding, yes, sir.

Q So, it's your understanding --you're not trying to tell the jury that, you know, that section -- that your opinion is based on Section 6012, right?

A I am saying that my opinion is based on Code Section 6012.

Q And that requires you to look at another section of the code, Section 151?

A (Moving head up and down.)

Q And once someone has done that, they would learn the filing requirements?

A You cut me off a little bit on Code Section 6012A. It states that a person shall file an income tax return if their gross income exceeds the exemption amount. Then it lists certain exceptions. And the exceptions are for married filing jointly, other filing statuses, and the standard deduction amount.

Q We're not dealing with an exception here, right?

A Right.

Q We're just dealing with the general rule, right?

A (Moving head up and down.)

Q Are these the only two that, the laws that your opinion is based upon?

A I'm sorry?

Q I don't mean to say laws. That's a slip of my tongue. We're talking about your opinion about the law.

A I'm not sure what your -- could you restate that?

Q Yes, I surely will. My question to you, I didn't mean to invade the province of the Court by talking about laws. We're talking about your opinions. But these are the only two laws that relate to this obligation to file a return, right? In your opinion?

A Code Section 6012, the exemption section and then the section that would state the standard deduction amount.

Q Which is 151?

A The exemption amount is 151. The standard deduction amount code section slips my mind for the moment.

Q Well, whatever it was.

A Whatever it was.

MR. BECRAFT: All right. Nothing further, Your Honor.

THE COURT: Anything else?

MR. COLLIER: No redirect, Your Honor. the Government rests.

THE COURT: You may step down. You're free to leave. (Witness excused.)

MR. BECRAFT: Just as a matter of record, I realize that at this stage of the trial, at the conclusion of the Government's proof there would be time for me to file a Rule 29. However, based upon the proof that's come in thus far, I don't have that argument yet, and it will depend upon -- I will have a Rule 29 after the defendant testifies.

THE COURT: Okay.

MR. BECRAFT: Is the Court ready to proceed?

THE COURT: Ready to proceed.

MR. BECRAFT: Defense calls Lloyd Long.

THE CLERK: Do you solemnly swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

MR. LONG: Your Honor, I'm not certain that I know the whole truth and nothing but the truth, but it is my solemn intent to tell the truth as I know it from my perspective.

THE COURT: Do you understand that you have an obligation here to tell the truth?

THE WITNESS: Yes, sir.

THE COURT: All right.

LLOYD RAYMOND LONG, called as a witness in his own behalf, having been first duly sworn, was examined and testifies as follows:

DIRECT EXAMINATION MR. BECRAFT:

Q State your name, please.

A Lloyd Raymond Long.

Q You're the defendant in this case, right?

A Yes, sir.

Q Are you married?

A Yes, sir.

Q What's your wife's name?

A Dana, D-a-n-a. Named after her father, Dan.

Q She's the lady back here in the red sweater, right?

A Yes, sir.

Q Do you have any kids?

A Got two children.

Q And they are!

A Kelly is 18, my son, and my daughter is 15, Wendy.

Q And they're here?

A Wendy is not. She had to have some pictures made today at school.

Q Now, Mr. Long, I'd like to ask a few basic questions about your background.

A All right.

Q Can you tell the jury about when you were born, where, what type of schooling you've had, you know, elementary and high school?

A Sure. Like I say, I'm Lloyd Long. I was born in Winchester, Tennessee, which is west of here, just across Monteagle Mountain. I grew up in a little community, little farming community called Alto, went to a little three-teacher elementary school where our principal had -- we knew what the golden rule was, but; he had one other rule. He said, "Just do right." That was his rule. So, went on from there to Franklin County High School, where I majored in agriculture. I met my wife in high school. We graduated. As I recall, we were king and queen of the Harvest Festival. That was fun, you know. We went on from there to --

Q Can I stop you right there? When did you graduate?

A 1966.

Q All right. And you were born in '48, right?

A '48.

Q So, you're what right now, age wise?

A Seventeen. Oh, you mean --

Q Right now.

A I'm 45. I'm sorry.

Q I didn't catch that.

A There's too many times here.

Q Okay. When you graduated from high school what did you do?

A Went to MTSU College.

Q From what year to what year?

A From '66 through '72.

Q Did you obtain any degrees?

A I graduated from MTSU in 1970 with a bachelor's degree, with a major in agriculture and a minor in industrial education.

Q What did you do -- that was in '70?

A '70.

Q What did you do after then?

A Well, my wife also graduated with a teacher's degree in elementary education. So, she took a job there in Murfreesboro, and I stayed and worked on my master's. Then I graduated from MTSU with a master's degree, or MAT, Master of Arts and teaching degree, in 1972.

Q I didn't -- this is my fault. You just said you were married at that time, right?

A We got married in our junior year. We dated for six years.

Q So, that would be in what, '69?

A '69, '68.

Q Now, after you got your master's degree, can you tell the jury basically what you've done, various jobs, where you've lived, since then, all the way up through today?

A We left MTSU and I took a job in Sumner County, which is Hendersonville, which is Johnny Cash country. And I was hired to set up the first trades and industrial program in Hendersonville High School and in all of Sumner County. That was when the vocational education was just coming into Tennessee, and especially in a lot of counties they were building comprehensive schools. So, we moved to Hendersonville. I set up the program there. Taught there for one year. I got an opportunity then to transfer to Gallatin, which is still in Sumner County. And at this particular point I got the opportunity to write the specifications and order all the equipment for the new shop that they were putting in at the new high school, which for a shop teacher that's a dream because you get to order the kind of equipment you want. You get to order everything. So, the next year I moved to Gallatin and set up that program. And somewhere in that period of time my son was born. And I taught there for about four years, which is five years total. And as my little boy got older, I think he was about three, we were living in a subdivision. And growing up in the country like I did, I felt the need to move back home. I wanted him to have the opportunity to grow up in the country like I did.

Q When was this?

A This was about 1978.

Q And you moved to?

A We moved --

Q Decherd?

A We moved back to Alto.

Q Alto?

A Yes, sir. It was kind of one of those things. We put our house up for sale. We made the decision thinking we had plenty of time; we drove the sign up in the yard and the house sold in four days. So, we had to make like a mass exodus to get home. And my mom --

Q What did you do after that?

A Okay. We moved in with mom and dad. They were gracious enough to let us move in. We had two households of families, two families in one household, with two households of furniture, and I didn't have a job because it all happened so fast. So, in the interim, while I wasn't working at a job, I decided, well, we've got to have a house. So, I decided we'd build us a house. I got my dad, he's good at calculating and planning, so we sat down and calculated the cost. We hired a man to dig the basement, and we set out and built the house. We started in December and finished in May. My wife was pregnant at the time. And we moved -- the baby was born, my little daughter was born in April and we moved in the house in May. From that time, shortly after that, I --

Q What year would that have been?

A That was May of '79, I believe.

Q What did you do after that?

A At that point in time I was offered a position at First National Bank as a loan officer. And, of course, I've never done anything like that. And they wanted me to start out back in bookkeeping to learn how the paper flows through the bank. So, I was filing checks and looking at signatures. I lasted about three weeks. And there was a teaching position came open there at Franklin County High School, where I had gone to school myself, in cabinetmaking, which was one of my certified areas. And so I told the bank that I appreciated it, but I believed I'd go back to teaching. And so, I started teaching. That would've been in the middle of the year. The guy for some reason had to leave. Taught cabinetmaking for about two years and a half, Franklin County High School, And I had a lot of good students. Lot of good memories.

Q When did you --

A I had an opportunity then -- sir? Excuse me.

Q You were at Franklin County High School for two and a half years?

A Right.

Q When did you leave? '82 or '83?

A Yeah, somewhere in there.

Q Okay. What did you do after that?

A Well, I got an opportunity at that time to go to a neighboring town, which is called Tullahoma, and teach machine shop. So, I transferred because it paid a little more money. And I worked there for approximately two years, I believe. And then I had, by that time I'd been teaching about ten years. And for a shop teacher, you've got to have discipline in the shop or somebody can get hurt. And during this period of time in the schools, the discipline started changing drastically. And so, I got concerned that I was getting a lot of students that didn't really want to be in my class, and they were hindering me from teaching the ones that did want to learn, and I was afraid that there was going to be some accidents that I couldn't control. So, I decided that I'd do some things on my own, and I resigned from Tullahoma. My wife had a sister who had gotten in a thing called Shakley. And so, we kind of got into it to help her. In the Shakley business, you buy products and that's how you make money, and hopefully you sell some of them, you know. And so we'd buy them and then we'd sell a few, and we'd buy some more and we'd sell a few. So, needless to say, after a year or two, we really didn't make any money, but we met an awful lot of nice people. We went to a lot of nice meetings and learned a lot about health and nutrition. And that kind of faded on out. And somewhere in that period of time, which would've been about '83 or '84, we decided that we felt like we needed to teach our two children at home, home school. And so we did that for about the next five years. I just worked odd jobs here and there, and my wife taught, doing what she could. She did the English and stuff; I'd try to do the math and the science. And we felt like that was just really important, because we wanted to instill in them our values as much as we could. And they always tested out every year. So, you know, we feel comfortable with what we did in that.

Q So, when you got involved in the Shakley program, that enabled you to engage in home schooling?

A Yes.

Q Okay. Well, --

A That and just doing odd jobs and contracting.

Q So, you were -- what was the time range in which you were doing Shakley and odd jobs?

A From about '83 to somewhere around '86.

Q Okay. Now, in '88 what happened?

A In 1988, as I recall, I don't remember the exact month, I ran into a young man that I had had as a student at Motlow College, where I had set up an apprenticeship program for them one summer. And he informed me that his brother was in charge of hiring for the new trainees at Saturn and they needed some machinists that had teaching experience to teach the new employees, and wanted to know if I was interested or if I would be. And I said, "Why, sure." So, I called his brother, and his brother said, "Send a resume." I sent a resume. And to make a long story short, I went for an interview and didn't think I'd ever hear anything from it. The next thing I know they called me to come to work.

Q Okay. About when did you start? Would it be like July 1st of '88?

A I think it was in March of '88, seems like.

Q Okay.

A I mean, we could look back.

Q But sometime in '88?

A Yes.

Q What were you doing at Saturn?

A I was in charge --

Q Did you go out to the plant itself?

A Yes, sir. We were on site. Now, we weren't in the plant. They were building the plant at the time.

Q Did Saturn, the corporation that runs Saturn, did they hire you?

A No, sir.

Q Who hired you? Was it Maury County?

A I was hired through Maury County.

Q So, Maury County paid you?

A Right.

Q Now, you heard the lady that came from Maury County, right?

A Ms. Belanger, yes, sir.

Q They introduced checks and your contracts and stuff like that, right?

A Right.

Q Was she accurate, you know, about when you started and what you made and things of that nature?

A I believe so, yes.

Q Now, what did you do? Just briefly describe for the jury what you did out there at Saturn.

A I was hired to develop the programs to teach basic machine shop, from hand tools up to using the more advanced machine tools. But basic machine shop. Not necessarily computer stuff, but we did do some of that. I also taught -- I developed programs and then taught the courses. I also taught mobile crane and some safety courses. That's basically what we did.

Q You taught the people that worked at Saturn?

A The people they brought in, the new employees that were moving in, yes, sir.

Q Now, how long did you work there?

A Approximately three years.

Q And would March of '91 be the time that you left?

A Somewhere close to that, yes, sir.

Q Okay. Did you -- so, during that three-year span that you were working for Saturn, is that the only company you worked for?

A I think I was still selling a little fertilizer with Grower's. It was a liquid fertilizer that we used there on the farm mostly, and I'd buy a little extra to sell to some of the neighbors because it was food grade material which had no contaminants in it and you could use it on anything.

Q Now, this other company, Grower's what?

A Grower's Chemical.

Q You mentioned farming. Do you also farm?

A I help my dad. He has about two hundred acres. We run cattle on part of it and cultivate about half of it.

Q Do you live close to your dad?

A Yes, sir. Right next to him.

Q And he's in the farm business?

A Yes.

Q So, you helped him out during these years?

A Yes, sir.

Q And on this Grower's thing, you would make sales to your neighbors, get paid commission?

A Some of them, yes, sir.

Q Now, you heard the lady that came from that company. I think she said they paid you a check for something about seven hundred and fifty bucks, or thereabouts, for '89?

A Yeah. That's about right.

Q So, for '89 and '90, you had -- well, you also had the credit union, correct?

A Yeah.

Q So, you were paid by Saturn, or Maury County, and worked at Saturn?

A Right.

Q You were paid, you had something like eight hundred bucks or so each year from the credit union?

A Right.

Q And then you had the check from Grower's?

A Right.

Q And you don't contest any of that, do you?

A No, sir.

Q What they said is accurate?

A It looks real close, yes, sir.

Q Now, after you quit working at Saturn, can you briefly tell the jury what you've done since then?

A Well, for me, working at Saturn, it was a hundred miles one way. So, for the first year we drove every day. We split it up some. And then for the next year I tried staying periodically and, you know, coming home about the middle of the week. And by the last year I was having to just stay over there because the drive was getting to me and I just couldn't be effective as a teacher, having to drive four hours a day. Plus, it was really beginning to take a toll on my family. And I'm a family man. It was the best, one of the best jobs I ever had my life. It paid real well. But I decided that I had to come home. And so, we came to a mutual agreement that it was time for me to leave. And so they didn't renew my contract and I came home. And I've been doing contract work here and there, remodeling jobs, and a farming little, helping Daddy farm. That's basically it.

Q Now, for these years that you were working for Saturn, if you look at your broad work history, those were the best years, right?

A Yes, sir.

Q And typically what you made was less than that?

A Yes, sir.

Q In a typical year, working for Franklin County?

A Much less.

Q Being a shop teacher?

A Much less.

Q About how long were you a shop teacher?

A About ten years.

Q And then you were still a shop teacher for Saturn?

A Basically, yeah.

Q So, that's a total of 13 or 14 years?

A Right.

Q Okay. And now you're doing odd jobs and helping your dad?

A Right.

Q Now, did you work at any time in 1969?

A Whew. I don't really remember if I did.

Q Well, you remember the chart that the government showed up here that said -- one of these charts says that you started in '69 working. That's when you filed a return, right?

A Right.

Q Okay. You don't challenge that, right?

A No.

Q That's probably the first one you filed, right?

A More than likely.

Q From '69 all the way up through 1980, did you file returns?

A Yes, sir.

Q All the way up, let's go up through 1985. Did you file returns?

A Yes, sir.

Q Now, I think -- before we came to court, you had an opportunity -- I don't want to dig out the documents right now, but the '86, '87 and '88 returns that the government offered into evidence. And you've seen them before now, right?

A Yes, sir.

Q You filed those returns?

A Yes, sir.

Q So, from '69 through '86, you filed ordinary Form 1040 federal income tax returns every year?

A Yes, sir.

Q Can you tell the jury why you did that?

A I did it because I was always told you was supposed to.

Q Did you ever engage in any study of the tax laws?

A No, sir.

Q So, you were just doing what everybody else did?

A Yeah.

Q Now, we don't have them all here, from '69 to '86 or '85. Did you prepare all of those returns yourself?

A No, sir.

Q Do you have a judgment or an estimate of the ones from '69 through '85, about how many of them you prepared yourself?

A Not really. My wife prepared some of them and some of them we'd go to H & R Block or something like that. Maybe half of them. I'm not real sure.

Q So, some you did and some H & R Block did?

A Right.

Q And for '86, '87 and '88, you prepared those yourself, right?

A I think we did, yes, sir.

Q And all of these returns were prepared not based on any study of the law?

A That's correct.

Q Now, Mr. Long, let's get to the heart of the matter here. You know, the government, Mr. Collier's boss, has filed this information against you. And you've seen it, right?

A Yes, sir.

Q You've read it?

A Yes, sir.

Q Tell the jury what is your understanding of what you're being charged with here. I'm being charged with willful failure to file an income tax return.

Q For what years?

A '89 and '90.

Q Well, let's just be point-blank, Mr. Long. Tell the jury whether or not you filed returns for '89 and '90.

A No, I did not.

Q Well, how about '91?

A No, sir.

Q '92?

A No, sir.

Q '93?

A No, sir.

Q Oh, gosh. I'm sorry. So, you didn't file one for last year?

A No, sir.

Q Is there a reason why, Mr. Long?

A Yes, sir.

Q Well, can you tell the jury -- what's the first event that occurred that relates to this?

A Well, it goes way back.

Q When?

A To 1982.

Q All right.

A At a meeting that I attended in Monteagle at the Smokehouse Restaurant.

Q Well, can you tell the jury -- when was this in '82?

A It was in, probably around October. The leaves were falling. And the reason I remember it was '82 was I remember pulling up in my pickup truck. I had a red '73 pickup truck, and I know I traded it in '83. So, that's how I remember. And I remember getting out of my truck --

Q Why -- did you hear about a meeting?

A Yes. I had heard about a meeting that was going to be held up there and they were going to talk about the common law, the Constitution, and I had heard that there might be some talk about taxes. And I was a little concerned because I was beginning to have some real concern about what all was going on in government, and, you know, just basic concern. I've always been a person that I like to understand why things are the way they are. So, I attended this meeting.

Q So, you found out about it. Drove up from your house?

A From home, yes, sir.

Q Went up the mountain to Monteagle?

A Right.

Q To the Smokehouse Inn?

A Smokehouse Restaurant.

Q Can you tell the jury what happens? You pull into some, I guess a spot in the parking lot and park your truck.

A I get out --

Q Tell the jury what happened after that.

A I sure will. I got out of my truck. I remember locking the door and I remember looking over my shoulder, because it really bothered me. I was a little concerned. I was scared, because for the first time in my life I had started to question some things about my government, about the law. I started to wonder. And I felt a little funny. And, you know, you see all these TV programs about these FBI and SWAT teams coming in and arresting all these people. So, I was a little nervous, because I didn't know anybody at this meeting. But I overcame that because of this willingness I have to try to understand things. And I thought, "Well, maybe I can learn something," you know. You just have to be open to things in order to learn. Because I'm a teacher and that's just how it is. So, I eased on, found the room and eased in and sat down on the back row. Still kind of looking over my shoulder.

Q Mr. Long, can I stop you right there?

THE COURT: We're going to take a short recess at this time. We'll get to the next chapter in just a moment. Be in recess for about fifteen minutes. (Brief recess.)

THE COURT: Okay. Continue.

MR.BECRAFT: May it please the Court.

MR. BECRAFT:

Q Mr. Long, before we get into that meeting that you attended, I need to back up and ask you some questions. Do you recognize that in this case you're not going to be telling the jury the law? You do you recognize that?

A Oh, yes, sir.

Q And you understand that when this trial is over with, it's going to be the judge that gives the instructions in the case about what the law is, right?

A Oh, yes, sir. Yes, sir.

Q Do you also understand that when you testify here this afternoon, you're going to be giving your opinion of the law, right, your belief about the law?

A Yes, sir.

Q And you understand that that's not an effort on your part to tell the jury what the law is?

A Yes, sir.

Q It's just your belief.

A Just my belief, yes, sir.

Q Now, let's get back to this -- in the fall of 1982 you went to Monteagle?

A Yes, sir.

Q To the Smokehouse Inn. Now, that's where we were right before our short break.

A Right.

Q Now, what happened?

A Well, like I said, I found the meeting room. I eased on in and sat down on the back row. And as I recall, a man by the name of George Gordon was the main speaker. And he was a real robust type fellow. I won't ever forget him. And he was talking about the common law and how it came over here with the pilgrims, you know, from England. And then he did something that I'll never forget. He said, "In order for you-all to understand what I'm going to tell you, you've got to remember the story." So, he went over to a white board and he drew a great big box up at the top. And in that box he wrote "people." And I'm thinking, you know, "Where's he going," you know? And then he came down below that and he drew a box and he wrote the word "state." Well, then he came down below that and he drew a smaller box, and in that box he put "government." He said, "Now, listen to me, folks. Remember your history. Remember the story." He said, "This is how it happened." He said, "Our forefathers came over here, they established colonies or states, if that's what you want to call them, and then they got together, after they went through starvation and fighting Indians and a little bit of everything else, cold weather. Once they got established, they decided that they had to have a government to help them with conflicts between the colonies and things. "And so they got together and they elected some representatives, and they got together then and they established a government." I'm thinking, "Yeah, I'm remembering American history and all that, how it happened. Sounds about right." So then he said, "And when they had done that, they decided that since they had just come out from under King George and all the tyranny that he had caused, you know, arresting them in one little community and hauling them all the way to England and prosecuting them, just all kinds of things that just weren't right. So, they decided that in order keep to this government

that they just established from getting out of hand, they'd draw them up something called the Constitution." Well, I remember from high school, we studied the Constitution. And he said that the purpose of this Constitution was to bind government down and to keep it from getting out of hand. So, in this Constitution they explained specifically what the power of government had. And then in it they said anything that we don't give government, we're going to leave it to the people and to the states. Well, you know, I'm sitting here, and it's been a while since I was in high school, but that's beginning to trigger some memories. I remember studying that in American history. Yeah. Made a lot of sense. So, then he got to talking about the common law and all the rights that the Constitution provided. Said, you know, it only mentions three basic ones: like the right to life, liberty, and the pursuit of happiness. But then he talked about that within those three you could not sit down and list all the rights we have that are just, come under those three categories. The list would be endless. And that as long as you never damaged somebody's life, liberty or property, whatever it is, you could do it, under the common law. Well, now, that made a lot of sense. I remembered that. We didn't really study that in school, but it made sense. And he also went on to say that these rights that the Constitution guaranteed that were given to us by God, -- now, the Constitution I believe says that we are granted these certain inalienable rights by our Creator -- that those rights could not be taxed. Well, now, that got my attention. So, he just went on and on and on about all these rights, you know. If the man said "rights" one time, he said it a thousand times. And you could tell that he had studied this Constitution and that he believed in it so firmly. You just tell by the tone in his voice. Well, I'd remembered studying all that, but I remember us studying it as a well-written document or something. I didn't remember a teacher in high school getting into all this stuff, explaining the rights. I remember them talking about us having rights, but I don't remember getting into this. He kept explaining, you know, -- and the fact that he kept saying that these rights cannot be taxed because the Founding Fathers, that was the main purpose of the Constitution was to guarantee us these rights. Well, man, you know, I'm sitting here thinking and still looking over my shoulder because I'm thinking the FBI or somebody is going to come in at any time. But he begins to say we also have the right to assemble, the right to study, we've got the right to vote. We've got all kinds of rights. And then he said something that just made me sit up in my chair. He said we've got a right to work. Well, -- and then he said that our labor is our property. Well, now, you could've knocked me over with a feather because, now, I hadn't never thought about that. But here's this man telling me that my labor is my property. He got my attention. And then he went on to say that we have a right to work and that if we have a right to work, that right can't be taxed. Whew, I said, "Man, I like the sound of that, but," I said, "you know, I'm filing and paying every year on my labor. I don't understand." But he got my attention. And I said, "I'm going to listen." Well, he went on to say then that privileges -- you know, I'd heard people talk about it's a privilege to drive. Some people talk about that. But privileges, something that the state or the government gives you as a privilege, they have a right to tax that. I'm thinking, "Man, we've got rights and we've got privileges." And, you know, I've got two degrees, but I don't remember being taught this in school. Maybe, you know, somebody mentioned it sometime, but, gosh, I didn't remember it. This guy has really got me to thinking. And here's all these rights I didn't know I had. And he's just telling me I got all kinds of rights. And now he's telling me that these inalienable rights that were given to us by the Creator, they can't be taxed because God don't tax us on them. Whew. I'm telling you, he had my attention. And then, he just went on and on and on about all the rights we've got and how over the years we've forgotten them. And I'm sitting here thinking, "Boy, you got that right, because this ol' boy sure has. I didn't know I had them." And, you know, if you don't know you've got something, sometimes it's awful easy to give it away. And so, then he went on this labor thing. And he quoted, put it up on the overhead, from a case called *Coppage vs. Kansas*, where Justice Pitney explains about this labor thing. And it was a case involving some labor unions, I think, where they'd been trying to force some of the employees to join unions and they didn't want to. And Justice Pitney, -- now, I can't quote it, but I can tell you basically what it says, from what I remember. He said that the right to live and own property is a basic right guaranteed by the Constitution, and that the most basic of that right was the right to your labor, to be able to exchange your labor for other types of property. And he went on reading it, and he said that that right to exchange your labor for other types of property was as important to the poor as it was to the rich, it was as important to the laborer as it was to the capitalist, and that it was most important for the poor because it was the only way a poor person had honestly of beginning to accumulate property, and that was to work for somebody for money. And he said, "Should anything ever strike this right down or abridge it in any way, it would be in direct conflict of the Constitution." Now, I'm telling you, that hit me right in the heart, because I'd been wondering, you know, -- I hadn't complained. I'd been filing and paying and just doing this, all this. But something inside me said, "There's something ain't right here. It just ain't right. There's something wrong." Well, he went on then to explain that the Constitution only allows for two types of taxes; that's all we got to worry about. Ain't but two in there. That's a direct tax, which is like a property tax. You know, we all have those. You know, you got your county property and you got your city property tax. That's a direct tax, imposed on your property. Well, then he said there's an indirect tax. He went on to say that an indirect tax is like the booze tax. And what makes it indirect is if you want to go down here and buy a gallon of booze, then you pay the tax. The taxes goes on back to the person that makes the booze; but in the fact that you don't have to buy it, you don't have to pay the tax if you don't want to. Me not being a drinking person, I don't care what the booze tax is. I don't have to pay it because I don't buy it. Well, now, that started to make some sense. Direct and indirect taxes. Because I realize, you know, we pay all kinds of taxes on tires, the booze. And I'd heard someone one time say we farm, grow wheat, I'd heard, I believe, that there's something like 87 different taxes on a loaf of bread. So, I was beginning to see some of this stuff. It was really getting me to thinking, you know, "This guy may have some of the answers I've been

looking for." So, needless to say, as far as I remember, that was basically about what I got out of that. I couldn't stay for the whole thing. And --

Q Can I stop you right there?

A Sure.

Q How many people were at this meeting?

A I guess there was a hundred.

Q And you arrived during the evening?

A Uh-huh.

Q How long did you stay?

A About two hours. I think we had one break.

Q And you listened to one man speak?

A One man, uh-huh.

Q And that was a fellow by the name of who?

A George Gordon. I'll never forget him.

Q Did you know him before then?

A No. Never heard of him in my life.

Q Have you ever, after that meeting did you ever physically meet him again, you know, like in person?

A I don't think so. Maybe one time, I'm not sure, at a meeting that we were all at. He might've been there.

Q Okay. Now, the meeting went on after you left?

A Yes.

Q And you stayed there -- you got there at what, 6:00, 7:00?

A Around 6:00. You know, that time of year it gets dark. Might've been a little earlier. Maybe 5:00 and I left around 7:30, about dark, because I had some livestock to take care of.

Q So, you left the meeting early and it was still going on?

A Right.

Q What was your impressions of what you learned at this meeting as you -- I guess you went out to your truck and drove home?

A Right.

Q Okay.

A Well, I left that meeting with just an extreme appreciation of the rights that I have. He made me conscious of the rights that we have. And he also made me conscious of the fact that this ol' boy has been asleep and I'd failed to learn. And I do remember one quote that was made. He said that the price of liberty -- I won't never forget it -- is eternal vigilance. Got my attention. And I just decided to go on home, that, "Hey, I'm going to try to learn everything I can about the Constitution and about my rights, and I'm going to try to study and just become a better citizen," because if we're informed, we got to be better citizens. So, that was basically what I got from that meeting.

Q Now, you mentioned during the course of that meeting there was a case that he talked about?

A Yes, sir.

Q Coppage?

A Coppage vs. Kansas.

Q Did he mention any others?

A I think he mentioned quite a few, but that was one of the main ones I remembered.

Q Okay. Now, after you thought about this going home and you got home, can you tell the jury what happened next in reference to how you formulated your beliefs about your obligation to file returns?

A Well, during one of the breaks, the break that we had, I met some people there that were from Tullahoma and discovered that they had started holding some meetings in Tullahoma about once a month to start studying the Constitution and trying to learn and be informed, try to find out things. And I got some of their names and found out where they were meeting. So, I determined, you know, I'd try to go to some of those meetings.

Q You live in Decherd?

A Decherd, yes, sir. I live in Alto. It's about ten miles out of Decherd.

Q And how far is that from -- is that south of Tullahoma?

A It's 25 miles from Tullahoma.

Q Twenty-five miles?

A Yes, sir.

Q Well, you learned about these meetings in Tullahoma. Did you attend any of them?

A Over the next few weeks or months I really didn't. We was working a lot. And like I say, I'm a family man. I had young children. And I think during that time it would've been right in there when we started teaching them at home and some of that kind of stuff. So, I might not have gone to a meeting in Tullahoma for six months. I'm not sure.

Q Sometime in the early part of '83?

A Right.

Q So, tell the jury what happened. After the George Gordon meeting, you waited about six months and then you go to this Tullahoma meeting, right?

A Right.

Q Okay.

A Well, the first meeting I recall going to, I get there and they're showing a video of George Gordon. to my surprise, they had bought the whole study guide of his common law study guide and all the videos that went with it.

Q Let me stop you right here. We're not going to offer this into evidence, Lloyd. But you mentioned study materials?

A Yes, sir.

Q Is this some of it?

A That's it.

Q Are these your study materials?

A Yes, sir.

Q For the George Gordon course?

A Common law course, yes, sir.

Q Before we get into what you learned, you've got common law course -- they got labels on here, "Common Law Course," right?

A Right.

Q So, at some stage you acquired all these materials?

A Right.

Q And generally describe for the jury what's in here.

A Well, there's all kinds of, copies of Supreme Court cases and state Supreme Court, you know, the United States Supreme Court cases; and there's some motions in there, you know, that you could go by if you had to file a motion in court to kind of become a pro se.

Q Now, let's back up. We've gone over that. You went to this meeting and they were looking at a video.

A Right.

Q Of the same guy that you already heard speak live?

A Right.

Q Tell the jury what you learned at this first meeting.

A Well, as I recall, Mr. Gordon, one of the first things he said, you know, -- at the other meeting he had told about the two types of taxes that the Constitution allowed. That's the direct and indirect tax. Well, he said something that really got my attention. Right off the bat he says that the income tax is an excise tax. And, you know, I didn't know what an excise tax was. I'd remembered a little bit about what he said about indirect tax. He kept going on that the income tax is an excise tax. And he said, "I'm not telling you it is." And he quoted a case called Sims vs. Ahrens, which was a case in Arkansas, where the Arkansas Supreme Court had said that the income tax is neither a property tax nor is it a tax on occupations of common right, but it's an excise tax, "Boy," I thought, "whoa, the income tax is not a property tax," which would be a direct tax, "it's not a

tax on occupations of common right, but it's an excise tax." Now, that got my attention. So, then he went on to say -- he mentioned a case called Flint vs. Stone Tracy, which is a United States Supreme Court case, I believe. And he stated that in Flint vs. Stone Tracy they stated what an excise tax was, and that an excise tax is a tax laid upon the manufacture, sale, or consumption of commodities within the country, and it's also laid upon a particular privileged occupation or corporate privileges. Now, that's an excise. Then he went on to say that, you know, we all know about those because some of those things are alcohol tax. We all know that there's an excise tax on tires. Then he went on to say that all through Flint vs. Stone Tracy they talk about how the privilege of doing business in a corporate capacity and what an advantage those people have over private firms. Well, I'm listening, you know. Then he gets into a case, puts it up on the overhead, called Brushaber vs. Union Pacific Railroad. And he explains that the Brushaber case plainly states -- and this is another United States Supreme Court case -- that the income tax is an excise tax. And then he goes on to say that the Brushaber case settled once and for all the fact that the 16th Amendment to the Constitution did not give Congress any more power at all on any new subjects. And, you know, I remembered, when he said 16th Amendment, I'd remembered studying that in high school, and I believe I remembered him calling that the income tax amendment. And now this guy is telling me that this Supreme Court of the United States has said in this case that that didn't change anything, that the power that Congress had was still exactly like it was in the Constitution, that the only thing the 16th Amendment did was try to simplify why it was imposed on the people that owed it. Now, I didn't know much about it, but, yeah, it really got my attention. Then he went on and he talked about a case in Oregon, Oregon State Supreme court, called Redfield vs. Fisher, which said that the individual, unlike a corporation, cannot be taxed merely for the fact of existing, but that the individual's rights to live and own property were natural rights upon which an excise could not be imposed. Well, now, I'm starting to put some of this together. And he's back on rights again: common rights and natural rights, you can't put an excise tax on common rights, the Arkansas case talks about occupations of common right, and Flint vs. Stone Tracy talks about corporations having certain privileges, and an excise tax being on occupations of certain privileges. And he just really gets me to thinking. And then he comes up with a case, puts it up on the board, called Spreckels Sugar Refinery vs. McClain. And in this case, I believe it's a United States Supreme Court case, it made the statement that keeping in mind the well-settled rule that the citizen is exempt from taxation unless that tax is imposed in clear and unequivocal language, and that should there be a doubt about the language of a tax law that the doubt should be resolved in favor of the person it was sought to be collected from. Well, now, boy, I hadn't tried to read much of the law, but that really caught my attention because it made sense, you know. It ought to be clear. Because I deal, as a machinist, within sometimes 2/10,000ths of an inch. So, I deal in specifics. So, that's not new to me. And I'd always heard that the law is supposed to be specific, at least everywhere that it can. And I thought it was supposed to be everywhere. So, you know, I deal in precision things. And like I say, I like to know how it works and why it works and what causes it to work. So, the cases that he brought to my attention have really got me to thinking all over again, you know, because I didn't remember them telling us any of this kind of stuff in school, and I got two degrees from college. Well, the group, after we had kind of watched some videos of these -- now, this didn't all happen in one meeting. This is probably over a month or two, you know, because we'd stay maybe an hour and a half or two hours and then we'd come back and try to finish that one up. But all this time I'm thinking, you know, let's just let this soak. I'm still -- I don't know if there was another year gone by, but I'm filing and paying, because, you know, I dated my wife for six years and we finally decided the Lord wanted us to get married, and we got married. That's the best move I ever made. But I'm thinking.

Q Well, let ask you this. You said this tape that you were watching of this George Gordon fellow, a videotape. You have a group of people that meet in Tullahoma and they sit around a TV?

A Right.

Q Watching a video?

A Right.

Q So, what you've just related to the jury is some of the things you learned from this video?

A That's correct.

Q And you had several meetings over a span of every month or two?

A That's right. And we also had the study guide.

Q So, you watched these videos?

A Uh-huh.

Q Would this be sometime in the early part of 1983?

A Uh-huh.

Q Okay. About how many people would come to these meetings?

A Oh, ten to 15, sometimes 20, maybe 25.

Q Were these people that you knew before?

A I met a few of them, three or four, at the Monteagle meeting. But I didn't know them before, no, sir.

Q So, they weren't friends of yours or associates?

A Oh, no, no.

Q So, they invited you to the meetings and you attended, and 15 or 20 people would show up and watch the video?

A Right. Sometimes we'd listen to just cassette tapes, if it was something somebody thought was interesting. We'd listen to things about environment, you know, all kinds of things, not just this.

Q There were other topics?

A Oh, yeah.

Q Now, in 1983, can you tell the jury about how many of these meetings you went to?

A Oh, maybe six.

Q Now, as a result of attending these meetings what, if anything, did you do?

A Well, all of us, realizing what Mr. Gordon was saying here, that the United States Supreme Court had said and that the state Supreme Court had said, and being who I am, I don't take anything for granted. We decided that we would start going to, maybe once a month, instead of the regular meeting we'd just load up in a van and go to the Vanderbilt law library and we'd pull these cases up. Even though we had them in some of the study guides, we wanted to make sure that they were exactly what he said they were. And so over the next few months, I guess, that's basically what we did. I won't never forget the first one. Of course, I was kindly used to the MTSU library. It's a pretty good-sized library. But we walked in the door down there and saw this Vanderbilt law library, and it'll swallow MTSU's library. We were lost, even me. We almost turned around and come home.

Q Why did you go there?

A Well, we wanted to pull up these cases and prove that Mr. Gordon was telling the truth.

Q All right. So you --

A We didn't want to just take his word for it off of his video. And we were sincerely wanting to learn about this, and if these cases exist then we've got a right to know about it. So, that was the driving force behind that. And just the desire to become more informed.

Q So, take the jury back in time. And you walked through the, you walk upstairs and go in that entrance to the library there. You open the door, walk in and see all the levels of books.

A Whew.

Q What did you do when you got there?

A Well, we almost turned around and come home, because it was just awesome. But having had same experience, I knew if we went to the library we could probably make it. So, we went to the library and told them what we wanted to do and some of the cases we were trying to find. We had a list. Some of us were going to go to one and some of us were going to go to the other, because it's about an hour and a half from Tullahoma to Nashville, and then an hour and a half back. So, you don't have a lot of time if you're going to get back in time to go to bed. And so, I don't remember, we may've gotten two cases that particular night, by the time we got situated on where the index was and how to locate everything in all these books and the racks and where they were and all that. I think we got maybe two cases and copied them and brought them back with us. But it was quite an experience. And as I recall, somewhere within the next few meetings or something we sat down together at the meeting and started trying to read through these things. We'd copy them to where we could pass them out.

Q Did you-all only get two cases?

A Well, we went after more, but we only had time to get two that particular time.

Q Well, these other cases that you wanted to get, did you eventually get them?

A Oh, yes.

Q Well, how did you do that?

A Well, we went back. And by this time we'd figured out, you know, kind of where the racks were. So, we eventually had all the cases, more than what I've mentioned, but I just remember these real well. And we had them, brought them back to where we could study them, because a lot of the language in there, it's all written in legal terms and, you know, we had to sit down and really ponder over these things, read them together and talk about them with one another and try to understand. But we did find out, finally figure out that most everything that's important in these cases, after they've been recorded, they have little footnotes or captions in the front that tells basically what was decided, and then tells you where it is in the body of the document, so if you want to go back there and read what was discussed ~ and what was said, you can read all that.

A So, yes, we eventually got them all.

Q The ones that George Gordon had talked about?

A The ones he had talked about on that particular tape that I remember.

Q Did you get others?

A We got others.

Q So, the time frame we're talking about here would be '83, '84?

A Maybe '84 by now, yeah.

Q Let's come forward then in time to a point where, in '84 where you've got all these cases and you've read them.

A Right.

Q Okay. Can you tell the jury now what cases you read and what you understood them to mean?

A I believe I can.

Q In fact, have you made copies of those cases?

A Yes, sir.

Q Okay.

A Got a lot of them right here.

Q Now, tell the jury which cases that you read and what you learned from them.

A Well, in Flint vs. Stone Tracy, I learned exactly what Mr. Gordon had said was right. It explains what an excise tax is. "An excise tax" -- can I read it from here?

Q If that's your understanding. You can give your belief about what that document says.

A Okay. It said that an excise tax was a tax laid upon the manufacture, sale, and consumption of commodities within the country and upon licenses to pursue particular occupations and upon corporate privileges. There's areas there: manufacture, sale and consumption, there's a tax on that. And then there's a tax on licenses to pursue certain privileged occupations. And then there's a tax on corporate privileges. There's three taxes, as I understand it.

Q Now, you said something a moment ago that you believed was what was in that case. Is that from memory?

A Yes, sir.

Q Okay. You didn't read the document right new?

A No.

Q Well, so what's so important about that case?

A Well, it's a Supreme Court case, United States Supreme Court case, and it explains what an excise tax is.

Q So what?

A Well, in Brushaber vs. Union Pacific. it plainly states that the income tax is an excise tax.

Q Now, is that a case that you pulled and --

A That's a case that George Gordon told us about. He plainly said it's an excise tax, that that's what the United States Supreme Court said. Who am I to question the United States Supreme Court? So, I go get the case. That's what it says. And it also, like he said, explains in there that they settled once and for all that the 16th amendment never changed any of the power that Congress had to lay and collect taxes. All it did was try to simplify the method in which they collected -- they imposed the tax.

Q So, it's your view and belief that the federal income tax is an excise?

A Yes, sir.

Q And you've read and relied upon this other case, Flint vs. Stone Tracy, which told you what an excise was, right?

A Right.

Q The Brushaber case, have you got it there with you? Just tell me yes or no.

A Yeah, it's here.

Q You're familiar with it?

A Yes.

Q You've read it?

A Yes.

Q What else, what are the other cases that you've got that you studied?

A Well, I mentioned *Sims vs. Ahrens*, which is a case in Arkansas, Arkansas state Supreme Court case. And it said that the income tax is not a tax on -- it's neither a property tax or a tax on occupations of common right -- now, that got my attention -- but is an excise tax. Okay. Then we went on to the *Redfield vs. Fisher* case. It was a state supreme court case in Oregon. And it went on to say that the individual, unlike the corporation, cannot be taxed for the mere privilege of existing, that the individual's rights are natural rights and that those rights, for the enjoyment of those rights an excise cannot be imposed. Now, these are state supreme court cases, and they're talking about common rights, occupations of common right cannot be taxed with an excise. So, I start to put some things together. And I'm not doing this, you know. These are, the highest courts in the land are saying that the income tax is an excise tax. well, I start saying, "Well, big deal," you know. But then I start realizing -- I can't remember which case it was in, but one of them explained -- and maybe it was *Flint*. Anyway, they explained that the income tax is a tax upon privileges, certain privileges, the tax is laid on the privilege itself. And the only reason they call it an income tax is because they finally came around and the best way they could measure to make it -- what's the term -- equal all across the country, is to base it upon the income from that privilege. Okay? But the tax itself is on the privilege, not the income, because the income is property. And while we were looking for these cases, we ran upon two Tennessee Supreme Court cases.

Q When would this be?

A This may be '85. Somewhere in there.

Q All right, sir.

A And one of them was *Jack Cole Company vs. The Commissioner of Tennessee*. And Jack Cole was a trucker, and he hauled freight all over Tennessee for money, but he wasn't incorporated. He was just Jack Cole. Well, the state decided -- he was opening a business, so they decided they was going to tax his business. So, they did. He took them to the Supreme Court. And the Supreme Court said the right to receive income and earnings is a right belonging to every person, and that that right cannot be taxed as a privilege. Well, now, that got my attention, because me and ol' Jack is just alike. Now, he's a trucker. I'm a school teacher. I drive my truck over to a particular place and I teach somebody what I know for money. And the state says that that's an occupation of common right and that it can't be taxed as a privilege. I don't have no license. I'm not incorporated. Where's the privilege? That really got my attention. Well, then we run upon a case called *Corn vs. Fort*, which is another case in Tennessee, where these individuals decided to form a partnership in a coal mining company. Well, the state decided they were in business, so they was going to tax them, like they did Jack Cole. They weren't incorporated. They were just individuals who had come together to form a partnership. The state tried to tax them. They took them to court. The Tennessee State Supreme Court said that individuals have a right to combine their activities as a partnership and that right is common right and it cannot be taxed as a group. Now, this blew my mind, because, you know, okay, you know, Jack is by himself. He's -- but now they're saying that you can be a partnership, and, as long as you don't have some particular privilege, you're operating under natural rights and the state can't touch you with an income tax or a privilege tax. Whew. And then in Jack's case, the big word, you know, the right to receive income and earnings is a right belonging to every person, and that right cannot be taxed as a privilege. Now, that got my attention, folks. And it wasn't me saying it. That's the Tennessee State Supreme Court saying it. And if Tennessee can't tax me for a privilege I don't have, I don't believe the federal government can. Now, that's what's going on in my mind. I'm still filing and still paying, but I've learned a lot. It's really got the wheels a squealing up here and smoking and everything else. I'm just, -- you know, it's hard to work when you've got this kind of thing going on in your mind. I don't remember if I'm teaching school about this time or what. But you just kind of let it soak. You go on and do whatever you got to do, but this stuff is still rolling around back here. And then somewhere along there, we came to another meeting. And now keep in mind, now, already, the United States Supreme Court --

Q Can I stop you right here?

A Excuse me.

Q You've mentioned a series of cases. I don't want to call out the names again. But the ones you just talked about in the last five or six minutes, are they the ones that you've got with you today?

A Yes, sir.

Q And so, those cases you mentioned, you've read and relied upon?

A Yes, sir.

Q And you read and relied upon them in '85?

A Yes, sir. I didn't --

Q Were there others?

A Sir?

Q Were there others?

A There might've been. I've read so much and we've swapped so much of this material back and forth in the group.

Q But, those are the principal ones?

A Those are the principal ones. And I didn't really figure I needed too many more.

Q All right. Now, I interrupted you. You were about ready to talk about something beyond those cases at another meeting?

A Well, you know, I started thinking back, you know. The United States Supreme Court has said, in Brushaber, income tax is an excise tax. All these state supreme courts, Arkansas said it's an excise tax, the income tax is. Oregon Supreme Court has said it was, Tennessee has said it was. These are the highest courts in the land, now. This is documented fact, from the United States Supreme Court and from the state supreme courts. We go to this meeting, and someone from another group like ours, you know, -- they was kindly corresponding and we was always swapping information back and forth -- sent us a copy of a Congressional Research Service report. And I believe the particular guy's name that had done this particular one was a Mr. Howard Zoretski.

Q Can I stop you right here?

A Sure.

Q Mr. Long, let me stop you right here and take care of a little matter.

A Okay.

Q You mentioned -- take a look at Exhibits No. 1 and 2, Defendant's Exhibits 1 and 2.

A Okay.

Q Now, those are two documents?

A Yes, sir.

Q Are those documents that you read and relied upon?

A Yes, sir.

Q In the formation of your beliefs?

A Yes, sir.

Q Just right now, quickly, tell us in what respect. What did you get out of those?

A Okay. This particular one stated that the income tax was an indirect tax of the broad category of impost -- what is it? Oh, duties, impost, and excises.

Q What is the next one?

A The next one is an update that was done in 1984. This one was done in '79. And it stated more expressly that the income tax is an excise tax.

Q That's something that you read and relied upon?

A Yes, sir.

Q By '85?

A Somewhere around there.

Q MR. BECRAFT: Your Honor, I'd offer 1 and 2.

A MR. COLLIER: Again I would object to both of those for the reasons stated last week. The defendant can talk about them and he can quote from them, but I think that the case law is that those documents should not be admitted into evidence.

THE COURT: Well, ladies and gentlemen, I'm going to admit the documents. I will tell you, ladies and gentlemen of the jury, however, that the defendant has offered those documents into evidence -- what is this? The CRS reports, 1 and 2?

MR.BECRAFT: Yes, Your Honor, two of them.

THE COURT: This evidence is offered and received into evidence only for whatever it may show about the defendant's state of mind. You should not consider this evidence as proof that anything said in these documents is true. All right. (Defendant's Exhibits 1 and 2 were received into evidence.)

MR. BECRAFT: And along the same lines, Mr. Long, you recognize that those documents, you're not telling this jury that's, quote, the law?

A Right. No.

Q Now that we've got them admitted, let's take a look at Exhibit No. 1. And what I'd like for you to do is just tell the jury basically what you learned from that and how it has an effect upon your beliefs.

A Well, I like said, we'd already studied these supreme court cases, and they had said the income tax is an excise tax. This document came into our possession, and it plainly stated that the income tax was an indirect tax of the broad category of duties, impost, and excises.

Q Mr. Long, I think I left my -- there it is, that yellow Magic Marker. Can I get you to line through in yellow that part of Exhibit No. 1 that you're talking about that was important to you?

A Yes, sir. (Witness complies.)

Q And that's the particular passage you found important?

A Uh-huh. Yes.

Q Okay. Let's move on to Exhibit No. 2, the next one.

A Okay.

Q Can I likewise, while you've got the pen in your hand, turn to the spot in there that. . Take a look at the last page.

A Yes, sir. (Performs marking.)

Q So, out of those two documents, you have, for the benefit of the jury you've lined through in yellow what you thought was important, right?

A Yes sir.

Q Now, are both of these documents alike, essentially?

A Basically.

Q Okay. Now, what did you understand these documents to be?

A I understood that if they were done by the Congressional Research Service, that basically this is a branch of the government, the government is saying this.

Q Both of them?

A Yeah. They're from the same place. Congressional Research Service, Library of Congress.

Q And you understood that the government was telling you what through those documents?

A That the income tax was an excise tax.

Q Now, did that match your beliefs that you'd already reached at that time?

A Well, the Supreme Court in Brushaber had said it was an excise tax. The state courts that we had studied said it was an excise tax. So, you know, who am I to question the highest courts in the land? And now the government is saying it's an excise tax. Sure I believed it was.

Q Okay. Now, of what effect does a belief like this have upon your obligation to file returns?

A Well, it really makes you question it, because I'm operating from what I know under common right: no privileges, I'm not incorporated, have never been incorporated, don't want to be incorporated, that an excise tax has to be on privileges. So, it appears to me that if an excise tax involves the exercise of a privilege, and I don't have any kind of license or anything, I'm not exercising a privilege, I'm not required or I'm not liable.

Q Is there something else you were going to say?

A No, I'm sorry.

Q Mr. Long, this is in '85 when you reached these conclusions, right?

A Yes.

Q And for '85, come April 15, 1986, you filed a return, right?

A That's correct.

Q April 15th of '87, April 15th of '88, April 15th of '89. You came along and filed returns for the other years, April 15th of '89 being for '88, right?

A That's correct.

Q Now, just to kind of move through this quick, is this your instruction booklet for '88?

A Right.

Q Now, I've handed to you copies of -- are they accurate copies of a part of the book?

A Appear to be, yes, sir.

Q Now, is this something you've read and relied upon, Exhibit No. 3?

A Yes, sir.

MR.BECRAFT: Your Honor, I'd move for its admission.

THE COURT: Received. (Defendant's Exhibit 3 was received into evidence.)

MR. BECRAFT:

Q Now, what's so important about Exhibit No. 3?

A The Privacy Act notice.

Q Okay. Now, what do you know about that?

A Well, I attended a meeting and I remember a fellow telling us about that.

Q Now, when would this meeting have been?

A Probably '86.

Q Now --

A Maybe '87.

Q Through '83, '84, '85, and '86 when you were attending these meetings, in reference to the income tax was, was the major area of study on this argument that it's an excise?

A Yes, sir.

Q Did there come a time in which you studied something else in reference to the tax at one of these meetings?

A Well, we pretty well had established that, you know, if the United States Supreme Court says it's an excise tax and all the state supreme courts say it is, or at least the ones we've studied, and that the government themselves says it is in their own Congressional Research Report, then it must be an excise tax. So, we pretty well nailed that down, in my mind anyway, because I studied the material to make sure it said what Mr. Gordon had said it did. And then I went to a meeting, walked in, and the guy on the video said, "Are you required to file income tax returns?"

Q Now, when was this meeting?

A Probably '86.

Q Was it one of these same Tullahoma meetings?

A Sure was.

Q About how many people are there?

A Maybe fifteen.

Q This was a video?

A Right.

Q TV? Everybody gathered around a TV?

A Right.

Q What did you learn by looking at that video on that occasion in '86?

A Well, like I say, that was the first question he asked. And it really got my attention.

Q Let me stop you right here. Who was this?

A I believe the guy's name was Carter.

Q Have you ever met him?

A No. Never met him in my life.

Q So, the only thing you've seen is a video?

A Video. That's correct.

Q Of some fellow by the name of Carter?

A Right.

Q Well, what did you learn by listening to Mr. Carter?

A Well, he got my attention with that, about being required to file. And then he started in about the Privacy Act. And I thought, "Man, what's that got to do with anything?" But then he went on to explain that back in the early '70s that, the way he explained it, all these government agencies got kind of carried away with one another and they got to competing to see who could gather the most information, and they were sending out forms everywhere and asking people to send back all this information. And of course, the people didn't know if they had to send it back, if they didn't have to send back, or whatever. And they got kind of aggravated about it. So, they complained to Congress. Congress passed a law called the Privacy Act. Okay. So, then he went on to say that the important thing about the Privacy Act was that any governmental agency now, after the Privacy Act, that sent you a form and wanted some information, they had to, number one, tell you if it was voluntary or mandatory for you to give them the information. Then, if it was supposedly mandatory, they had to go back and quote or state the statute or the law that gave them the right to ask you for that and would require you to do it. Well, now, that made all kinds of sense to me. In fact, I've wondered why they didn't do that to start with. Because I'd been to the law library and I realized that if you didn't at least know one or two items, the average individual would never walk in a law library and try to look up whether they was required or not to furnish this information. So, that made a lot of sense to me. So, in the next few minutes he pulls out the Privacy Act notice for the Internal Revenue Service. And it says, "Our legal right to ask for this information is Internal Revenue Service Code 6001, 6011, and 6012A." He says, "Okay, now, let's go to 6001 and see what it says." So, he flips his book. And of course, on the video they put it on an overhead where you can see it. And it says, "Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements and make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe." And he points out, it talks about persons liable, but it doesn't say anywhere in that body who that is. It's this entity out here, "person liable."

Q Could I stop you here? After he explained this to you, what you --

THE COURT: I think we're going to cut this off for the day. Ladies and gentlemen of the jury, I'd like you to come back at 9:30 tomorrow morning. And while you're away tonight, remember the things I told you. Don't discuss the case with anyone and don't permit anyone to discuss it with you. Don't read anything in the paper about the case or anything like that. We'll resume trial here promptly at 9:30 tomorrow morning. Until that time this court will be in adjournment. (Whereupon, court was adjourned at 4:45 p.m. to continue October 13, 1993.)

THE COURT: You may proceed.

MR. BECRAFT: May it please the Court.

DIRECT EXAMINATION (Cont'd) BY MR. BECRAFT:

Q Mr. Long, yesterday before we, the last subject that we were on when we broke for the afternoon I believe related to Exhibit No. 3, that Privacy Act notice. And you were telling us something about watching a video of Mr. Carter?

A Yes, sir.

Q Okay. Could we pick up right there?

A Yes, sir.

Q Now, this was at a meeting that you attended of the Tullahoma group?

A Yes.

Q Okay. Tell the jury what you were seeing on video.

A Well, as I recall, he had told us about the Privacy Act itself, and then had pulled out the Privacy Act notice for the Internal Revenue Service. And as I recall, it said something about that our legal right to ask you for this information is Internal Revenue Code Section 6001, 6011, and 6012A, I believe, and basically you should be able to determine from those three sections whether you'd be subject to file or the liability. Well, then he proceeded to go ahead, and he pulled out his code book and flashed Section 6001 up on the screen. And it read: \*Every person liable for any tax under this Title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time may require." And he really emphasized this "person required," because that's obviously, whoever this is that's supposed to do this, "person required," he made the point that it doesn't say anything about who that is. Well, I thought, "Yeah, that's right on the button. It doesn't." And so then he went on to, he said, "Let's go look in Section 6011." And it's the general rule which I guess encompasses everything, the way he explained it. The general rule says, "Every person made liable for any tax imposed by this Title, or for the collection thereof, shall make such return or statement according to the forms and regulations as prescribed by the Secretary." Well, here again we've got this -- only this time it's this "person made liable." But here again, it doesn't say who this person is. He really emphasizes that, that this "person liable" and "person made liable" is this unique entity out here. It's like a form of art. You know, who is he? And neither section explains who this person is. It just says the person liable and the person made liable. Well, then he said, "Let's go on over to Section 6012 and see what it says." And as I recall, it said something to the effect that every individual having gross income that equals or exceeds the exemption amount shall file a return. So, then he makes a point, you know, we've gone now from

person liable to person made liable and now we're talking about individuals and gross income. And the only conclusion that you can draw from that is that if this individual has gross income in this capacity or whatever, then obviously he must be one of these people that's required -- or that's liable. But it doesn't mention anything about liability in Section 6012. So, he goes back over and, you know, who is this person liable and the person made liable? You know, that sounds like somewhere they're going to make somebody liable. So then he says, you know, "Do you reckon Congress knows how to impose a tax and then how to make somebody liable for that tax?" So, he says, "Let's flip over in the booze part or the alcohol section." And he goes to Section 5003. Well, it plainly says, "There is therefore imposed a tax upon distilled spirits of 12" -- this is, you know, my quotation of it -- \$12.50 per proof gallon, and then a proportional tax for every portion less than a gallon. Well, now, that's real clear. I believe anybody can understand that. I can understand that. It's real clear. \$12.50 and it's on every gallon. Well, then he says, "Now let's see if they know how to make somebody liable." So, he flips over to Section 5005, and here it says, "persons liable for the tax." It says it's the distillers, manufacturers, and the importers. They're liable for the tax on the booze. Now, that's real clear, "persons made liable." So, then he goes back to Section 6001 again and says, "Maybe we've missed something here. Let's go back through it again." Well, Section 6001 says, "Every person liable for any tax imposed by this Title, or for the collection thereof, shall keep such records, render such statements, and make such returns, and comply with the rules and regulations as from time to time prescribed by the Secretary." Is that clear? Who is this person liable? Does it say who it is? It just says "person liable. Well, then he goes over to 6011 again. And says, "Well, every person made liable for any tax imposed by this Title shall keep such records and make such a return that" -- well, I've lost that one. "Every person made liable for any tax imposed by this Title or for the, collection thereof, shall make such a return or statement," and you do it on such forms and regulations as prescribed by the Secretary. Here again, it's "every person made liable. Over in the booze section or the alcohol section, it plainly states what the tax is on and it plainly comes over here and says "persons made liable for the tax." Well, now, that's real clear to me. And then I remember the Sprinkles case, United States Supreme Court case, that says, "keeping in mind the well-settled rule that the citizen is exempt from taxation unless the tax is imposed in clear and unequivocal language, and that should there be a doubt about the language of the tax law, the doubt should be resolved in favor of the person upon whom the tax is sought to be collected." Well, now, that gets my attention. Well, I'm sitting here with my head spinning, thinking about all this, because, you know, I know that the income tax is an excise tax, like I told you yesterday. Now this guy is talking about that this "person liable" and it's not defined there. We can't find it. So, then he makes a statement that just curls my hair. He says out of all of his research and going through this book, a complete internal Revenue code, that he has not found the section in this whole book, two thousand pages and nine hundred sections, that makes anybody liable for the income tax. Whew. You could've knocked me over with a feather. Now, surely, a book that big, if we're liable, there ought to be a section in there somewhere that makes us liable. Well, now, he had my attention by then, you can believe. Then he came out and said not only had he researched it, but there was a group up North that had put out a one-hundred-thousand-dollar reward for anybody that could find the section in that book that made somebody liable for the income tax. I'll tell you, I just couldn't believe it. I just couldn't believe it. So, you know, there's nobody liable, no section in there that makes anybody liable, and yet we're all filing and paying all these taxes? Now, I knew it was an excise tax. But now he's done showed me something else here that's just blowing my mind. Well, then he pulls out a document, it's the mission statement from the IRS themselves, and says, it says, "The mission of the Internal Revenue Service is to encourage and achieve the highest degree possible of voluntarily compliance." Now, I'd heard "voluntarily" all my life. And, you know, when you're in school they say, "I need a volunteer," and then they pick somebody, you know, in a class a lot of times. But that's not quite voluntary, is it? But then he went on to say, "Do you know what the definition of 'voluntarily' is in Black's Law Dictionary?" Of course, we sat there and waited. He said, "The definition of 'voluntary' in Black's Law Dictionary is 'To do something without legal obligation.'" Now, that sounds right, you know. I know what voluntary means. It's voluntary. Then he said, "Do you know what compliance means?" We waited. Black's Law Dictionary said that compliance means "To do something in an effort to please." So, then he said, "What we've been doing is donating to the IRS in an effort to please." Now, I'll tell you, it just blew my mind. And this is what he said. Then he showed us another document by, Mr. Kurts, who was the Commissioner of the Internal Revenue Service. And it was an annual report, I believe. And in this report he had mentioned the word "voluntary" six or eight times. Well, by this time he's got my head spinning. No section in the code that makes anybody liable, a hundred-thousand-dollar reward for anybody that could find one, and now he's telling me the mission statement says it's voluntarily. Not only that, but the commissioner himself has mentioned the word "voluntary" six or eight times in his annual report. Then he pulls out a document. It was a Senate subcommittee --

Q We've got exhibits on these.

A Okay.

Q Can we skip over those?

A Sure.

Q Okay. Besides what you know are exhibits in this case, was there anything else that he said that had an impact upon your beliefs?

A Well, that's where I was going. That particular document was, it was a statement by the head of the Alcohol and Tobacco division, which was Mr. Dwight Avis. And he had made this comment before Congress. The statement said, as best I recall, said, he said, "Let me make this clear. Your income tax is 100 percent voluntary tax, while your alcohol tax is 100 percent enforced tax. There's as much difference as day and night, and the same rules will not apply." Now, here's a guy right in the Internal Revenue Service himself, one of the heads of the department, and he's saying that the income tax is a hundred percent voluntary. Now, I'm a school teacher. And when we grade papers and we give somebody a grade, a hundred percent is a hundred percent. There ain't no in between, not 99.5. He said it was a hundred percent voluntary tax. Well, needless to say, he got my attention, had me thinking. And I recalled, you know, that the Bible says we're to prove and reprove the Scriptures. And the reason we're to do that is we're not supposed to just read it and say, "I accept that." God wants us to read it, put it in practice in our lives, and test it so that when we may we believe it, we believe it from our heart because we know it works. So, I determined in my mind, with a little incentive called a hundred-thousand-dollar reward, that I was going to see if what this guy said was right. So, by this time I believe it was somewhere around 1988, early '88. I was at Saturn and I was staying over there part of the time. So, I had some time to study. And then I'd get with the group when I'd come in on the weekends sometime. So, I went to the Read More Book Store in Columbia, Tennessee, and I ordered me a complete Internal Revenue code book. Cost \$27.52. And I sat down -- took me a week to get it. They had to order it. And I set out over the next few weeks, when I had time, and remembering as best I could what he did, I sat down and I went to Section six thousand

Q Can I stop you there?

A Yes, sir.

Q Did you -- yesterday we introduced Exhibit No. 3, which is copies out of your 1988 1040 instruction booklet.

A Right.

Q Do you remember that exhibit?

A Yes, sir.

Q Okay. Now, after he told you or after you viewed this video of this Mr. Carter, did you look at that document? This was in '88?

A Yeah. That was one of the first documents I looked at before I started studying because I went back, I had to go back to it to remember the 6001, 6011 and...

Q The '88, you would've gotten that in the mail sometime in 1989?

A (Moving head up and down.) No. Well...

Q Early part of -- late '88?

A Well, I saw the video before I got that.

Q Okay. All right.

A Yeah.

Q I'm sorry.

A That's okay.

Q You went to the Read More Book Store and got that code?

A Uh-huh.

Q And then what happened?

A Well, like I said, I started to set out to prove what he had said was either right or wrong. So, I went and I flipped over to Section 6001. And sure enough, it said, "Every person liable for any tax imposed by this Title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time may prescribe." "Every person liable." But nowhere in that section did it make any further reference to who was liable, who the person is, who this entity is. I thought, Okay, we'll flip over to Section 6011." And sure enough, General rule. Any person made liable' for a tax imposed by this Title or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary." That's exactly what he said.

Q Now, can I stop you right there? When you just made that statement and just did what you did, you're giving the jury your understanding of what the law is; is that not correct?

A Oh yeah. Yes, sir.

Q Just as long as we're clear on that.

A Yes, sir.

Q Now, continue.

A I'm just telling you what I remember.

Q All right.

A Well, here again, we've got "any person made liable." Now, being a school teacher, if you say "somebody made liable," you assume that somewhere it's going to say who's made liable or how they're made liable or something. Well, then the only other section is Section 6012. So, we flipped over there. And it talks about every individual having gross income. Now, it could've said, "every American." But it doesn't say "every American." It says "Every individual having gross income shall make a return," gross income that exceeds the exemption amount shall make a return. And I know sometimes in our studying we discovered that "shall" can mean "may." But nowhere in Section 6012 does it talk about making anybody liable, yet it follows 6011 talking about "persons made liable." So, who is this person? Who is this person made liable?

Q What did you do?

A Well, I decided I'd do just what he did. So, I flipped over to Section 5001, the booze section, alcohol section. "There is hereby imposed a tax on distilled spirits of \$12.50 a gallon and on every proportion thereof". It's real clear. I flipped over to Section 5005, and it says "persons liable for the tax. And it says distillers, importers and manufacturers. It may not have have manufacturers, but distillers and importers are liable for the tax imposed. Real clear. Now, I can understand that. So now I'm beginning to understand. I'm reproving what he has told us, and so far he's right on the money. Now, who, you know, it's going over in my mind, "Who is this person liable?" And then I remember he said there's no section in the entire Internal Revenue code, and I don't -- they couldn't have left it out to save money. So why is it not in there, if it's not? But he says it's not in there, and there's a hundred-thousand-dollar reward out for anybody that can find it. Why is it not in there? So, I remembered the mission statement of the Internal Revenue Service, you know. "Our mission is to encourage and achieve the highest possible degree of voluntary compliance." And I remembered what he said voluntary compliance was. I looked that up. And that's exactly what it is. Voluntary is voluntary. And there's no way you can make mandatory out of voluntary, you know. It just don't work. And then I, I think probably somewhere in there I was back home and I went to a meeting. And some of the people in the other groups had mailed us a copy of this document by Mr. Avis where he said -- and you've got it there -- that your income tax is 100 percent voluntary tax.

Q Let me stop you there, Mr. Long. I've just handed to you, is it 5, 6 and 7? Exhibits 5, 6 and 7?

A Right.

Q Okay. Are those documents that you read and relied upon in 1988?

A Yes, sir. It says, "Internal Revenue investigation hearings before" --

Q Let's get it admitted first.

A I'm sorry.

Q And those are the documents you previously identified and talked about, right?

A Yes, sir.

Q MR. BECRAFT: Your Honor, I'd move for 5, 6 and 7 to be admitted.

THE COURT: Okay. Subject to the government's objection, they'll be admitted on the same basis that documents 1, 2 and 3 were admitted yesterday. And they are -- well, we've got what, this Avis statement, what is that? That's 5?

MR. BECRAFT: The Avis statement is 5.

THE COURT: They're admitted. (Defendant's Exhibits 5, 6 and 7 were received into evidence.)

MR. BECRAFT:

Q Now, Mr. Long, take a look at 5. You were mentioning that a moment ago?

A Right.

Q I just now see that you've got in your pocket a yellow Magic Marker, right?

A Uh-huh.

Q Now, that document is what, Exhibit No. 5?

A Oh, it's the Internal Revenue investigation hearings before the subcommittee of the Committee on Ways and Means, House of Representatives. It's a mouthful.

Q When?

A In 1953.

Q Now, is there something of importance to you in that document that relates to your beliefs?

A Yes, sir.

Q Can you take your yellow pen out, find that spot and line it through in yellow so that the jury can see it?

A Yeah. I had mine marked. It'll take me just a minute here. (Performs marking.)

Q Now, can you tell us what you've just lined through in yellow that you found on the report?

A Mr. Avis says, "Let me point this out now. Your income tax is 100 percent voluntary tax and your liquor tax is 100 percent enforced tax. Now, the situation is as different as day and night. Subsequently, your same rules just will not apply.

Q Now, let's take 6 and 7. Can you briefly explain to the jury what they are? And then take your Magic Marker and highlight in yellow those parts of those two exhibits that you find of importance.

A This is an Internal Revenue Service cumulative bulletin that states the mission statement. (Performs marking.)

Q Now, can you tell jury what you just lined through in yellow?

A "The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance."

Q All right. Now, the next exhibit as what, 7?

A Yes, sir. This is a 1979 annual report by Mr. Kurtz, Jerome Kurtz. And he mentions the word "voluntary" in here six times.

Q Now, did you understand those to be official government documents?

A Yes, sir.

Q Okay. Now, I don't think we need to belabor the point, but you mentioned a moment ago those were mentioned on the videotape?

A Right.

Q And then you secured those documents that he mentioned on the videotape, right?

A Yes, sir.

Q And those are the ones you're talking about?

A Yes, sir.

Q Now, I think I interrupted you. You were talking about liability, were you not?

A I was talking about, you know, I was reproving that he had told us about this "person liable or "person made liable."

Q What did you learn in that respect?

A well, I searched through -- I didn't try to read the whole book, because I'm sure everybody can look at that and see it's tough reading. But I went through the entire section on the income tax, which is about 1500 sections, just looking at the captions. I couldn't find a section there that made anybody liable. I looked through the six thousand parts, which you'd think would go with it. The 6001 is supposed to be right in that area. I couldn't find any section that made anybody liable. Then I remembered that he said there was a hundred-thousand-dollar reward out. So obviously, the people that put the reward out had researched. And my only conclusion was that there is not a section in there that makes me liable, or anybody else for that matter.

Q Well, what's so important about that? Being liable for the income tax, what's so important?

A well, I know that it's an excise tax. So, in order to be liable for it, I'm assuming, since it's an excise tax, you've got to have some kind of privilege or be in an occupation that's a privileged occupation.

Q Okay. But if someone is liable, in your view, if someone is liable for a tax, are they required to do something?

A Well, yeah.

Q What?

A Like we talked about in the booze tax, if it's clearly liable then they'd be required to file the forms and things and keep the records.

Q Now, if someone, in your view, if someone is not liable for the tax, what's the consequence?

A If you're not liable for the tax, you're not required to file.

Q That was the conclusion you reached from that study you just described?

A Yes. There is no other conclusion. If the person liable for the tax is required to file, and if somebody is not liable for it, then obviously they wouldn't be required to file.

Q Mr. Long, I've handed you what's been marked as Defendant's Exhibit No. 4, is it?

A Yes, sir.

Q Now, can you identify that document for us?

A Yes. It's the AM-Tax guide to the Internal Revenue laws as they pertain to individuals.

Q Is that a document you acquired when?

A I think it was sent to the group somewhere around '88, somewhere in there.

Q Did you read and rely upon it?

A Yes, sir.

Q It was relevant to the formation of your beliefs?

A Yes, sir.

MR. BECRAFT: Your Honor, I'd move for the admission of Exhibit No. 4.

THE COURT: Ladies and gentlemen, it will be admitted, but I want to give you this special instruction with respect to this document. This document is received only for whatever it may show about the defendant's state of mind. You should not consider this document as evidence or proof that anything said in the document is true. (Defendant's Exhibit 4 was received into evidence.)

MR. BECRAFT:

Q Now, Mr. Long, all these exhibits, particularly Exhibit No. 4, you recognize?

A Yes.

Q You're not trying to tell the jury what the law is?

A Oh, no. No, sir.

Q And you're trying to show the jury what you read to reach your conclusions, to show your beliefs?

A Yes, sir.

Q Okay. With that understanding in mind and any comments you make when we're talking about this particular document, can you tell the jury now what you've learned by reading this document?

A Well, basically this document goes through and discusses basically what I've told you. It goes through and shows how, just like Mr. Carter did, that Congress knows how to impose a tax and knows how to make anybody liable by going through Sections 5001, 5005. It just compounded and -- what's the word -- reinforced what I had already learned, that there's no section in there that makes anybody liable.

Q Without getting into detail then, this particular exhibit summarizes your belief?

A Right.

Q And what you've just said about the process that you went through about this liability argument, it's covered in the book?

A Right.

Q Word for word?

A Well --

Q Or substantially.

A Mighty close.

Q Same argument?

A Yes, sir.

Q Now, when you looked at Exhibit 4 and read it and studied it, that AM-Tax guide, did you find anything in there that would cause you to distrust it?

A No, sir.

Q Did you believe it?

A Yes, sir.

Q Now, let's come forward. Had you reached all these conclusions by, say, December 31st, 1988?

A Somewhere in there. Maybe a little before then.

Q At least by that time?

A Yes.

Q At the latest?

A Right.

Q Now, that's the end of the year for 1988?

A Right.

Q And I showed you a minute ago, and I think I got ahead of myself, on Exhibit No. 3, the Privacy Act notice. You'd filed a return for '87, right?

A Yes, sir.

Q And for '88 did you receive -- you know, we've got here the complete, but we've offered the excerpts from the '88 instruction booklet. Would you have gotten that sometime in early '89?

A Uh-huh.

Q Well, when you got in the mail the instruction booklet and the 1040 form, you went ahead -- and it's offered into evidence. I think it's Government's Exhibit No. 11, or thereabouts. You went ahead and filed a return, did you not?

A Yes, sir, I did.

Q Well, why?

A Well, I was still thinking about all this. And you know, I knew beyond a shadow of a doubt in my mind that if the United States Supreme Court said it was an excise tax, that was good enough for me. And we had all these state supreme court cases that said that the income tax was an excise tax. Then we had two government reports where the government said it was an excise tax, from the Congressional Research Service. I knew that for a fact. Then I had studied and researched Mr. Carter's material and had reproofed that to myself, that there's no section in the entire code that makes anybody liable, that I can find. And I had looked up the mission statement and I had gone to Mr. Avis's statement, it had come in, and it said that it was voluntary. But I still wanted to prove and reprove. You know, I knew all this, believed it in my heart, that I didn't have to. But I went ahead and filed that year. And then I decided that I'd give the Internal Revenue Service an opportunity to tell me that I was wrong.

Q Let me stop you there before we move on to that topic. Exhibit No. 3, when you got the '88 instruction booklet in '89, I take it then you looked at it, at the Privacy, Act notice?

A Yes, sir.

Q Okay. And you confirmed what you'd learned earlier about the contents of that notice?

A Right.

Q Okay. And it mentioned just three Internal Revenue code sections that dealt with the requirement to file returns, right?

A Yes, sir.

Q So, that's where it fits in your overall picture; is that correct?

A Right.

Q Now, let's say by at least April 15th, or whatever the date is for 1989. April 16th. Who knows. But that time you did file an '88 return?

A Yes, sir.

Q Correct?

A Sure did.

Q Well, what did you do the rest of the year of '89?

A Well, I decided to write some letters to the Internal Revenue Service.

Q Now, these letters on this point, the copies that I have in these file folders are your letters. You have your original letters up there, right?

A Yes, sir, sure do. And where I mailed them.

Q On Monday you made copies of those letters and they're here, right?

A Right.

Q Now, let's take the very first letter that you wrote.

A Okay.

Q And I'm going to call it Exhibit No. 9. Do you need to look at this?

A No, sir, I've got it right here.

Q Okay. Now, is this a letter that you read -- I mean that you wrote to certain people?

A Yes. This was the first letter I wrote, and I sent it to the Department of the Secretary of Treasury in Washington, the Commissioner of the Internal Revenue Service, and I sent one to the district director in Nashville.

Q And does this exhibit also have a letter from the IRS back to you?

A It has a reply, yes, sir.

MR. BECRAFT: I'd move for the admission of 9.

THE COURT: I've got it listed here as 8. Oh, this is a letter of July 27th?

MR. BECRAFT: Well, I should have, on my list, Your Honor, I should've put correspondence.

Q What is the -- are these letters dated?

A This one was mailed July 27th.

Q Oh, okay. So Exhibit No. 9 is two letters that you wrote in and a reply back?

A Yes, sir. And I'm not too good a typist, so I left the date off of that particular one. But I do have my certified return receipts that they got the letter.

Q so, you deposited it in the mail?

A Yeah. And then you get a green card back saying they've signed that they received it.

THE COURT: Nine is received. (Defendant's Exhibit 9 was received into evidence.)

MR. BECRAFT: I'm going to work off of it, Your Honor, and he's going to work off of his original.

MR. BECRAFT:

Q Now, tell the jury what you were doing by these -- one is a letter to the Department of Treasury and one is to the Commissioner of Internal Revenue. Why did you write these letters?

A Well, I knew what I knew. But where I come from, if you owe somebody money and they send you a bill and you show them you don't owe it, then, you know, they got to agree you don't. If they try to keep saying you owe it, then that's wrong. That's the way I was raised. So, I thought that the Internal Revenue Service is supposed to be part of the United States government, and that if I wrote them and explained to them who I was and my situation, that they'd see since I knew it was an excise tax and I knew there was no section in here that made anybody liable, and it's voluntary, that they would see that I wasn't a person that was liable and they'd tell me that. And so I wrote the letter.

Q Can you describe for the jury, you know, just summarize the contents of these two letters. were the letters to the Department of Treasury and the commissioner identical?

A Yes, sir.

Q Just changed the address?

A They're identical letters. I just sent them to three different people.

Q Now, what did you state in these letters, briefly?

A I told them who I was, where I was from, that I was born and raised in Tennessee, that I worked in Tennessee, worked in Tennessee all my life, that I didn't have any licenses or privileges that I knew of. I did say that I had applied for, years ago, and received, a social security number that I was told I had to have. And then I said, you know, could you help me understand, you know, from my situation and my circumstances, I said, number one, given my situation and circumstances, am I required to file a federal income tax return? And then I put in one more question. I said, "Is a native born Tennessean, American, required by any Tennessee, state or federal law to have a social security number?" Because I was told when I got mine you had to have one.

Q Did you receive a reply?

A Yes, sir.

Q Tell the jury what was in it.

A I received a reply back. And basically it said that the current federal tax law enacted by Congress, Internal Revenue Service Code Section 6012, and the code provides that every individual whose gross income for tax year equals or exceeds specified amounts must make a return with respect to income tax. That's what it said. There's 6012, you know, that Mr. Carter had showed us, that I had looked at. It doesn't say anything about anybody being liable. It just says you shall make a return. And I know from some of our studies that the word "shall" can be "may." And I had asked them, I thought, very specifically, given my situation and circumstances, am I required to file a federal income tax return? I was expecting a yes or no, but I didn't get one.

Q Now, Mr. Long, just for the benefit of the jury, I notice you made a copy of this letter. And they've got a rubber stamped date on here. It's kind of dim. I can see August 25th. What's the year?

A August 25, '89.

Q That's the rubber stamp date on the letter?

A Yes, sir.

Q So, your question wasn't answered?

A No, sir.

Q What did you do next?

A Well, I wrote another letter.

Q Mr. Long, I have in my hand proposed Exhibit No. 10, which is a letter, one to the district director, you've got it notarized November 12th of '89; another one to the commissioner, same date; another one to the Department of Treasury, same date.

A Should be three.

Q And then some letters back to you?

A Right.

Q Now, do you have your originals there?

A I have the originals.

Q These are accurate copies of the letters you mailed to the government and the reply that you got back, which is dated October 31st of '89?

A It was mailed on the 11th. So, that's about right.

Q I'm asking about the letter you received.

A Oh. Let me look. What does your date say?

Q What does yours say?

A This one says December 5th.

Q I'm looking at the copy I've made. Is there one for October 31st of '89?

A Is this my second letter?

Q Yes.

A Are we confused here? Oh, okay. Yeah.

Q You flipped too far.

A I got it from two different people that time. I got the same letter from two different people. But the letter -- let me explain that. I got two answers that said the same identical thing, you know. It was from, one was from maybe the Secretary and one of them was from the commissioner, but they were both written by Ms. Ruth Hill, Chief of the Information and Campaign Branch.

Q You have a second letter you didn't make a copy of?

A Yeah.

Q That says the same thing?

A Same identical thing.

MR. BECRAFT: Your Honor, I'd move for admission of 10.

THE COURT: Is that 8?

MR. BECRAFT: Ten.

THE COURT: Ten is received. (Defendant's Exhibit 10 was received into evidence.)

MR. BECRAFT:

Q Now, Mr. Long, why did you write what, two or three letters here?

A Yeah. I mailed them to three different people: the commissioner and the Secretary and, I think, the district director.

Q But the body of the letter in each one, three different people, different address and different greetings --

A Right.

Q But the body of the letter --

A Body of the letter is identical.

Q So, let's just cover one. You mailed it to these three different people. What were you trying to accomplish? Why were you writing these letters?

A Well, I wanted a clear answer. And I felt like a native born Tennessean deserves a clear answer. If they're a service like they say they are, you know, they tell us to call or write and they'll answer our questions. So, I wanted a clear answer, yes or no.

Q Did you ask some questions in these letters?

A Yes, sir. I told them basically the identical same thing, my situation, that I had never asked for or received any kind of licenses or privileges that I knew of, that I was just, I think in both of these I had said I am exchanging my labor, contracting my labor with other individuals for compensation of equal value. And then at the bottom I asked them three -- well, it was kind of one question but three parts. I said, "Am I required to file a federal tax form of any kind? And if so, what type of federal tax are you implying that I am liable for, and what is the source of such a tax liability?"

Q Now, for the jury, quickly, have you got your beliefs in this letter about the license and privilege, the excise tax position that you have?

A Well, yes, sir, pretty much. I told them I didn't have any licenses.

Q And when you say you asked the question about what I am liable for, that's based upon what you had understood about being liable for tax?

A Yes, sir.

Q So, this letter or these three letters are premised upon, they're based upon your two positions?

A Yes, sir.

Q That it's an excise? You've got to be liable for the tax to be required to file a return?

A Yes, sir.

Q Now, what, if any, reply did you receive?

A Well, I got a letter again from Ms. Ruth L. Hill, Chief of the Information and Campaign Development Branch.

Q You got two of them?

A They were both from her, but they were from, you know, different people I sent the letter to. In other words --

Q Different dates?

A Yeah. She sent it to me twice.

Q But beyond that, it was the identical letter?

A Identical letter.

Q So the jury, when they see this, they'll see that both letters were identical?

A Right.

Q Okay. Now, what did you learn from this letter that you received from Ruth L. Hill?

A Well, I got real excited about this letter because in my previous one I think I had made the statement that if they couldn't tell me, you know, yes or no, then I was going to assume, you know, that I wasn't required or wasn't liable. Well, they wrote me back and said, "You cannot presume or infer anything that we don't send you expressly stated in our letters to you." Well, now, a school teacher like myself, when they taught us how to teach, we get a new class, they always told us you, "Don't assume that they know anything, so you start them at the bottom and come up." So, anything means anything. And they're telling me that I can't assume anything here, and yet they go ahead then and say the Internal Revenue Code Section 6012 refers to returns with respect to income taxes as explained before, and goes on and says that, says something to the effect that if I'm trading services or whatever that I've got to file for the fair market value or something of those services. And then they go on and explain about Sections 1401 and 1402 of the self-employment stuff. And that wasn't my questions at all. I'd told them my circumstances. And there they were quoting Section 6012 again, "individuals having gross income." So, I didn't get a yes or no or any kind of statement as to what my liability might be or anything.

Q Now, they sent to you, attached to that letter is a couple of, one of these is labeled "Self-Employment Tax"?

A Right.

Q Were you self-employed at the time?

A No, sir.

Q And how about this other document that's attached to it?

A It was something about some kind of a revenue law, about folks being in barter clubs and stuff. And I've never been in a barter club in my life, you know. I'm just contracting my natural occupation of common right with other people for other property.

Q When you read the letter, did you have any opinion or conclusion that you reached as to whether or not the questions that you had asked had been answered?

A They hadn't answered my question.

Q What, if anything, did you do next?

A Well, I wrote them another letter.

Q The third letter?

A Right.

Q Now, I have -- you made, on Monday, I've got copies of letters dated February 23rd, or at least there's notary on them of February 28, I'm sorry, 1990, Mr. Long?

A I'm sorry?

Q This Exhibit No. 11?

A Right.

Q Is the third series of letters, right?

A Uh-huh.

Q I have in my hand -- you have the originals there?

A Yes.

Q But three letters, and they're all notarized on February 28, 1990. Are these letters that you wrote to the Secretary, commissioner, district director?

A Right.

MR. BECRAFT: Your Honor, I would move for the admission of 11, Defense Exhibit 11.

THE COURT: Received. (Defendant's Exhibit 11 was received into evidence.)

Q Now, Mr. Long, let's talk about why you wrote this third set of letters.

A Why?

Q Yeah.

A Well, like I said, you know, I have heard the IRS advertise, you know, "Call us and we'll be happy to answer your questions." They've got this voluntary service, they've got all this kind of stuff going on. They're supposed to be a division of the United States government. I'm a citizen. So, I'm wanting a straight answer, and I believe I deserve a straight answer. You know, they've got, I don't know how many employees they got, I don't know how many lawyers they got. You know, why won't they tell me yes or no? If that's what Section 612 says, why can't somebody say, yeah? So, I'm kind of a determined type of person. Like I say, I dated my wife for six years before we got married. I kind of hang in there, you know. So, I wanted an answer.

Q Did you ask any questions?

A Yeah.

Q Were all the letters alike?

A Basically. Oh, yeah, they're all the same again.

Q One is to the Secretary of the Treasury and one is to the district director?

A Yeah.

Q And one is to ...

A The commissioner.

Q And one's to Nashville, right?

A Right.

Q Okay. Now, they're all alike?

A Right.

Q Okay. And you sent this letter to all three of them to get an answer to what question?

A Well, I wanted to know if I was required to file, you know, the questions I'd been asking basically. And I think in this one they keep talking about these individuals that have gross income. So, I think in this one I asked them to tell me if I was an individual as defined in the IRS code. And let me read right here just a little bit. I said that I appreciate them answering and telling me that they do answer expressly in writing, and then the fact that they told me I couldn't assume anything. Let me just read this little portion right here. It says, "You tell me in your letter that I cannot presume or infer anything that is not expressly stated in writing in your letters to me. Instead of saying expressly yes or no, you appear to be avoiding my questions by stating Section 6012 about individuals and gross income again. It appears to me that you are trying to make me presume or infer that I am one of these individuals that you refer to in your letter. Therefore, would you please state to me expressly in writing, 'Yes, Mr. Long, you're a native born citizen of Tennessee, domicile therein, and having no licenses or privileges issued by the federal government, are an individual as defined in the IRS code.'" You know, yes or no. And then I said, "It also appears that you're trying to make me assume that I'm self-employed." So, I said, "If you cannot say to me expressly in writing, 'Yes, Mr. Long, you, a native born citizen of Tennessee, domicile therein, and having no licenses or privileges issued to you by the federal government, are self-employed.'" So, I put it in a way that I hoped they'd have to answer. And then I said, "Since you are experts in this field, and according to your letter you do state things expressly in your letters to people, I am eagerly awaiting your express statements as to my being an individual or self-employed as defined in your IRS code." I went on to say then, "However, if you cannot or will not state positively and expressly that I am an individual and am self-employed as defined in your IRS code and the sections you refer to me in your letters within 15 days, I must expressly presume or infer that this is prima facia evidence and that I am not an individual or self-employed as defined in your IRS code and sections you refer to me in your letters. "In addition to answering the questions above, please send me a copy of your order of authority given by the Secretary of the Treasury to the commissioner of the IRS granting him the authority to assess a tax or file a Form 1040 for a citizen of Tennessee, domicile therein."

Q Did you get an answer?

A No, sir.

Q Now, that was apparently decided February 28 of 1990. When did you mail it off, those three letters?

A It was mailed January 10, 1990.

Q That one?

A That one. The one you've got, yeah. Have you jumped head of me?

Q The ones we just talked about.

A Yeah.

Q You notarized them on February 28, 1990. You sent them certified mail?

A Right.

Q If you notarized it February 28, 1990, would you have mailed it about that time?

A Something like that.

Q And did you have a return receipt showing they received it?

A Yes.

Q Now, let's move on to the -- what letter is the next one?

A Well, this is the same identical letter. Since they didn't answer it, I just copied it again. I thought, "Well, maybe they got lost or maybe they just didn't have time to answer them." So, I sent the same letter to the same people again. And this was, I'm showing it mailed March 2, 1990. And it's got a typo on it. It was supposed to be have been written January 9, '90, but I hit "12" instead of 01."

MR. BECRAFT: (To the clerk.) Could you show him this, please?

Q Now, that's Exhibits No. 12. You made copies of --

A What we've done is I've got two sets of letters in that other exhibit. This is the next one.

Q Okay.

A This is letter four.

Q All right. Is that the one that's...

A Yeah.

Q Okay. Letter four?

A Yeah.

Q Now, 12 that you've got there in front of you, or proposed Exhibit No. 12, have you got your originals?

A Yes, sir.

Q You made copies of it, accurate copies?

A Right.

Q Those are letters you mailed to the IRS?

A Yes, sir.

MR. BECRAFT: Your Honor, I'd move for the admission of 12.

THE COURT: Received. (Defendant's Exhibit 12 was received into evidence.)

MR. BECRAFT:

Q Mr. Long, you're at, in your book, those particular ones?

A Right.

Q Could I get the exhibit back from you now?

A Sure.

Q Now we're on the same set of letters?

A Right.

Q Now, tell the jury what this is.

A Well, here again I keep trying to get answers. And I mailed that other letter, the last letter twice and got absolutely no reply. So, I decide, it's getting close to filing time again, and so I decide, "Well, you know, I'm not trying to hide nothing here. I'm trying to get some straight answers from these folks." So, by this time I've got my 1099s from Maury County Board of Education and from Grower's and I think one from the credit union. So, I make copies of all my 1099s. I make a copy of my contract with Maury County. And I write a little letter and I explain to them, I sent this to all four -- let's see. Yeah. I sent one to the Secretary of Treasury, the commissioner in Washington, to both district directors in Tennessee. I sent, like I say, copies of 1099s, my contracts. And this was mailed on March the 7th.

Q Now, it's dated, my copy has there 2/27/90 at the top of the page?

A Right.

Q And you signed it the 28th?

A Yeah.

Q Okay. February has got 28 days in it.

A Right.

Q And then you mailed it --

A I mailed it March the 7th.

Q Now, if the jury had this in front of them, would all four of these letters, or however many we have here, be identical?

A Right.

Q Except for who it's mailed to?

A Right. That's all.

Q This exhibit also has a one-page reply at the very end?

A I believe that's correct.

Q Now, why did you mail this set of letters? Let's talk about them all in a group.

A Well, here again, I'm trying to get straight answers. I ain't trying to hide nothing. I'm just who I am. I'm asking questions that I feel like need to be answered, and I'm not getting answers. So, you know, there's a lot of fear out here. I know what I know. I believe what I know. But I want to give the Internal Revenue Service, since they're such as a service, a chance to correct me if I'm wrong; and at least give them an opportunity to show their good faith. So, I write, you know, it's the same letter. And what I say is, "After inspecting the documents, please answer this question for me. Would the dollar amounts

shown in Box 7 of the 1099 miscellaneous forms and the dollar amount shown in Box 1 of the 1099 INT form, or any portion of the dollar amounts in either of these forms, be considered income as defined in the IRS code for me, a native born citizen of the commonwealth of Tennessee, domicile therein." And I wrote on, I said, "If in your expert opinion you feel that these dollars amounts would be considered income as defined in the code for me, a native born citizen of Tennessee, domicile therein, please answer my question clearly and expressly, 'Yes, Mr. Long, for you, a native born citizen of Tennessee, domicile therein, and having had no licenses or privileges issued to you by the federal government, the dollar amount shown in the boxes that you mentioned and the dollar amount in Box 1 of the 1099 INT form, or portions of this amount, would be considered income as defined in the IRS code and would require you to file a IRS Form 1040.'" Now, I wrote that so that -- and I wanted them to come back and tell me yes. Then I said, "If you cannot or will not answer me expressly yes, and in the manner stated above, within 15 days of receipt of these documents, then I must presume this to be prima facia evidence that the dollar amounts on the 1099s herein are not income as defined in the IRS code for me, a citizen of the state of Tennessee, domicile therein." And then it's notarized.

Q Now, you sent it to what, three or four different people in the IRS?

A Four. It went to the Secretary of the Treasury too.

Q Now, you sent this letter, said the same thing, and everybody got copies of your 1099s?

A Right.

Q You've seen what the government showed you made for 1989, right?

A Right.

Q Did you give to them everything in this letter? You give them Maury County, you give them -- did they show that there was anything more on their side of the case?

A No, sir. No, sir. It was identical to what I sent them.

Q So, what they showed you made during the course of this trial for '89 is what you'd already given to them sometime in the early part of '90?

A Right.

Q Now, did you receive a reply to this?

A Well, I got a reply back that they had received my letter but that the documents weren't attached. This was in Memphis. So, I mailed them again. I sent them to the Memphis Service Center. And then this time I got, they sent them back and stamped them where they had received them.

Q Okay. The first batch you mailed had the exhibits attached to it?

A Yes, sir.

Q That was in March?

A March.

Q All right. Then when did you mail it to them again?

A I don't know if I've got that date. They received them April the 2nd.

Q The second set?

A Yes, sir.

Q What did you do? Did you make copies of it all over again?

A Uh-huh.

Q And you just stuck that in the mail?

A Right.

Q So, twice Exhibit No. 12?

A Yes, sir.

Q Was mailed to them?

A Right.

Q Okay. Now, they received it by April 2nd?

A That's what it says, yes, sir.

Q Now, did you receive a reply?

A Finally got a reply, and it was dated Nay 15th.

Q What did you learn from this? Now, Ruth Hill has already responded to you in the past, correct?

A Uh-huh.

Q Ms. Hill is also responding to this set of letters?

A Right.

Q what did you learn by reading the letter that she mailed back to you?

A Well, in this letter she goes to talking about Section 61 of the code, about wages, salaries, and compensation for services and all this kind of stuff being included in gross income. And she also states -- and this blew my mind. Said the current federal tax law is the Internal Revenue code which does not define the general term "income," that income -- gross income, it says, not income, is the starting point of determining an individual's federal income tax liability. Well, now, I'm an ol' country boy, folks. And there's no definition of income in this whole book? And it starts at gross income? Well, now, if you want to know what a gross dog is, you've got to know what a dog is, don't you? And then at Section 61 it says gross income is all income. Well, if you don't define income in the first place, how are you going to know what all income is? Then you've got to go to gross income. So, there's no definition for income in this whole book, and yet they're out here collecting income taxes everyday. That blew my mind.

Q The answer that you got back?

A Yeah. No definition of income in the whole code?

Q I've lost myself. This set of letters is what you called the fourth set of letters?

A Yeah.

Q Now, I've got -- again on Monday you made copies of the next set of letters?

A Right.

Q You have them in your book?

A Five. Yes, sir.

Q And you made copies of all the letters that are in this packet of letters labeled Defendant's Exhibit Ho. 13? These are letters you mailed to the IRS?

A Yes, sir. Uh-huh.

MR. BECRAFT: Your Honor, I'd move for the admission of 13.

THE COURT: Received. (Defendant's Exhibit 13 was received into evidence.)

THE COURT: Let's take a recess. We'll be in recess for about ten minutes. (Brief recess.)

MR. BECRAFT: May it please the Court.

MR. BECRAFT:

Q We were on Exhibit No. 13, Mr. Long. Are you still at it?

A I believe so. It's probably my letter number six.

Q Whatever it is. It's the one that's dated July 20th of '90 at the top of the page?

A Right.

Q Now, you made some letters and sent them to what, the Department of Treasury, district director in Memphis?

A Both district directors and then the commissioner in Washington.

Q So, four letters?

A Four letters. They say the same thing.

Q And you mailed it to them sometime around the date that it's stamped?

A Yes, sir.

Q What was that date?

A July 26th.

Q And it was received?

A Right.

Q Why did you mail this other set of letters?

A Well, I didn't get my reply back until, you know, after the filing date, and it was beginning to get on up close to the other one and I wanted an answer. They still hadn't answered yes or no. They hadn't told me I was required. They tell me there's no definition of income. And I'd asked them to tell me that this was income, you know, that would require me to file. They didn't do that. So, I thought I'd write them again.

Q Can you summarize for the jury what you were seeking by these letters that you wrote in July of '90?

A Well, let me just read the two. "Am I, Lloyd R. Long, a native born citizen of Tennessee and domicile therein, and having never applied for or received any license or privilege from the federal government, liable for any type of federal tax, income or otherwise? Simply yes or no." And the second one was, "Do the dollar amounts represented on the 1099s bearing my name represent anything other than an information return documenting an equal, nontaxable exchange between two contracting parties? Yes or no." And then I went ahead to say, "If you cannot or will not state simply, within 20 working days, then I must assume that I'm not." Basically that's what I said.

Q Now, did you receive any answer or reply?

A No, sir, I didn't.

Q What did you do next?

A Well, I sent it again.

Q I don't know what we called this. I've got some letters of January 14th of '91.

A That's it.

Q Is that the next set of letters?

A That's the next.

Q You've got the originals, your copies?

A I got them right here.

Q Monday you made copies of this?

A That's correct.

THE COURT: We need to move on here.

MR. BECRAFT: Okay, Your Honor. I move 14 to be admitted.

THE COURT: Fourteen is received. (Defendant's Exhibit 14 was received into evidence.)

Q Can you briefly tell the jury what you were trying to accomplish? What was the purpose of writing these letters?

A Same purpose. I just wanted them to tell me straight out. You know, I'm an ol' country boy. I've asked a straight question expecting a yes or no answer and they won't give me one, and they keep coming back with 6012 about individuals and gross income. If that's what it says, why can't they tell me yes? That's all I want to know.

Q Were you asking the -- the previous exhibit that we've just admitted, is it basically the same thing as this letter?

A Yes, sir. Yes, sir.

Q Did you obtain a reply?

A Got a reply on that one.

Q Dated April 5 of '91?

A Well, I got that, plus I got one February 21st.

Q I'm sorry. I looked a page too far.

A Yeah.

Q What was the nature of this reply on February 21 of '91?

A Well, this one they get into Section 603, they get into all kinds of other sections, and they keep coming back with 6012 again about individuals having gross income. They mention a Section 6151. All I'm asking them is just say yes or no.

Q How about the April 5, '91, letter?

A It lists 6011, 6012, 6001, 7601, and 7602.

Q Did they answer your question?

A No, sir, they didn't.

THE COURT: What's that, 15?

MR. BECRAFT: Fifteen is coming up, Your Honor.

THE COURT: Okay.

MR. BECRAFT: I'll eliminate it.

MR. BECRAFT:

Q Fifteen is copies of your letters you made?

A Uh-huh.

MR. BECRAFT: Your Honor, I'd move for admission of 15.

THE COURT: Okay. Received. (Defendant's Exhibit 15 was received into evidence.)

MR. BECRAFT:

Q Now, what is 15?

A Let me see. I don't have the numbers on mine.

Q I'm sorry. It's a letter from the IRS dated 9/12/91.

THE COURT: Just show him a copy.

A This is a document requesting -- it says it's an information document request. It's from a Mr. Mel Winburn. He's with the Internal Revenue Service here in Chattanooga.

Q Well, what was he wanting from you?

A He wanted documents. He wanted -- let's see what it says. "All books, records concerning your income. Bank statements, savings account, passbooks, information on other investment funds, records of all loans and repayments, purchase invoices," so on and so forth.

Q For what year?

A '89.

Q Now, at that point in time when you received that, had you already mailed to the IRS, before April 15, 1990, those 1099s, which is everything for the year '89?

A Yes, sir.

Q How did you respond to that particular request right there, Exhibit No. 15?

A Well, I wrote a letter and asked him to show me his authority to even investigate me. And I asked him, since he knew who I was and everything else, I asked him for his identification and where he lived. Because if he's got a right to investigate me, I ought to have a right to know who he is and where that authority comes from.

Q And what happened?

A Well, I got a letter back from him saying, since I had asked to see, you know, his delegation of authority, it says, "This letter is in reply to your correspondence on September 29, 1991, We have received your letter and determined that you do not intend to cooperate in this examination. This letter is also to inform you that we will use other means at our disposal to complete this examination."

Q Okay. The affidavit, have you got that up there?

A Yeah.

Q Do I need to give you this copy?

A There was a letter that I wrote back to him after that.

Q I'm sorry.

A I wrote back and said, "Thank you for your information. I realize that you're attempting to complete an assignment given to you by your superiors. I have always intended to cooperate with you and your organization; but my requests, as stated in my previous correspondence with you, are valid. As a native born, sovereign citizen domiciled in Tennessee, it is within my rights to receive from your office your authority to conduct the pending investigation. Upon receipt of that authority from your office, I will be happy to personally give you the information you want. How can such a request be determined as uncooperative?"

Q Now, did you ever get a reply back from that?

A I think we got a summons, where they summoned my bank records.

Q Exhibit 16 is copies of them, signed and filed, right? Have you got it up there with you?

A Yes, sir.

Q A copy of it?

A Uh-huh.

MR. BECRAFT: I'd move for the admission of 16.

THE COURT: Received. (Defendant's Exhibit 16 was received into evidence.)

Q Now, tell the jury what this is.

A This is an affidavit of revocation and rescension. Through all of this research I have discovered a social security number is not required, it's not mandatory, it's voluntary, and that I had been told when I was young that I had to have it to work, and I found out later that I didn't have to have it, and in fact I had had to voluntarily apply for it, but nobody told me at the time that I didn't. So, I decided to revoke and rescind my signature on that application.

Q Now, can I summarize this document?

A Sure.

Q It's long, single-spaced on legal length paper, consisting of five pages?

A Right.

Q And what did you do with this document once it was drafted?

A I sent it to the Secretary of the Treasury and then I filed it the county courthouse under miscellaneous documents.

Q Franklin County?

A Franklin County, yes, sir.

Q If the jury were to read this right now, just to save time, you have embodied in this affidavit the substance of your position, right?

A That's correct.

Q You've stated in here that it's your belief that you don't have a privilege and therefore are not subject to an excise tax; is that correct?

A Yes, sir.

Q You've also stated in here that it was your belief that you're not liable for the income tax, right?

A That is correct.

Q And you've already explained fully to the jury that position, and it's embodied in this document that's in there?

A Yes, sir.

Q Now, does this document for -- let's take the days April 15th of 1990 or April 16th, whatever the date is, and April 15, 1990. Would this, in essence, summarize your beliefs and positions on those two dates?

A Yes, sir.

Q Now, I've got one more exhibit, Mr. Long. Do you know a fellow by the name of Joe Dickerson?

A Yes, sir. He's one of the members of our group.

Q So, he's a personal friend. You've known him for how long?

A Oh, man. At least eight years.

Q And what's your knowledge about who Joe Dickerson is?

A Joe was about like me. He's just a laborer. He works for, I think for Carrier up in McMinnville.

Q In early '91 you were working for Saturn, right?

A That's correct.

Q So, you were working for a company?

A Right.

Q And you lived in Franklin County, Tennessee?

A That's correct.

Q And in 1991, the same time frame, Joe Dickerson was working for a different company, Carrier?

A Right.

Q But he also lived -- well, not a stone's throw from you, but in the same community, right?

A Right.

Q And you-all were friends?

A Uh-huh.

Q Has he ever informed you as to whether or not he's had a controversy with the IRS?

A I don't really know too much about their situation, whether they have or not.

Q I've just shown -- you've got copies. Did Joe Dickerson give you some letters that he got from the IRS?

A Yeah.

Q Is that something that you read and relied upon?

A Yes, sir.

Q The letter is dated March 14th of '91?

A I got real excited about them.

MR. BECRAFT: Your Honor, I'd move for the admission of Defendant's Exhibit 8.

THE COURT: Okay. Received. (Defendant's Exhibit 8 was received into evidence.)

THE COURT: Again, these documents are received only for the purpose of showing the defendant's state of mind, and not for the truth of anything stated therein.

MR. BECRAFT:

Q Now, sometime in mid March of '91, did Joe Dickerson or his wife talk to you about this exhibit, which is a series of letters?

A They brought it to the meeting and showed all of us.

Q Did you get a copy of their letter?

A Yes, sir.

Q Tell the jury what this is.

A Well, this is a letter from the Internal Revenue Service in Memphis, Tennessee, to Joseph Carl Dickerson, Route 1, Box 97A, Hillsboro, Tennessee. And it says: "Dear Taxpayer: Based on our information, you need not file attached return for the above period. We may contact you in the future if issues arise that need clarification. You do not need to reply to this letter."

Q Did you understand that Joe Dickerson was working for Carrier at that time?

A That's correct.

Q And he was being paid some type of salary or wages?

A Right.

Q And he was, in essence, in the same position as you are?

A Correct.

Q Different company?

A Uh-huh.

Q Doing the same thing, in essence?

A Similar, yeah.

Q Now, these letters cover what years?

A '86, '87, '88, and '90, I believe.

MR. COLLIER: I only have one letter, Your Honor. If there are additional letters, I would sure like to see a copy of them.

MR. BECRAFT: I gave you copies of the whole thing.

MR. COLLIER: You gave me one letter yesterday. This is the third time, Your Honor.

THE COURT: We've only got -- if only one letter has been furnished to the government, then only one letter comes into evidence.

MR. COLLIER: Your Honor, you will recall that he showed you a copy of the letter and I made a comment about the date. It was in the top right-hand corner of that letter. That's the only letter that I've seen.

MR. BECRAFT: I find that hard to believe, because when I made copies of it there were exactly, I think, five copies of the exact same letter, and they were all stapled together, and that was directly given to the government.

THE COURT: Well, I'm sorry. I have to accept Mr. Collier's representations on that. I do remember that date.

MR. BECRAFT: I may as well clarify it right now. Which one did you have? (Counsel confer.)

MR. BECRAFT: They're all here, Your Honor. There are four pages of them. Your Honor, I see he has them all.

THE COURT: Let's wait until we find out what he's got.

MR. COLLIER: They're all four different letters. Nine are different, but they're all four different letters.

THE COURT: Did you have the letters, Mr. Collier.

MR. COLLIER: Yes, Your Honor.

THE COURT: Overruled. Received. What is it, Number 8?

MR. BECRAFT: Yes, Your Honor.

THE COURT: They're received.

MR. BECRAFT:

Q I've forgotten where we were. Joe gave you these letters that related to a series of years?

A Yes, sir.

Q The last one on the page relates to the year 1990?

A 1990.

Q This is a letter dated and sent to him on March 14th of '90?

A Right.

Q What does it say for '90?

A It says, "Based on our information, you need not file a tax return or the above period. We may contact you in the future if issues arise that need clarification. You do not need to reply to this letter." So, Joe Dickerson is someone like you, and you saw a letter to him, that, before April 15th of '91, the IRS writing to him saying he doesn't have to file a '90 return?

A That's the way I read it.

Q what kind of impact did that have upon your beliefs?

A Well, I thought they'd finally figured out, you know, what was going on and that, you know...

Q Now, Mr. Long, let's go back a year. The year before you got that, in '90, you sent out two different sets of series to, what, four different people? Twice you did the same thing. And you sent copies of your 1099s that related to '89?

A Correct.

Q Did that in the early part of '90?

A Right.

Q So you had provided to the IRS everything that you made for '90 -- I mean '89?

A Correct.

Q Did you believe that they could calculate a tax based upon what you provided to them?

A I'd think they could, if I was liable for it or owed it.

Q Now, here it is the following year, and '90 has already elapsed and here we are in '91. Did you think about doing the same thing again that year?

A Well, I thought about doing it again. But when I got this letter from Joe, I figured, "Well, hey, they've figured out the problem and they've corrected it, because if he's not, you know, them saying he doesn't need to file one, then I won't have to," because I had sent it the year before and they hadn't answered my question.

Q Now, let's take all your questions together. We're dealing with a series of letters here, what, seven or eight, five or six? How many?

A About six, because some of them I sent twice.

Q So, six series of letters you sent to the IRS over a span of time, these two years?

A Uh-huh.

Q And you asked specific questions?

A Very specific.

Q At any time did the IRS, or whoever you wrote the letter to, ever come back with a specific answer?

A No, sir.

Q Well, what was your conclusion from all of this?

A Well, my conclusion was that if they couldn't come back with a specific yes, then obviously it was voluntary and they were trying to just wait me out and see if I would succumb to some kind of pressure and go ahead and volunteer. That's basically it. Because I knew it was an excise tax. I knew there's no section in this code book that says I'm liable, or anybody else. And I just wanted to see, because in my last letter I told them, I said, "I'm writing to you in good faith, asking you specifically to just tell me yes or no." And I thought good faith is good faith. They're part of the United States government. You know, they're not up here to deceive us. If we send them something and ask them a straight answer, by golly, we ought to get a straight answer.

Q All right. Mr. Long, you're charged with willfully failing to file federal income tax returns for '89 and '90. That's your understanding, right?

A Yes, sir.

Q Now, on April 15th of the following years, '90 and '91, when they're customarily due for that time, did you know that you were required to file?

A Absolutely not.

Q Well, what was your belief? Let's not go into a long...

THE COURT: I think we've been -- we're getting a little bit repetitive.

MR. BECRAFT: I'll withdraw that, Your Honor.

Q Did you deliberately and intentionally refuse to file returns?

A No, sir. I've never done that.

Q Did you have a purpose to violate the law when you didn't file a return?

A Absolutely not.

MR. BECRAFT: Nothing further, Your Honor. I tender the witness to the prosecution.

THE COURT: Cross-examination, Mr. Collier?

CROSS EXAMINATION

MR. COLLIER: Mr. Long, if we could, I'd like to clear away some of the underbrush here. For the two years in the the bill of information, you concede that your income was over \$9,500. You concede that, don't you?

A Yes, sir.

Q For 1990, the first year in the bill of information, you made over \$9,200?

A Yes, sir.

Q And the next year, Count 2 in the bill of information, you made over \$9,500?

A Yes, sir.

Q You don't dispute that?

A No, sir.

Q The government has proven that beyond a reasonable doubt?

A Yes, sir. Certainly.

Q You also don't dispute that the Internal Revenue Service would like to get returns filed before April the 15th, unless April 15th was on a weekend? You don't dispute that, do you?

A No, sir.

Q And you knew that, didn't you?

A Yes, sir.

Q You were never confused about that, were you?

A That's right. In fact, on that particular 1989, I sent them my 1099 --

Q That's not -- please try to answer the question.

A I'm sorry.

Q You knew that, didn't you?

A Yes, sir.

Q And you knew that the income tax return, the Internal Revenue Service wanted that information sent to either the Memphis Service Center, the district director, or the local IRS office. You knew that, didn't you?

A Let me back up a minute. I did not know, sir, that I was required to file.

Q Please answer the question, Mr. Long. If you could try to confine yourself to the question. The question was, did you know that the Internal Revenue Service wanted your returns sent to the Memphis Service Center or the district director or the local IRS office?

A Let me say this, I knew --

MR. COLLIER: Your Honor?

THE COURT: You can answer yes or no and then explain your answer.

A (Continuing.) No, sir.

Q Okay. You never knew that?

A I didn't say I never knew it.

Q You knew it at one time?

A I knew it at one time, yes, sir.

Q But you forgot it?

A No, sir, I didn't forget it.

Q You also concede that this court has jurisdiction over you, don't you?

A No, sir.

Q You don't concede that?

A No, sir.

Q That's part of your defense then?

A Well, if I'm not liable for this tax, which I have explained I don't think I am, then I don't feel that I should even be here. Now, I'm not sure I understand what your question is about jurisdiction, but I'm wondering why I'm here.

Q You knew that the IRS considered the money that you earned for two years reportable, didn't you?

A For '89 and '90?

Q Yes. You knew that, didn't you?

A No, sir, I didn't know that.

Q You didn't know that. You also knew that Section 7203 was a statute which had been used against people who failed to file their income tax returns, didn't you?

A I have heard that, yes, sir.

Q And you also read it?

A Yes, sir.

Q It's in a lot of your books'?

A Uh-huh.

Q You've seen your videotapes where people have talked about it?

A Yes, sir.

Q Now, the first year, when April the 15th came and went -- I' sorry, April 16th came and went, the fact that you didn't file your return was not because of an accident, was it?

A Well, no, sir, I guess not.

Q You knew that April 15th was there?

A Yeah, it usually comes around every year.

Q And you let it go by?

A Could I explain?

THE COURT: You can answer the question, then you can explain.

A (Continuing.) Well, it went by, yes, sir.

Q And you did not file an income tax return by April 15th, did you?

A Are you calling a return what?

Q I'm calling a return the 1040 thing that you filed the year before. That's what I'm calling a return. I think it says "Return" up at the top, doesn't it?

A It probably does.

Q You filed that for what, 16 years, 18 years?

A Yes, sir, sure did.

Q So, this is what we're calling a return.

A That's what you're calling a return. Okay. Well, I had sent some information, but I did not file a return.

Q You didn't file it, did you?

A No, sir, I didn't.

Q And that was intentional, wasn't it?

A Yes, sir.

Q You intentionally failed to file, didn't you?

A Well, I guess you could say it that way if you want to.

Q Well, what do you want to say?

A Well, I've asked them time and time again to tell me I'm required to file one of those, and I don't get any answer.

Q Well, let's clear this up. You say "required to file." From what you've testified to this morning and yesterday, I get the impression that you think that if someone wants to file a return they can, and if other people don't want to file a return they don't have to.

A No, sir.

Q You don't think that?

A No, sir.

Q You voluntarily chose not to file?

A Yes, sir.

Q And you thought about it.

A Yes, sir.

Q And you made a conscious decision to not file?

A Yes, sir.

Q That was your choice, to not file?

A That's correct.

Q No one put a gun to your head and said, "Don't file"?

A That's correct.

Q And even though you thought that this system was voluntary, if you had wanted to you could've filed, couldn't you?

A I suppose so, if I'd thought I was liable for the tax, yes, sir.

Q Whether you were liable or not, you still could have, couldn't you?

A I suppose so.

Q But you didn't, did you?

A That's correct.

Q You chose not to?

A That's correct.

Q And if you had wanted to, you could've paid your income tax, couldn't you?

A I didn't have any income tax.

Q Whether you have some or not. You said they were donations, I believe, before, didn't you? Didn't you say they were donations? You could've paid your donation.

A I said that was what the gentleman said on the tape.

Q Did you believe that or did you disbelieve it?

A Well, it made a lot of sense, yes.

Q Did you believe it or disbelieve it?

A I believed it.

Q You believed it. So, you thought they were donations. So, if you had wanted to, you could've made your donation?

A That's correct.

Q But you chose not to make your donations

A That's correct.

Q But you knew that millions and millions and millions of American citizens were paying their donations every year, didn't you?

A I suppose so.

Q You knew that. That was no surprise.

A I don't know what other people do, sir. I mean, I assume maybe they did. I don't know.

Q You assume that millions of American citizens were paying --

A Well, you're telling me they do.

Q I'm asking you a question, sir. I'm not telling you anything.

A I'm trying to answer it the best way I know how.

Q You're assuming that millions of American citizens --

A I assume from what you said. I don't know what those people do, sir. I'm not into their private life.

Q You had no idea that most American citizens pay their income taxes every year?

A I had some idea.

Q Oh, you did have some idea?

A Yeah.

Q Mr. Long, did it concern you that these other people were paying their taxes and you weren't paying your taxes? Did that ever concern you?

A Are we saying -- you just called it a contribution a minute ago.

Q Did that concern you, that they were --

A If it's a contribution, why should it concern me if I choose not to contribute?.

Q That didn't concern you at all, that they were paying their donation?

A No, sir.

Q Okay.

A That's their choice.

Q That's their choice.

A Certainly.

Q And it didn't concern you? You didn't care?

A Why should I care? That's their choice.

Q Now, some of these people, the same year that you were making what, forty-seven something and forty-eight thousand dollars, were making a lot less money than you, had two jobs, trying to put kids through college, having a tough time. They were making their donations. But you weren't making your donation.

A I'd been there before, too, sir.

Q So, that didn't concern you?

A Sure, it concerned me.

Q But you were willing to let them carry their share of the American government and also your share? The fact that you weren't paying meant they had to pay more.

MR. BECRAFT: Your Honor, I think that's an objectionable question to appeal to the pecuniary interest of the jury.

THE COURT: Overruled.

A Would you say that again, please?

Q You were not concerned that there were people making considerable less money than you did in these years, who were making their donations when you were not making your donation. That didn't concern you?

A We're talking about donations now. I'm concerned that they're making donations that they wight not have to also, yes.

Q Oh, you were concerned about that?

A Sure.

Q You wanted them to not make donations?

A I wanted them to do whatever they felt like they needed to do. That's their choice. That's what voluntary is.

Q Did it concern you that these people who were making their donations had to pay more because you were not making your donations?

MR. BECRAFT: Your Honor, --

A I don't understand that, sir.

Q You don't understand that?

A I don't understand that. What I make has nothing to do with theirs.

Q Now, you told us you paid income tax returns for many years?

A Yes, sir.

Q You filed your returns and you paid your taxes for many years?

A Yes, sir.

Q And I believe you said that everybody told you from the outset that you had to file a return? Did you say that?

A Yeah. I think I said that I did it because I was told I was supposed to, yes, sir.

Q And 1969, was that about when you first filed your returns?

A That sounds about right.

Q You were about what, about 20, 21 years old, 1969?

A Twenty-one, I guess.

Q Did your father tell you that you had to file your returns? Was he one of the people?

A No, sir. I think they had it every year, so I just assumed you did.

Q So, you saw your father file his returns every year?

A Uh-huh.

Q During tax time when he was preparing his income tax returns, did he mention to what he was doing? you A Sure.

Q Would he gripe about it?

A Not really.

Q Talk about how much time it took?

A Not really.

Q Have to go back and find the records to do it?

A No. My dad always kept pretty good records.

Q It wasn't a bother for him?

A Not too much.

Q Okay. How old is your son?

A He's 18.

Q Is he working?

A Not right now, no, sir. He's going to school.

Q Have you told him that he does not have to file income tax returns?

A No, sir. I've left that up to him.

Q You left it entirely up to him?

A Yes, sir. And whether he gets a social security number or not, too.

Q He got a social security number, didn't he?

A He got one when they told him he had to have one to get a driver's license.

Q So, he went out and got one?

A Yes, sir. And then a little after that they changed the law and said you didn't have to have one to get a driver's license.

Q But he already had one?

A Uh-huh. My daughter doesn't have one, though.

Q Now, this belief that you have that people don't have to file returns and they don't have to pay income tax, is that something that is central to you? Do you really believe in that?

A Yes, sir.

Q Deep in your heart?

A Yes, sir.

Q And you don't think that people ought to make donations to the government unless they really want to?

A I don't think -- let me think a minute. Say that one more time.

Q You have not shared this central belief of yours with your son, though?

A No, sir.

Q You've kept it away from him?

A Well, he's heard a lot of things. But I leave his decisions up to him. I've always tried to, you know, be open with our children.

Q Now, another element in this offense is that you were required to file income tax returns. You heard Ms. Sherard from the Internal Revenue Service testify that you were required to file income tax returns. And you concede that's true, don't you?

A No, sir.

Q You don't concede that?

A No way.

Q So, your defense is not necessarily that you were mistaken about the law at that time? Your defense is that, as you sit here right now, you still don't have a requirement to follow the law, you know, to file an income tax return?

A That's correct.

Q So, your defense is not a good faith mistake about the law then? That is not your defense?

A I don't understand that question.

Q You told us a lot yesterday about a man named Gordon, George Gordon?

A Yes, sir.

Q And you said you got some materials from Mr. Gordon?

A Uh-huh.

Q Did you pay for these materials?

A The group did.

Q How much was it?

A I don't know. They were about five or six hundred dollars, I believe, for all of them.

Q About five or six hundred dollars?

A Uh-huh.

Q How many people were in this group?

A Oh, it varied. Ten to twenty.

Q Who were the other people?

A Joe Dickerson was one of them.

Q Who else?

A Libby Dickerson, his wife. Jimmy Woods. There were several other folks that I'm not too familiar with some names right off hand. I'm not real great with names.

Q How about Tupper Saussy?

A No, sir.

Q How about Russell Leonard?

A No, sir.

Q Now, when you heard this man Gordon speak, it really struck you or it opened up your eyes, didn't it?

A That's correct.

Q You thought this was one of the most amazing things you'd ever heard in your life before, didn't you?

A Well, I wouldn't say that. It opened my mind to some things that I wasn't aware of.

Q And you decided to check out a lot of this information, didn't you?

A Yes, sir.

Q And when you checked on Mr. Gordon, you found that he'd been arrested numerous times, didn't you?

A For various things, yes, sir.

Q You also found out that he had some convictions?

A Yes, sir.

Q And after you read his books you found out a lot of the stuff in his books was absolutely garbage, didn't you?

A No, sir. Most of the things you're talking about had nothing to do with tax. A lot of that was just common law stuff.

Q Just common law stuff?

A Yeah, some of it. Most of it, as I recall.

Q Tell the jury what crimes Mr. Gordon was convicted of.

A I don't know, sir. I didn't read that much. I mean, you know, I read the material. And a lot of that took place over the last 12 years. I really have no idea. I know that he is involved in some things like that.

Q He's involved in some things like crimes?

A Well, I don't know exactly what he's doing, you know. That's Mr. Gordon's business. I just read some of his material. Some of it made sense to me, some of it didn't. Just like when I went to school, some of it made sense and some it didn't.

Q The fact that someone is involved in crimes, though, doesn't disturb you and make you think that maybe you shouldn't rely upon what they say?

A I didn't rely on a lot of the things. I explained to you I went, I went to the law library and pulled up the things that I relied upon.

Q Mr. Gordon was not a lawyer, was he?

A No, sir.

Q Mr. Gordon at one point was involved in what, a bar in Boise, Idaho?

A A bar?

Q In Boise, Idaho?

A In Boise, I believe. I'm not sure about that, sir. I only met the man one time.

Q But you thought enough of him to send off for his book, and you checked him out at least --

A No, no, no. The group bought the books.

Q You were a member of the group?

A But I wasn't a member of the group when they bought the books. I came in after that, sir.

Q Thank you for clearing that up.

A Okay.

Q But you thought enough of Mr. Gordon to at least do a little checking on him. And you found out that he had a criminal history?

A I heard a little bit about all that as time went on, but I didn't really go and call up and try to check on George Gordon's life, no, sir.

Q Now, one of the books that you got, your group got, whether you were in the group or not, says "Law Enforcement Growth Industry. Common Law Books." Is this one of the books?

A Yes, sir.

Q And we just got this yesterday, didn't we?

A I believe so.

Q You didn't give this to us earlier, did you?

A No, sir.

Q One of the things that he says in this book is, "In reality, citizens of America are living in a police state and are completely unaware of it. There is little difference between our government and the one in Poland." And this was written during the time that Poland was under Communist domination. You didn't believe that, did you?

A Probably not.

Q You thought that was garbage, didn't you?

A Uh-huh.

Q In the same book he again compares us with Poland. He says, "There is no difference in the police state in Poland and a police state we Americans have imposed upon ourselves." You didn't believe that, did you?

A No, sir.

Q "There's one glaring difference in the adoption of this system. We pay to have our rights subjugated to limits of contract. The Pols save some money." You didn't believe that, did you?

A I'm not sure I quite understand that, sir.

Q He also says, "There are not many people who want to trade their slavery for the rigors of a life of a free man. But for those few men and women who want to be free, a school is open in Boise, Idaho, called Barrister's Inn, to teach anyone who wants to be free how to be free. Not everyone in America registers his car with his government. Not every man and woman in American asks for government permission to drive or have a license to drive. Twenty-two million Americans don't pay income tax. There are even some free men who don't pay personal or real property taxes. The flame of freedom is involved. Every person who wants to be free can free himself, but no other man can free him." You didn't believe that, did you?

A That every man who wants to be free can free himself?

Q You didn't believe that 22 million Americans don't pay income taxes? You didn't believe this about the Unites States being a slave state? You didn't believe that did you?

A I don't have any idea how many people aren't filing income tax.

Q So, you didn't believe it? It might've been true, might not have been true, but you didn't --

A I'm not even sure I read that particular section, sir.

Q So you didn't read this?

A Well, I may've read some of it. I didn't necessarily read it all, no, sir. I mean, that thing is that thick. I read the part that impressed me, and that's what I studied on, yes, sir.

Q Now, one of the things in another one of his books, it's also called Common Law Study Guide, says, "Rules and Procedures for Tax Avoidance." Do you recall reading this?

A I may've read that.

Q And it has a list of 24 things that you should do to avoid paying taxes?

A I don't remember them, sir. If I even read it, I don't remember them.

Q Let me just read you a couple of them. "8. Always use contractors for labor. "9. Do not file 1040 forms. "14. Use your declaration of lack of all correspondence with every encounter with a public official. "Always demand to know who it is you're talking to." Did you follow this?

A Is there anything wrong with that?

Q Did you follow this?

A No, sir.

Q Is that why you wrote the letters to the IRS?

A No, sir.

Q You didn't follow this? You ignored it?

A I don't even remember reading it. But I don't remember anything you said that there's anything wrong with it.

Q Now, in another book, A Criminal Case with Use of Videotape, did you read this book?

A I don't think I read that one.

Q You didn't read this one?

A No.

Q There's a person mentioned throughout this entire volume. In fact, it's a person's criminal case. Do you know who that person is?

A No, sir.

Q It's George Gordon.

A Okay.

Q In this whole book he's talking about himself, his own criminal case. And you didn't read that?

A I don't think I did. I don't recall reading it, no, sir.

Q And in this book there's an affidavit of poverty. And what it says is that because the United States does not use gold as currency anymore that one has any money, which means he's a pauper, he has no money. You don't believe that, do you?

A I don't know about that, sir.

Q You think that might be true?

A I don't know.

Q Another book. This one is Legal Quotations. Federal Taxation Study Guide. Volumes I and II. Did you read this one?

A I think I read some of it.

Q You did read this one?

A I read some of it, yes, sir. You've got to remember, I'm doing this part time, here and there and everywhere, working. You know, I'm studying these when I can, sir. I didn't sit down and try to go through that whole volume.

Q How much total time do you think you spent on this?

A I don't have any idea.

Q How many hours?

A I have no idea.

Q How many weeks?

A Have no idea.

Q Well, this is a book that you admit that you did read. Did you study this book?

A Which one is it?

Q This is Federal Taxation and Study Guide.

A I probably read some of that, yes, sir.

Q This is on, there's not a page here, but it's at the, just past the divider.

A Okay.

Q It says, "This publication reflects the author's opinion in regard to the subject matter covered. It is handed out with the understanding that the author is not engaging in giving legal, accounting, or other professional advice or services. A

competent professional person should be used for expert assistance." Now, what's he telling you is that you can't rely upon any legal advice that he's giving you, isn't he? That's what he's saying?

A I didn't rely upon his advice. I went to the law library and pulled it up.

Q He also says that a competent professional should be used, doesn't he? That's what he says?

A I guess. You've got it there.

Q You're not a competent lawyer, are you?

A I don't claim to be.

Q He also says that he disclaims any personal liability, loss, or risk incurred as a consequence of any of the information in his books. He's telling you that if you follow anything that he says and you get yourself in trouble, that's your tough luck.

A Okay.

Q Didn't that suggest to you that he didn't believe what he was saying there?

A No, sir.

Q A few weeks ago you came to my office with Mr. Leonard, and you and Mr. Leonard delivered some books to my office. Do you recall that?

A Yes, sir.

Q And you didn't give us any of the books by Mr. Gordon, did you?

A That's correct.

Q You did give us a book by a man named Schiff?

A I believe so.

Q And when you talked to Agent Geasley back last year, year before last, and he asked you about people that you may've relied upon, you told him about Mr. Schiff, that you relied upon Mr. Schiff?

A I don't think I said I had relied upon it. I said I had read his book.

Q Okay. You did mention Mr. Schiff's name?

A Yes, sir.

Q But you never mentioned Mr. Gordon's name?

A No, sir. At that point in time I had just read that book, Mr. Schiff's.

Q You had just read Mr. Schiff's book?

A Right.

Q Now, Mr. Schiff's book, the one you gave us, says, "How Anyone Can Stop Paying Income Taxes." And you read this book?

A Yes, sir.

Q Now, at the time Mr. Schiff wrote this book, tell the members of the jury where he was.

A I'm not sure where he was.

Q Did you read the book?

A Well, I've scanned through it.

Q On one of the pages he described how he was in federal prison when he wrote the book. You don't recall that?

A I don't recall that, no, sir.

Q And he says he was in federal prison for violation of Title 26, United States Code, Section 7203.

A Okay.

Q You know what law that is, don't you?

A Sure.

Q That's failure to file an income tax return?

A Uh-huh.

Q Okay. Now Mr. Schiff in his book talks about his fight with the court.

A Yes, sir.

Q As you skimmed through it, did you read that?

A Yes, sir.

Q His case went all the way up to the Supreme Court, didn't it?

A I think it did.

Q And the Supreme Court rejected all of his arguments, didn't they?

A That's right.

Q You didn't mention that to the jury when you were talking about Supreme Court cases. You didn't tell them that there was a case involving not coal companies, not involving the Supreme Court of Arkansas, but involving somebody charged with failure to file his income tax returns, and that the Supreme Court rejected what you told them. You didn't tell them that, did you?

A I believe Mr. Schiff's was a corporation, sir.

Q Mr. Schiff was an individual --

A He was an officer of a corporation, sir.

Q You think that makes a difference?

A Yes, sir.

Q Now, on the very first page of Mr. Schiff's book there's a paragraph which says, "There's always an element of risk in standing up for one's lawful rights in the face of an oppressive taxing authority backed by a biased judiciary." You didn't believe that, did you?

A I don't know, sir.

Q You thought that was garbage, didn't you?

A That's Mr. Schiff's opinion. I don't really know.

Q You thought it was garbage, didn't you?

A Well, I don't know that it's garbage, but that's not --

Q You sure don't believe that, do you?

A It's not necessarily my opinion, no, sir.

Q You sure don't believe that, do you?

A No, sir.

Q In his introduction he says that the Americans have been deceived by the federal government and an army of accountants, lawyers, and other tax preparers. You don't believe that the federal government has engaged in fraud upon millions of American citizens, do you?

A No, sir.

Q You don't believe that most lawyers have either, do you?

A Huh-uh.

Q Or accountants?

A I believe we've gone to sleep, myself, and forgotten what our rights are, sir. I've stated pretty much what I believe.

Q There's one chapter in his book which mirrors his title, How to Stop Paying Income Taxes. "If you are self-employed, retired or simply living on income from dividends, interest, rent, or alimony, et cetera, it is easy to stop paying income taxes. Just stop. Don't file your 1040." Did you believe that, when you read this book?

A I read that book after I did what I did, sir.

Q Why did you give this to us in discovery then?

A When I talked to Mr. Geasley, I was under an extreme amount of pressure because of the investigation, and there was people walking around all my community --

Q That was over a year and a half ago, Mr. Long. You gave us discovery a few weeks ago. Why did you give this to us a few weeks ago?

A That was just part of it. That's what I had. That was the most recent things I had, sir.

Q When you gave it to us, you indicated that these were the things that you relied upon in forming your opinion.

A I told Mr. Geasley I had read --

Q I'm not talking about Mr. Geasley, Mr. Long. Mr. Geasley was a year and a half ago. We're talking about in my office in the last three or four weeks. That's what we're talking about.

A Okay.

Q And you told us, when you gave us this book, that these were the things that you relied upon. Didn't you tell us that?

A We brought that you to, yes, sir.

Q Didn't you tell us that, sir?

A I don't remember saying that I particularly relied on that book. It was in with some of the stuff that I had read over a 12-year period of time.

Q And you told us that you relied upon the things that you gave us, didn't you?

A Well, yes, sir, basically.

Q Now, you didn't believe this, though, did you? You thought this was garbage also, didn't you?

A Would you read that again, sir?

Q "If you are self-employed, retired, or simply living on income from dividends, interest, rent, alimony, et cetera, it is easy to stop paying income taxes. Just stop.

A Well, as I've stated, if those people are exercising common right or occupations of common right, they might could do that. Like I say, I can't get the IRS to tell me that I'm required or liable.

Q So, you may have agreed with that particular statement?

A Maybe, at that point in time.

Q This is another chapter here. It tells you how to deal with the IRS. And it says, "In my untax seminars that I have conducted all over America since 1977, and in my freedom kit, I explain how citizens can deal with this type of IRS intimidation." He has a whole chapter telling you what to do. Do you recall reading that chapter?

A Not necessarily, sir. I think I read mostly the sections of the code and where he talked about the liability issue, is what I read in that, just to see --

Q It says that if you are asked questions, if someone from the IRS wants to talk to you, write them a letter back. Make a lot of demands from them. Ask for their home telephone number and you'll put them off.

A I've read my letters. They don't make a lot of demands, sir.

Q Well, did you agree with Mr. Schiff's advice on how to put them off?

A Obviously I didn't, because my letters didn't make a lot of demands.

Q Well, your letter to Mr. Winburn did.

A Yeah, but that was after they'd come wanting information from me, when I talked to them and tried to ask everything. I sent them everything I've got already. I wanted to know who this guy was.

Q He identified himself, didn't he?

A Yeah. But how do I know that's who he is.

Q Oh, you thought he could've been in impostor?

A Well, that's possible, isn't it?

Q So, you decided to write him a letter back. Your letter was what, about five or six pages?

A It was pretty lengthy, yes, sir.

Q You wanted his home telephone number?

A Yes, sir.

Q You wanted his home address?

A He had mine.

Q He had yours?

A Yeah.

Q But he was trying to, according to his letter, determine whether you owed income taxes for the previous year. That's what his letter said.

A I'd already sent them a 1099 --

Q You didn't send it to him, though, did you, Mr. Long?

A Well, I believe there's a rule here that says notice to the principal is notice to the agent.

Q What rule is that? Are you a lawyer?

A No, I'm not a lawyer, but I've heard that. I mean, if I send to Memphis, surely they've got telephone lines, he ought to know.

Q Mr. Winburn is in Chattanooga?

A Right.

Q And I think you told us during your direct examination there must be hundreds and maybe thousands of IRS employees?

A I believe I mentioned that.

Q So, you just assumed that he already had anything that you sent to Washington or that you sent to Memphis? You assumed that he already had it?

A I didn't assume that necessarily, but I assumed if he wanted it he had it.

Q And that justified in your mind writing that letter to him making all those demands?

A No, sir. My mind was I wanted to know who this guy was that had asked me for this information and what authority he had to do it. I believe that's my right.

Q Now, another chapter in Mr. Schiff's book says, "Federal Judges. The Real Culprits." You didn't believe that, did you?

A No.

Q You thought that was garbage, didn't you?

A Yeah.

Q And in here he talks about the federal judiciary. He says that it abuses its authority, it makes up laws that don't exist, misleads juries, denies people due process, and, in short, railroads people into jail. You didn't believe that, did you?

A No, sir.

Q That's garbage? That's garbage, isn't it?

A I don't have any experience, sir. You'd know more about that than I would.

Q That's garbage, isn't it?

A As far as I'm concerned, yes, sir.

Q Then there's a whole chapter on his crime, "A Short History of My Crime," where he talks about his experience in being prosecuted for a violation of 7203. You don't recall reading that?

A I might have.

Q You might have?

A (Moving head up and down.)

Q But it didn't make much of an impact on you?

A No, sir.

Q The fact that here's somebody in your situation, you say that he was a corporation?

A I believe that's what I understand.

Q And you think that makes a difference?

A Certainly. Certainly it makes a difference.

Q But in here he talks about the Supreme Court. He said, "The Supreme Court has to deny my petition in order to hide its own guilt for allowing me to be sent to prison." That's what Mr. Schiff said.

A That's his opinion. He probably --

Q That's garbage, isn't it?

A He probably had his feelings hurt.

Q That's garbage, isn't it?

A Right.

Q Mr. Schiff made up his mind that he was not going to file income tax returns; he wasn't going to pay and it didn't make any difference what other people said; he was going to do what he wanted to do.

A Sounds like it, yes, sir.

Q Sounds like it, doesn't it?

A Uh-huh.

Q He also says, "I'm convinced that only after we remove a few federal judges from the bench or throw a few in jail" --

MR. BECRAFT: Objection, Your Honor. I have sat back and listened to the prosecution --

MR. COLLIER: I don't hear an objection, Your Honor. He's making a -- NR BECRAFT -- go over and over --

MR. COLLIER: I don't hear an objection, Your Honor. He's making a speech.

THE COURT: Let's go to side bar. (Whereupon, side bar conference was held outside the hearing of the jury, as follows:)

MR. BECRAFT: Your Honor, I've been tolerant and given the prosecution a substantial amount of leeway. But I mean, he's getting in here, the whole purpose of his cross-examination is to read from a book that the witness has said that he's relied upon or had any opinion. His whole intent and purpose is to prejudice the jury by the opinions and statements by somebody else which was not adopted by this witness.

THE COURT: Overruled. (Side bar conference was concluded and proceedings continued in open court, as follows:)

MR. COLLIER:

Q Mr. Long, Mr. Schiff says, and this is the same chapter that talks about his own conviction and his own experience, "I am convinced that only after we remove a few federal judges from the bench or throw a few in jail for blatantly refusing to enforce the Constitution will sufficient numbers of others take that document seriously. You rejected this, didn't you, when you saw this?"

A Certainly.

Q That's garbage?

A Yes, sir.

Q Did you reject the whole book? Did you say to yourself, "I can't believe anything at all that's in this man's book because it's all garbage. He's a convicted criminal. He has all kind of outlandish statements in there, and it's nothing that any reasonable person should rely upon." Did you tell yourself that?

A I did rely on some of the first part of it where he quoted the section --

Q Even though he was a criminal? Even though the man was a criminal?

A Well, he was quoting sections out of the code that I'd already studied.

Q Even though the man is a criminal, you still relied on it?

A Well, I studied it and they matched. I mean, I did read some of that, you know. That's all.

Q And even though the man's case went up to the Supreme Court, you still relied upon it?

A Like I say, he was a corporation, and I've already said, you know, the income tax is an excise tax.

Q Another book that you gave to us during discovery a few weeks ago is one by a man named Alan Stang, called Tax Scam. How the IRA Swindles You and What You Can Do About It. Did you give us that?

A Yes, sir.

Q And again, you gave us this book because, in the general conversation when you gave us all these materials, you said that you relied upon these things in forming your opinions. Isn't that right?

A Yes, sir.

Q Now, the author of this book, Mr. Stang, do you know if he was also convicted? Was he also a criminal?

A I read that book way back. I'm not sure.

Q You didn't check into his background to see whether he was a criminal or not?

A No, sir. I didn't really check George Gordon's background. I took what I was impressed with from those meetings, and I went to the law library and I studied and I proved that what the man said at that particular point in time, not taking in any philosophy or anything, about what the supreme courts had said and the United States Supreme Court had said. That's all I took.

Q In chapter 18 of this book which you told us that you relied upon, Mr. Stang tells us where he was when he wrote his book. Guess where he was? Guess.

A I don't know.

Q He was in a federal penitentiary.

A Okay.

Q You read that, didn't you?

A I read it, but it's been a long time ago.

Q And he was in a federal penitentiary for guess what?

A I don't know.

Q Failure to file his income tax return.

A Okay.

Q You read that, didn't you?

A I don't really remember, sir.

MR. BECRAFT. Your Honor,

A (Continuing.) It's been a long time. This has been 12 years.

THE COURT: Overruled.

MR. BECRAFT: Same objection to the whole line of inquiry.

THE COURT: Same overruling.

Q In his book he says this is in prison, and he talks about how our country, the United States of America, is totalitarian.

A I've read a lot of books, sir, you know. There's a lot of things that I set aside and went on. Like I say, I've shown you mostly what I studied, because I didn't have time to do a lot of other things.

Q But you gave us this book?

A Yeah.

Q This is one of the books you gave us?

A Yes, sir.

Q You didn't give us the Gordon materials. You gave us this.

A There's an explanation to that, but I don't know if you want to hear it or not.

Q And in his book, this is near the middle portion of the book, on page 164, in a chapter called "Inside the Beast."

A Okay.

Q Do you recall reading that chapter?

A I'm not sure. That doesn't ring a bell. Go ahead.

Q In here he tells you how to deal with the IRS. Do you recall reading that chapter, how to deal with the IRS?

A No, sir.

Q Do you recall reading "When they come around wanting to collect taxes, you may want to ask a few questions yourself." And it gives you some examples of demands to make. It talks about the Freedom of Information Act. That's pretty much what you did. You followed this script, didn't you?

A I remember hearing something about the Freedom of Information Act. No, sir, I didn't follow any script. Absolutely not.

Q And the fact that some of your actions square with what's in this book is just coincidence?

A Very possibly, yes, sir.

Q Chapter 12, "Corruption in the Courts." That's the author's opinion, sir. Now, what he talks about is that we have a corrupt Congress that passes invalid and unconstitutional tax laws, a corrupt court and a corrupt IRS. You rejected all that when you read it, didn't you?

A Yes, sir.

Q That's all garbage, isn't it?

A Yes, sir.

Q He also talks about all of the crooked lawyers and crooked accountants, how you cannot go to lawyers for legal advice because lawyers are part of this monopoly and they support the tax system. You rejected that, didn't you?

A Yes, sir.

Q He also talks about accountants, how you cannot believe and trust accountants because they're also part of this corrupt system. You rejected that, didn't you?

A I've learned over the years, sir, that general statements, you know, you can't do that. So, yes, I rejected it.

Q In another chapter, "How to Protect Your Property," there's this passage: "Somewhere along the line you may need legal advice." And he's talking here about people who fail to file their income tax returns and fail to pay their taxes. He's giving them advice. "Somewhere along the line you may need legal advice. While there are some good, even magnificent attorneys, most members of the bar association monopoly are by far too terrified of our friends in the IRS to provide it, even if they understood what you're talking about, which they don't because they're victims of law school." You didn't believe that, did you?

A I don't know. I'm not a lawyer.

Q You rejected that, didn't you?

A Would you read it again? I didn't quite follow all of it.

Q He also says -- I think this is pretty near the end of the book, that if you do what he says, you're probably going to get charged with a crime.

A Okay.

Q You do you recall reading that?

A I don't recall that, sir.

Q And it says if you go to court, you're going to get convicted?

A I don't recall that.

Q You don't recall reading that?

A Because I didn't do what he did.

Q Now, he also says in his book that nothing that you read here should be considered legal advice.

A Okay.

Q And also, "Do not go into court with anything you've read here unless you have expert assistance." What he's saying is you can't rely upon anything that he says, that you need to go get professional advice.

A Okay.

Q That's what he's saying. That's the bottom line.

A Okay.

Q That's the same thing Mr. Schiff said also, that you really can't rely upon what he says.

A Right.

Q So both these authors, who are both criminals, are saying that "You can't rely upon me, and if you do what I say do, you may get yourself in trouble, and you need to go talk to a lawyer," even though they're saying that most lawyers are corrupt and are not to be trusted. Did you go talk to a lawyer?

A No, sir, not at that time.

Q You did your own legal research?

A I did the best I could, yes, sir.

Q Tell the jury who Tupper Saussy is?

A Tupper Saussy is a gentleman that lived in Sewanee.

Q How did you know Mr. Saussy?

A I did some work for him a time or two.

Q When?

A Oh, '82 or '3, somewhere back in there.

Q Do you watch television?

A Not a lot.

Q Do you read newspapers?

A Not a lot.

Q What newspapers do you read?

A I don't even receive a newspaper.

Q What newspapers do you read?

A I don't read a lot of newspapers.

Q When you do read --

A I read the county paper, the local paper.

Q What's the local paper?

A I don't remember. Winchester or Herald Chronicle.

Q Other than doing some work for Mr. Saussy, did you ever have any other association with him?

A Not really, sir.

Q Mr. Saussy was in one of these groups also, wasn't he?

A He may've been the person that sponsored the meeting I went to. I'm not sure.

Q He was there, wasn't he?

A I believe he was.

Q In fact, he's the one who told you about the meeting, wasn't he?

A No, sir. I didn't know him, never even seen him before that meeting.

Q So, you started working for him after the meeting?

A Actually what happened, I believe, he found out that I was good with woodworking, and somebody had given his wife some solid poplar, raised-panel doors and he needed them hung in his house. So, I went and put them in his house.

Q And that was before the meeting?

A No, no.

Q That was after the meeting?

A After the meeting.

Q But you saw him at the meeting?

A I remember him being there, yes, sir.

Q And you saw him later on?

A When I put the doors in, yes, sir.

Q And after this meeting that Mr. Gordon spoke, you had a very, very deep interest in not paying income taxes?

A No, sir. I had a deep interest in learning about how this thing worked, yes, sir.

Q Did you share any of your interests with Mr. Saussy?

A We may've talked about it briefly while I was working.

Q Now, Mr. Saussy was convicted in this court in 1985. You heard about that, didn't you?

A Yes, sir.

Q You also read about it, didn't you?

A No, sir, I didn't read about it.

Q You didn't read it out of the Winchester or Herald Chronicle?

A No, sir.

Q Tell the members of the jury what Mr. Saussy was convicted of.

A I don't really remember, sir. I really don't. I was working. I didn't have time to read papers. I was trying to raise a family and study and learn. At that point in time I was just doing the best I could.

Q You never heard that Mr. Saussy was charged with three counts of failure to file income tax returns?

A I didn't know specifically that, no, sir. I knew it had something to do with income tax, yes.

Q And generally you knew what it was, but not specifically?

A Right.

Q And Mr. Saussy lived where? Where did he live?

A He lived in Sewanee.

Q He lived in Sewanee?

A Uh-huh.

Q And you lived where at the time?

A I live in Alto, which is down the mountain.

Q Mr. Leonard, wasn't he a member of this Tullahoma tax protest group that you belong to or that you corresponded with?

A Who now?

Q Mr. Saussy.

A No, sir. He was not a member.

Q He was not a member of that group?

A Oh, no.

Q What were the other groups? You said there were other groups that you-all corresponded with.

A There's groups in different states.

Q How about here in Tennessee. Tell us some of --

A The groups themselves did that. I just attended various meetings at times. I don't even really consider myself a, quote, group member. I just went when I could.

Q So, you don't know the location of another single group here in East Tennessee?

A I don't have an address, no, sir.

Q Well, how about a city?

A No, I really don't.

Q You really don't?

A Huh-uh.

Q And of course you don't have any knowledge at all then of who belongs to those other groups?

A How would I?

Q Exactly.

A Yeah. What difference does it make?

Q Now, Mr. Saussy's conviction, I believe it was in 1985. You had heard some general information about it, had you not? I think you just said that.

A I'd just heard he was convicted.

Q Now, you were going to go over to Vanderbilt trying to get information on the law and look up Supreme Court cases. You didn't come over to Chattanooga, though, to find out why Mr. Saussy got convicted, did you? You didn't do that?

A I don't recall doing that, no, sir.

Q How far is it from your home to Chattanooga?

A It's about sixty miles, I believe.

Q How far is it from your home to Vanderbilt?

A From Tullahoma it's about seventy miles.

Q About seventy miles. So, it's a little bit shorter to come to Chattanooga than it is to --

A It might be, depending on which way you went. From Tullahoma it would be further to Chattanooga.

Q And you didn't come to Chattanooga to check the court records to see whether Mr. Saussy's ideas about wages and the 16th Amendment and gross income and all these other things that you've been talking about were accepted by the court, did you? You didn't do that?

A No, sir.

Q You also didn't check to see what the courts of appeal did with his case, did you?

A No, sir.

Q And you didn't check to see whether the Supreme Court had ever heard it, did you?

A No, sir.

Q Do you know a man named Russell Leonard?

A I believe I've met him, yes, sir.

Q And I don't mean your lawyer, Mr. Leonard.

A I understand.

Q When did you meet Mr. Russell Leonard?

A I don't know exactly. Somewhere back in that period of time.

Q Did you share your interest in the tax laws or lack of tax laws with Mr. Leonard?

A No, sir. I don't recall doing that.

Q Did he share his beliefs with you?

A No, not really.

Q Did you-all discuss taxes at all?

A No. We just happened to be at a meeting together one time is all I remember.

Q And what was the purpose of this meeting?

A It was just a meeting to -- I don't even remember what we studied or sought that night. We watched things on environment. We watched different things. It varied from time to time.

Q Who else was at this meeting?

A I don't recall.

Q Mr. Leonard was there and you were there?

A I just remember meeting Mr. Leonard. You asked me and I told you.

Q Just one time?

A Oh, I've met him -- I've seen him a few times other than that.

Q Where else have you seen him?

A Well, he lives in Sewanee, you know. He drives through Winchester. We see one another every now and then.

Q He stops by your house?

A No, sir.

Q Well, if he passed through Winchester, -- I've passed through Winchester. You've never seen me, have you?

A No, sir.

Q Did he stop at your job?

A Oh, no.

Q When he passed through Winchester?

A No, sir.

Q Well, how do you see him?

A I just mentioned that I bumped into him a time or two in town. Winchester is Winchester. That's all there is. If you live in Sewanee, you go Winchester.

Q You had heard that Mr. Leonard was also convicted of failure to file income tax returns, hadn't you?

A Yes, sir.

Q That was back about 1985, when he was convicted?

A Probably.

Q How many counts was he convicted of?

A I don't know, sir.

Q But this is someone who you knew?

A I had met him.

Q You had met him?

A Yes, sir.

Q And you did not come over to Chattanooga to see why he was convicted of failure to file his income tax returns, did you?

A No, sir.

Q And you did not come to Chattanooga to see what the courts of appeal did with his conviction, did you?

A No, sir.

Q And you didn't come to see what the Supreme Court did with his conviction, did you?

A No, sir.

Q Now, Mr. Russell Leonard was not a corporation, was he?

A I don't really know, sir.

Q Mr. Tupper Saussy, when you saw him walking around you knew he wasn't a corporation, didn't you?

A I had no way of knowing.

Q You had no way of knowing?

A No.

Q How about Mr. Saussy? Mr. Saussy wasn't a corporation?

A I had no way of knowing what he was, sir.

Q Had no way of knowing?

A No, sir.

Q Now, these Supreme Court cases that you filed, the only ones you told us about are the ones that support your views. You didn't tell us about any of the Supreme Court cases you found that contradict your views?

A I studied the ones that I knew about and did the best I could, sir.

Q You didn't see a lawyer?

A No, sir.

Q You took it upon yourself?

A Yes, sir.

Q And you've mentioned a lot of times that you're a teacher, what you do as a teacher and what teachers do. Mr. Long, if a student came to you with a complicated question about calculus, you wouldn't answer that student, would you?

A I'm sorry?

Q If a student came to you with a complicated question about calculus, you would not try to answer that student's question, would you?

A No, sir.

Q You'd refer that student to a math professor or math teacher, wouldn't you?

A Probably.

Q Because that math teacher would know a lot more about calculus than you would know, wouldn't he?

A Probably.

Q And although these books that we've talked about, the Schiff book, the Stang book, and the Gordon book, they all tell you that you can't rely upon what they say and you need to go and see a lawyer, you never went to see a lawyer, did you?

A No, sir.

Q And that was a decision that you made?

A Yes, sir.

Q You decided not to see a lawyer?

A Yes, sir. I didn't have the money really to see one.

Q How much money does it cost?

A I don't know.

Q How much was Schiff's book? How much did you pay for it?

A I don't remember.

Q How much did you pay for Stang's book?

A I don't remember.

Q How much did you pay for Detaxing America? How much did you pay for this?

A I don't really remember. I think somebody gave me that.

Q Somebody may've given this to you?

A Yeah.

Q How much did you pay for Which One Are You? The American Nonresident Taxpayer?

A I think somebody gave me that one.

Q Somebody gave that one to you?

A Uh-huh.

Q How much did you pay for D. Vincent's, this looks like a trial transcript of something.

A Somebody gave me that also, sir.

Q Are people in this movement very free with these things?

A Yes, sir.

Q So, once you become a true believer, you try to spread that belief out?

A Well, I don't know about that, sir. Just trying to share information. Is there anything wrong with that?

Q Now, you don't know how much time you put into studying the tax laws here, but it's been a considerable amount of time, hasn't it?

A Yes, sir.

Q How much time did you put into studying the laws against rape?

A I just know it's wrong, sir.

Q You haven't studied that at all?

A I don't have to study that one.

Q Do you even know the citation in Tennessee for the law against rape?

A No, sir. I just know it's wrong.

Q But there's something about taxes that made you study them?

A Certainly.

Q And that thing is you don't want to pay your taxes?

A No, sir. I've always tried to pay whatever I owe. And I asked the government time and time again to tell me if I owed anything, and they wouldn't tell me.

Q Now, let's take a look at some of these letters that you talked about. Now, you admitted that you had more than the amount that was necessary to file a return. You did that early on. Remember?

A Yes, sir.

Q And you heard the witness testify that if a person made less than that that there was no requirement for them to file if they were married and could've filed a married, filing joint return. Remember that?

A I believe so.

Q And she said that varied. If you were single, another rule would apply, that there's a lot of things that went into it. Do you remember that?

A Yes, sir.

Q Okay. Now, the first letter that you wrote to the Internal Revenue Service, that's your Exhibit No. 9. Do you have that there?

A The first letter? I sure do, uh-huh.

Q Tell the jury how much money you told the IRS you made that year in your letter?

A I didn't tell them how much I made.

Q You didn't tell them how much you made, did you? You didn't put any amount in that letter, did you?

A No, sir.

Q Okay. So, you're asking somebody to tell you whether you meet all these three requirements, when you don't tell them how much money you make?

A I'm asking them to tell me if I'm even a person that's supposed to fit into that category, sir, is what I'm asking them.

Q Well, your question number one, "Am I required to file a federal income tax return?"

A Right.

Q Isn't that your question?

A That's the question.

Q Am I misleading you? Am I misstating anything?

A That's the question.

Q That's what you say, "Am I required to file a federal income tax return?"

A That's right.

Q There no way anybody can answer that if you don't tell them how much money you made, is there?

A Oh, yes, sir. Yes, sir. 6001, 6011 talks about persons liable, sir. I'm trying to find out if I'm a person liable.

Q Well, if you'd made \$5,000, under these circumstances, according to the evidence in this case, you would not have been required to file an income tax return. So, the answer to the question would've been no, if you'd made \$5,000. The correct answer would've been no.

A If I was a person liable, yes, sir.

Q And you didn't provide them with any information about how much you made, did you?

A I didn't think I had to. I'm asking them to tell me if I am a person liable for any kind of tax, federal tax.

Q They wrote back to you?

A Yes, sir.

Q And this is the reply to the first letter, isn't it?

A It appears to be, yes, sir.

Q And this is part of your exhibit?

A Yes, sir.

Q This is just a blowup?

A Okay.

Q And it says, "Current federal tax law enacted by Congress is the Internal Revenue Code."

A Right.

Q "Section 6012 of the code provides that every individual whose gross income for the tax year equals or exceeds specified amounts must make a return with respect to income taxes." That's what it says, isn't it?

A Let me look right here, sir.

Q Mr. Long, I'm asking you what the letter says.

A Oh, okay. Yes, sir.

Q Isn't that what the letter says?

A That's what it says, yes, sir.

Q At the bottom here, the letter says, "The government expects voluntary compliance with the federal tax laws."

A Yes, sir, it sure does.

Q "This means that we expect taxpayers to comply with the law without being compelled to do so by action of a government agent."

A Okay.

Q "It does not mean the taxpayer is free to disregard the law. If an individual is required by law to file a return" --

A "If." If an individual is required, sir. That's what I tried to find out, sir.

Q or pay tax, it is mandatory that he or she must do so."

A Okay.

Q "failure to do so could cause the individual to be subject to civil and criminal penalties, including fines and imprisonment."

A Okay.

Q So, they told you that what they want is people to comply with the law without having anyone coming down forcing you to do so, but it is still mandatory. That's what they said, wasn't it?

A If you are required, sir. Yes, sir, that's what it says. If you are required.

Q Now, you disagreed with them up here, didn't you? Although they told you that the requirement was set out in Section 6012, you disagreed with that, didn't you?

A It doesn't say who's liable, sir.

Q You disagreed with that, didn't you?

A Yes.

Q You thought they were wrong?

A I don't know if they're wrong or not. It just doesn't say anybody's liable.

Q You thought the Internal Revenue Service was wrong when they wrote back to you?

A I'm not saying they're wrong, sir. I've asked them -- if that's what it says, if it says I'm required, why didn't they say, "Yes, Mr. Long, you're required"? That's all I want to know, sir.

Q And they told you back here, back in 1989, that you could go to prison? They told you that, didn't they?

A If I was required to file, yes, sir, and I didn't.

Q And they also told you that if you met the minimum filing requirements and failed to file a return -- I'm sorry. That if you met the minimum mandatory filing requirements, that it was mandatory that you file a return. That's what it says, it is mandatory that he or she do so.

A If you're liable for the tax, sure it would be mandatory.

Q Now, you understood this, didn't you? You understood what they were saying?

A Uh-huh.

Q You just disagreed with it?

A No, sir, I didn't clearly understand because it says if you're --

Q Oh, you didn't understand. You didn't understand?

A Ask me again, sir. Ask me again.

THE COURT: Let's take a luncheon recess at this time. Ladies and gentlemen, come back at -- how much more do you have, Mr. Collier?

MR. COLLIER: I'd say about thirty minutes, Your Honor.

THE COURT: Okay. Let's come back at 1:15. Remember the things I told you. We'll be in recess until then. (Luncheon recess was had.) AFTERNOON SESSION 1:15 p.m.

THE COURT: Are we ready to proceed, Mr. Collier?

MR. COLLIER: Yes, Your Honor.

MR. COLLIER:

Q Now, when we finished, Mr. Long, we had just completed the first response that you received from the Internal Revenue Service. Now, after that you sent another group of letters. I believe they're your Defense Exhibit No. 10?

A May be, sir. I don't have them.

Q And you received a reply, did you not?

A I don't have them up here with me, sir. (Documents furnished.) Exhibit 10. Okay.

Q And I don't have a date on the front of the letter in your 10, but it's notarized on November 6th of 1989? Is that right?

A Yes, sir. It was mailed on October 11th.

Q Now, in this letter you also don't tell them how much money you made, did you?

A No, sir.

Q And they sent you a reply back and they responded again in general terms?

A Very general.

Q This is a one page letter. This is in your exhibit. And in the third paragraph here they make reference to their earlier letter they had sent, and they tell you again that the federal tax law requires an individual to file a return and pay taxes if he or she has gross income that equals or exceeds a certain amount?

A Yes, sir.

Q That's what it says?

A That's what it says, yes, sir.

Q And then it talks about another section of the law, Section 6012?

A Uh-huh.

Q Now, in your letter you had suggested that because you were doing labor and had received wages, that perhaps wages were not income?

A No, sir.

Q Are you suggesting that?

A No, I didn't suggest anything about wages. I suggested that I was contracting and receiving compensation. And I believe my 1099s show clearly that it plainly states nonemployee compensation, sir.

Q Well, in response, or however you put it in your letter, they told you that if services are paid for in services, the fair market value of service taken in payment must be included in a person's gross income. That's what they told you?

A That's what the letter says, yes, sir.

Q And then you'd asked some questions about whether you were self-employed or something. That's in your letter?

A No, sir.

Q And they --

A Go ahead. I'm sorry.

Q And they respond that if a person is self-employed that there's a different rule, that you have to file a return if you make \$400 or more?

A Yeah, that's in there.

Q And if you're self-employed --

A If. If.

Q You don't follow the normal requirements for a person that's set out in this earlier chart, but the amount there is just \$400?

A Yes, sir, that's what it says.

Q And then you'd asked some general questions about social security numbers, and they give you a very general reply?

A No, sir, not in this letter. I asked them very specific questions: Am I required to file a federal tax form of any kind? If so, what type of federal tax are you implying that I'm liable for, and what is the source of that tax liability? I'm asking to see the section that makes me liable.

Q Well, whether you asked or not, they gave you some information about the social security numbers, right?

A Yes, sir.

Q You did ask in your first letter, though, about that?

A Yes, sir, if there was a law that required anybody to have one, yes, sir.

Q So, they may've been replying to your first letter?

A That's possible.

Q Obviously they'd read the first letter because they make reference to their earlier reply to you?

A Yes, sir. That's possible.

Q Now, this letter, the one that we just talked about, is dated October the 13th or 31st?

A That's the answer, the reply I got back?

Q What's the date on it at the top?

A That one says the 13th. I'm sorry, 31st.

Q Later on you received yet another letter in response to your correspondence, and this letter is dated December 5, 1989?

A Uh-huh. Yes, sir.

Q And the third paragraph is almost identical to that same paragraph in the earlier letter?

A Yes, sir.

Q Again they say that the federal law requires a return to be filed. And again they say if services are paid for in services, that the fair market value of those services must be included. And they underline the word "must," don't they?

A Yes, sir. Sure do.

Q And again we have \$400 for the self-employed individuals. And again they talk about the social security numbers.

A That's true. But if you recall, Tennessee State Supreme Court says that the right to receive income or earnings is a right belonging to every person, and that right cannot be taxed as a privilege, sir.

Q Did you take civics in high school, Mr. Long?

A I don't recall sir. That's been a long time ago.

Q Okay. When you taught school, were there civics teachers? I think it's called social studies now.

A Might be.

Q Were there social studies?

A Might be.

Q Did you-all have lounges?

A Lounges?

Q Yes.

A Yes, sir.

Q At the school? Teachers lounges?

A Uh-huh.

Q Would you sit around and talk with other teachers?

A Not a lot because most of them smoke and I don't smoke.

Q Would you sit around and talk a little bit?

A Little bit maybe.

Q Did you have bus duty?

A Occasionally.

Q Other teachers have bus duty too?

A Right.

Q And sometimes you-all would talk out there at bus duty?

A Yeah.

Q Okay. Now, one of the things you learned, Mr. Long, whether it was from your civics course or talking to these teachers, was that the supreme law of the land is that announced by the Supreme Court of the United States, isn't it?

A I believe the supreme law of the land is the Constitution, sir.

Q And who interprets the Constitution?

A I guess the Supreme Court of the United States.

Q And in terms of federal requirements, federal laws and federal requirements, the Supreme Court is the ultimate authority on that next to the Constitution, isn't it?

A Sounds reasonable.

Q That's 9th and 10th grade civics, isn't it?

A I guess. I don't know.

Q You don't need a master's degree to know that, do you?

A Probably not.

Q And the fact that the State of Tennessee, the Tennessee Supreme Court might say something doesn't mean that that's binding on the United States Supreme Court or on the United States Congress or the President or anybody else in federal government, does it?

A No. It doesn't mean it isn't either, sir.

Q Now, at any rate, you received another letter in May of 1990, from the Internal Revenue Service again. This is what, the fourth letter they have written to you?

A That sounds about right. Let me figure out which one that is.

Q May, 15, 1990.

A I found it.

Q You received this letter?

A Yes, sir.

Q You read it?

A Looks like it.

Q And they told you that the responsibility of the Internal Revenue Service is to administer the tax laws passed by Congress?

A Yes, sir.

Q That didn't surprise you, did it?

A That's what it says. No, sir.

Q You knew that Congress passed laws?

A Right.

Q The IRS doesn't pass laws?

A Right.

Q I mean, Congress does that. The only thing that the IRS can do is to enforce those laws that Congress decides to pass.

A Okay.

Q And the President signs laws into effect, doesn't he?

A Yes, sir, as far as I know.

Q Well, you picked that up in high school, didn't you?

A I think that's right, yes, sir.

Q And the current federal tax law is the Internal Revenue Code?

A That's correct.

Q And then they tell you that this code does not define the general term "income." What they talk about is gross income, not income, in the code?

A That's what it says, yes, sir.

Q That's what the letter says. And they say that the term "gross income" is defined in a certain section?

A Yes, sir.

Q And this apparently is in response to some questions that you had asked?

A Yes, sir. Some specific questions, yes, sir.

Q And then they say that wages, salaries and other forms of compensation for services are included within gross income and, therefore, are subject to the income tax by law. That's what they said?

A That's what it says right there, yes, sir.

Q And that's what the letter said when you received it?

A Yes, sir.

Q And you read that when you got it?

A Uh-huh.

Q And then the next thing says is that no federal court has ever held otherwise?

A Yes, sir.

Q Did you challenge that? Did you disbelieve that?

A No, sir, I don't disbelieve that, for people who are liable. But again, sir, I've asked to see the section that makes me liable for this tax.

Q So when they said no federal court had ever held otherwise, you believed them when they said it? You did not disagree with that?

A No, sir, I don't disagree with that. For people who are liable, obviously that would be true.

Q "In fact, the courts have repeatedly rejected the argument that wages and other forms of compensation for services are not subject to federal income tax, and have found all those arguments confused, frivolous, and merit less." Did you understand that when you received it?

A Yes, sir, for those cases that you're talking about. If those people are liable for that tax, that would be --

Q What we're talking about is you.

A No, sir. No, sir. No, sir, they're not talking about me.

Q They sent the letter to Lloyd R. Long.

A Yes, sir. And I had specifically --

Q Not --

A -- asked them --

THE COURT: Wait a minute. One at a time. Go ahead.

Q Who lives at this address, Mr. Long?

A That is my name, sir.

Q That is your name. Who lives at that address?

A I do.

Q You do. And you asked them some questions about wages, didn't you?

A No, sir. I asked them about -- I explained to them my situation, that I was working, contracting, which I believe the Constitution plainly says we have an unlimited right to contract.

Q And you were exchanging your services?

A I was exchanging my God-given time, talent and knowledge with individuals for equal...

Q For equal compensation?

A Equal compensation, yes, sir.

Q And you didn't make a profit on it?

A No, sir.

Q And that's what you told them?

A Yes, sir.

Q And what they told you was that wages, salaries, and other forms of compensation have to be included on your income tax return?

A If I'm liable. They didn't say I was liable, sir. They said that certain people who are liable, wages and things, would be compensation. I believe that. That's true. But they didn't tell me I was liable.

Q Okay. Are you finished?

A Excuse me.

Q Are you finished?

A I guess. a Okay. What did you just say? If you're liable? That's what they told you?

A No. I said if I'm liable.

Q They didn't say that?

A I asked them to tell me if I was liable, is what I said.

Q They did not tell you, when they wrote back they did not exclude certain people in their response? They don't say, for those people who are liable, wages, salaries, and other forms of compensation have to be included on the tax return. The letter doesn't say that, does it?

A No, sir.

Q The letter is written to you?

A Yes, sir.

Q There are no exceptions? It doesn't say, "Well, you might be in some special category. You might be above the law or beyond on the law, so you don't meet this." It doesn't say that, does it?

A It doesn't not say that, no, sir. Because my question was am I liable.

Q It also doesn't say that you're a Martian, does it? Does it?

A I guess not.

Q You didn't ask them if you were a Martian, did you?

A Mr. Collier, that has nothing to do with this.

Q But answer the question.

A No, sir, I didn't ask them if I was a Martian, no, sir.

Q It does not include any exceptions, does it? If you see an exception there, tell us.

A The exception is, sir, that I've asked these people --

Q Mr. Long, do you see an exception in this letter? Let's do it easy. Is there an exception in paragraph one?

A Well, let's read through it.

Q Is there an exception in paragraph one?

A "This is in reply to your letter concerning federal tax laws."

Q Is there an exception in paragraph one? Yes or no.

A I guess not.

Q Is there an exception in paragraph two?

A The only exception -- 0 Is there an exception in paragraph two, sir? Yes or no.

A No, sir.

Q Is there an exception in paragraph three?

A What are you meaning by exception?

Q Is there an exception in paragraph three, Mr. Long?

A Can you explain to me what you mean by exception, sir?

Q We got into this because you said this did not apply to you.

A I don't think it does, sir. I don't believe it does. And if it was written to someone that it doesn't apply to, obviously there'd be no exceptions in it, sir.

Q After this you received one last letter, didn't you?

A I suppose.

Q You suppose? You don't know?

A Well, I'm trying to see what you're showing me here.

Q These are your exhibits.

A I know, but mine aren't quite as big.

Q This is dated February of 1991. So, we have almost two years of letters. The first one was sometime in '89 and the last one was in '91.

A Okay. I believe I'm with you. Yes, sir.

Q You received this letter?

A Yes, sir.

Q And they tell you that, and they refer back to some previous correspondence that they've had with you, "Compensation for services is subject to federal taxes. It does not matter what state a person lives in. The federal tax laws apply to individuals in all of the United States." That's what they told you?

A That's what it says, yes, sir.

Q Did you think that applied to you, that response?

A Sir, I've explained that all --

Q Yes or no?

THE COURT: You can answer yes or no and then explain your answer.

Q Did you think that --

A No, sir, I didn't think that applied to me.

Q And then the letter says, "The fact that an individual does not consider himself or herself a taxpayer does not exempt that person from federal tax laws. Whether an individual is liable for income taxes is determined under the law."

A Under what law?

Q Well, they describe it here.

A What do they describe?

Q Internal Revenue Code, chapter 1, subchapter S, Determination of Tax Liability, Part 1, Section 1.

A Okay. But the Privacy Act says 6001, 6011 and 6012.

Q But the letter doesn't say that. We're talking about the letter.

A Oh, excuse me.

Q That's what we're talking about.

A Yeah, that's what it says there, yes, sir.

Q And it says this particular law that they discuss here imposes tax on all the taxable income of every individual. You didn't believe that, did you?

A No, sir.

Q You thought they were wrong?

A I sure did. And I asked them to define individual, tell me that I was an individual defined in that code.

Q And you disagreed with them, didn't you?

A Yes, sir.

Q Now, before you wrote this letter you already knew about some of these statutes in some of these sections, didn't you?

A I believe I stated that I had studied some of those, yes, sir.

Q And you'd already made up your mind on what you thought they meant, hadn't you?

A I had formed my beliefs, yes, sir.

Q And the fact that they wrote you this letter saying something different didn't make any difference at all to you, did it?

A It would've made a lot of difference if they would've said yes or no.

Q well, if they'd agreed with you it would've made a difference.

A Well, no, sir. If they'd just said that I was liable, I would've believed I was liable.

Q Now, this next paragraph here, this is pretty much what we've seen before. They talk about this same code section, 6012?

A Yes, sir.

Q We talked about that before. And then this is the first time since the very first letter where they talk about voluntary compliance again. "The government expects voluntary compliance with the federal tax law. This means that we expect

taxpayers to comply with the law without being compelled to do so by action of a government agent. It does not mean the taxpayer is free to disregard the law. If an individual is required by law to file a return or pay tax, it is mandatory that he or she do so. Failure to do so could cause the individual to be subject to civil and criminal penalties, including fines and imprisonment."

A If an individual is liable for the tax or required to file, sir. Right there, there's a big "if" there, sir, a big "if."

Q Okay.

A "If an individual is required."

Q Well, someone who makes a hundred dollars, for example, and who does not have to file an income return obviously would not be covered by this. Someone who makes, what is it, forty? How much did you make, forty-seven thousand dollars?

A I believe so.

Q Forty-seven or forty-eight thousand dollars.

A I don't believe the liability is based on that, sir. It's an excise tax, plain and simple. The Supreme Court says it is. The state supreme court says it is.

Q Where do --

A And an excise is on privileges.

Q Where do you see the word "excise tax"?

A I don't see it on there. That's why I don't believe that applies to me, sir

Q So, you disagree with everything that's in this letter?

A Certainly. I asked for yes and nos and I didn't get any.

Q Now, this exhibit that you offered into evidence, Exhibit 1, what is that? Let's take Exhibit 1 and Exhibit 2. Where did you get those things from?

A These were sent to our group.

Q Sent to "our" group? They weren't sent to you?

A No, sir.

Q How you get them then?

A Our group copied them. We shared them.

Q Wait, wait, wait. You got them from a person, right?

A The person sent them to the group.

Q Who gave them to you?

A I believe I got them from a Ms. Libby Dickerson.

Q And she's in your group?

A Yes, sir.

Q Where did she get them from?

A She got from, I think, a Mrs. Billy Murdock.

Q Is she in your group or is she in another group?

A No, she's in another group.

Q What city is her group in?

A I'm not real sure, sir.

Q Is it in Tennessee?

A No, sir, it's not in Tennessee.

Q You're pretty sure it's outside of Tennessee?

A Yes, sir.

Q But you don't know in which one of the other 49 states --

A I sure don't.

Q How do you know she didn't make up those documents?

A I don't know, sir.

Q For all you know, they could be fraudulent then?

A Well, they appear to be from the Congressional Research Service, sir. I mean, I didn't go up there and find out, no. I didn't have time or the finances or the economics either. That's why I'm asking simple questions. And if the sections they're quoting here say that I'm liable and I'm required, then why can't somebody say yes?

Q So, Exhibits 1 and 2, Defense Exhibits 1 and 2, you really have no idea where they came from? They came from some third person out of some third state?

A Yes, sir.

Q You don't even know what state it is?

A Right. And I really didn't have an opportunity to go up there and check it, no, sir.

Q But someone in your group gave it to you and told you what it was and you relied on it? Well, basically I relied on it because it established the facts that I'd already learned that the United States Supreme Court had said, that the income tax is an excise tax. That's what made it believable to me, sir. And here's the government saying it question. What's the 1979 CRS report? is.

Q Because what's contained in those documents agreed with your position, you decided to --

A It reinforced my position, yes, sir. Here's the government saying it's an excise tax.

Q Now, Number 4, where did you get Number 4 from, Exhibit No. 4?

A This was just a document that came to our group and was passed around.

Q Who? Who did you get it from?

A I think it came from Ms. Dickerson.

Q And where did she get it from?

A I really don't know.

Q Now, look on the first page of that. Just open up the cover.

A Uh-huh.

Q They talk about some people there at the bottom. Do you see that? Who's the last name there?

A Irwin Schiff.

Q Irwin Schiff. Is that the same man who wrote this (indicating)?

A I believe it is, sir.

Q Same man. So, once you saw that Mr. Schiff was affiliated with this book, you didn't believe anything in the book, did you?

A Are you saying that everything Irwin Schiff said was garbage? Is that what you said a while ago?

Q I'm asking you. Do you think everything that Mr. Schiff said is garbage?

A I don't think everything he said was garbage, no, sir. He had a lot of things in there about the code that was right on target.

Q The fact Mr. Schiff was also involved with this, though, did not decrease your relying --

A I mean, when you say things, do you never make errors or make mistakes?

Q How many times has Mr. Schiff been put in prison?

A I don't know, sir. I don't know.

Q There's a big difference between making an error and going to prison, isn't there?

A Well, how many times was the apostle Paul put in prison, sir?

Q Well, you don't compare Irwin Schiff with the apostle Paul, do you?

A No, sir. But I'm just saying Mr. Schiff may have some good points too. The apostle Paul was a known murderer, and he was converted and became one of the greatest apostles that we read about.

Q The apostle Paul doesn't accuse the Supreme Court of the United States of America of fraud and corruption, does he?

A I'm not saying that, sir. I'm not saying that.

Q You really can't compare --

A You've been laying some groundwork here saying that anybody that happens to go to jail is totally unworthy of accepting anything they say, and I don't believe that.

Q Well, it sure doesn't help their credibility, does it?

A Well, it may not, but it doesn't mean everything that they say is completely wrong, sir.

Q But it sure brings up some doubts about the person, doesn't it?

A About the act that they did. I believe a person is innocent until proven guilty. And once they're proven guilty it's just for that crime, isn't it?

Q Mr. Schiff has been proven guilty at least twice, hasn't he?

A I don't really know that. I just know he has been, yes, sir. And that was because he was a corporation and he was required to file.

Q Now, Exhibits 5, 6 and 7, where did you get those?

A This annual report came in about basically the same way. It was sent to us by probably Mrs. Billy Murdock.

Q And where did she get it from?

A I don't know. She does a lot of research. She has time; a lot of us didn't. So, we'd swap this information.

Q So, you don't know whether this is true or not'.

A I don't, sir. Do you know if it is or not?

THE COURT: Your role here is to answer questions.

THE WITNESS: I'm sorry. I'm sorry.

MR. COLLIER:

Q How about Number 6? Same thing?

A Internal Revenue Service. I just assumed it was, sir, because it appears to be an official document.

Q But you don't know that? You did not go to any official source and retrieve that yourself?

A I did go and check it, yes, sir. That's what it said. "The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance."

Q Did you go to the Internal Revenue Service in Washington, D. C.?

A No, sir, I didn't do that, no, sir.

Q So, you did not verify it yourself?

A Not in Washington, D. C., no, sir. Is that the only place I could verify it?

Q The Judge just told you --

A I'm sorry.

Q -- only one of us can ask questions.

A I'm sorry. Excuse me. It's a little unusual. I'm the school teacher. It's hard for me. I'm sorry.

Q Now, Exhibit 16, do you have that?

A Yes, sir, I have it.

Q Now, this is an affidavit that you signed?

A That's correct.

Q And who did you send this to?

A I sent it to the Secretary of the Treasury, as I recall.

Q Turn to the second page, paragraph seven.

A Yes, sir.

Q Read to the jury what's contained in paragraph seven.

A Out of context, sir?

Q Read paragraph seven, please.

A In addition to the aforesaid warnings, I have also been influenced by misleading and deceptive wording of IRS publications, IRS-generated news articles, and pressure of widespread rumors and misinformation, public opinion, and the advice which misled me by incorrectly believing that the 16th Amendment to the United States Constitution" --

Q Wait, wait. You skipped a line. Go back up to "and the advice."

A I'm sorry?

Q You skipped a whole line. Go back up to "and the advice."

A "... and the advice and assurance of lawyers, CPAs and income tax preparers which misled me by incorrectly believing that the 16th Amendment to the United States Constitution authorized Congress to impose a direct tax on me by my property, my exchange of property, and other property received as a result of exercising my constitutionally secure right to contract; that I was further misled into believing that I had a legal duty and obligation to file a Form 1040 income tax return and other IRS forms or documents."

Q Who are the lawyers who misinformed you?

A I didn't mean that in any particular sense. This goes back over my whole life, sir.

Q Well, can you name three of the lawyers --

A It's explaining that all this time I had thought I was required to have a social security number and I'd told by well-meaning people and individuals and maybe even lawyers that we'd come in contact with from time to time said, "Oh, you've got to have one." And at this particular juncture in time I had discovered -- Is that all right, Your Honor? Can I go ahead?

THE COURT: Well, maybe you could keep your response to the question that was asked.

Q Can you name three of the lawyers who misinformed you about the 16th Amendment to the United States Constitution which authorized Congress to impose a direct tax on you and they also misled you into believing you had a legal duty and obligation to file a Form 1040 income tax return and other IRS forms or documents? Name three lawyers at this point.

A I was not talking about lawyers who talked to me, but lawyers who had talked to everybody in general who had formed the opinion that I was supposed to file just like everybody else was, sir. That's what that's talking about.

Q How about name three CPAs who had misinformed you?

A I've explained about as good as I can, sir.

Q You can't name any?

A No, sir. I wasn't talking about specific lawyers. I'm talking about in general, news media, everything.

Q Can you name three income tax preparers who misled you?

A No. No, sir, I can't.

Q How about paragraph 24, would you read that?

A "That both the United States Congress and IRS, by deceptive and misleading words, statements in the Internal Revenue Code, as well as IRS publications and IRS-generated news articles, committed constructive fraud by misleading and deceiving me as well as the general public into believing that I was required to file a Form 1040 income tax return and other IRS forms, documents and schedules, and also to keep records, supply information and to pay income tax." Now, that came from The Law That Never Was, sir.

Q The Law That Never Was?

A Yes, sir.

Q That was written by a man named Vincent, wasn't it?

A Yes, sir.

Q Mr. Vincent was also convicted of a crime, wasn't he?

A Yes, sir, and he was later acquitted.

Q And was he retried?

A I don't think so.

Q You didn't hear he was retried?

A No, sir.

Q You gave us a copy and I can't find it.

A I'm sorry.

Q Now, do you really believe that the United States Congress engaged in deception and fraud against you? Do you really believe that?

A I believe that the way it happened at the time it happened in history, and I believe if you read his book that I brought you, he has irrefutable proof that it was not ratified correctly.

Q Okay. So, you think that the 16th Amendment to the United States Constitution was not properly ratified? You think that?

A That's what his book said. He went to every state capitol and pulled up all the records and had certified documents, sir.

Q And this man was charged and convicted of a crime and his conviction was overturned later on?

A That's what I understand, yes, sir.

Q And you know that the Supreme Court has addressed this issue on several occasions. and on each occasion has said that the 16th Amendment was properly ratified?

A I don't know that, sir. I know that in Brushaber they addressed it and said that it didn't matter because it didn't change anything in the Constitution.

Q You didn't look into that?

A I didn't have time, sir. I just, I've told you what I studied and everything.

Q So, you think that the Congress did engage in a fraud against you?

A Well, I think it may have wound up being that way, sir. I don't think maybe they did it intentionally. I think it was just the circumstances and the time. I think that was 1913, wasn't it?

Q Well, you say, "by deceptive and misleading words." You think the U.S. Congress accidentally engaged in deceptive words and misleading words?

A I think it's possible.

Q It's possible that they didn't know what they were doing?

A There was a lot going on at that time, sir. And you've got to read the book. Mr. Vincent explained some things in there that, you know, it was real unusual how that thing came about.

Q And then it says the IRS also, "by deceptive and misleading words and statements, committed constructive fraud." Do you really believe that the IRS engaged in a constructive fraud?

A Well, I know there are a lot of words in here like "must" and "shall" that could mean "may," you know, in a lot of instances, sir.

Q Did the IRS write the Internal Revenue code?

A I don't know. It's their book.

Q You told us a few minutes ago that Congress did.

A No. Congress wrote the federal code and the IRS interprets it into this, I believe, doesn't it? Ain't that how it works? So, this is an IRS version of the code.

Q Now, this document is called an Affidavit of Revocation and Rescission.

A Yes, sir.

Q And you see this same thing in one of the books that you gave us, Detaxing America. It's called a Notice of Revocation in there. Is this where you got the idea from?

A No, sir. I got it from a friend of mine who had had an insurance policy, and he discovered that there was some fraud in the policy, so he rescinded his signature on the contract.

Q Did he give you a sample of this, or did you make up all this by yourself?

A Well, I had a little help with this, sir.

Q Did you have a sample to go by?

A No, not really.

Q What did you have to go by?

A Well, I just kind of went through my argument that I've explained to you here, basically about voluntary, about the excise tax, the whole works, step by step.

Q The fact that an affidavit like this is set out in Detaxing America and some of these other authors like Mr. Schiff discussed doing something like this is just coincidence?

A To some degree. I won't say that I didn't use some of those. But, you know, I'm a school teacher. I've used lots of documents, you know, as examples to do things. I didn't go by a set of rules, no, sir.

Q Now, this morning before lunch we talked about some of the language in some of these publications, Mr. Schiff's book, Mr. Stang's book, and perhaps Mr. Gordon's books, where they talked about how the Congress of the United States is corrupt and does things. And we see some of the same language in your affidavit. Is that also a coincidence?

A No, sir.

Q That's not a coincidence?

A I wouldn't think so.

Q That's intentional?

A Well, here again, this document takes place over my whole life, sir, ever since I've had a social security number, from well-meaning individuals and things that have been said. That's what that means, as best I could put it down and get it to cover everything.

Q Now, you also introduced some letters from a man named Dickerson?

A Yes, sir.

Q And those letters start off by saying "Based upon our information." Do you see that?

A Yes, sir.

Q What information does the Internal Revenue Service have in their possession that they were talking about, saying "Based upon our information"?

A I have no idea, sir.

Q You have no idea at all?

A How would I, sir? This is another man's letter.

Q So far all you know, the information that the Internal Revenue Service had that they based that letter upon was that Mr. Dickerson had already filed a return, for all you know? All the letter says is that no return is filed. It might mean they have already a return on hand.

A Well, would that be true, sir why would they be telling him that for four different years?

Q He may've asked. You don't know, do you?

A Well, I guess not.

Q You also don't know whether that might refer to a child?

A No, sir, it doesn't refer to a child.

Q How do you know?

A Because they don't have any children.

Q How do you know there's not a child with that name? Do you know that?

A Mrs. Dickerson herself gave me these, sir, and explained to me that they were her husband's letters. G And you're relying upon what she told you?

A Certainly.

Q You didn't verify that, did you?

A How would I verify it? If I asked the IRS, they wouldn't tell me.

Q Did you make an effort to find out?

A Well, if I had, would they have told me?

Q Did you make an effort to find out?

A No, sir.

Q Now, at some point, I believe it was in 1989 or '90, you received an inquiry from someone at the Internal Revenue Service, a man named Winburn?

A Yes, sir.

Q And Mr. Winborn wanted to discuss with you whether you owed taxes; is that right?

A I don't have that right here, sir. I believe that was, if not mistaken, the one where he had sent some kind of information request.

Q Well, wasn't the general thrust of the letter, though, trying to determine whether you owed taxes for a certain year? That's the way you interpreted it, wasn't it?

A It may've been, sir. My point was, you know, I just wanted to know who the man was, where his authority came from.

Q Well, try to answer the question, Mr. Long.

A I'm sorry.

Q The inquiry from Mr. Windbush -- let me see if we can find it.

A Winburn?

Q Winburn? Is that his name?

A Yes, sir.

Q What exhibit is that?

A I don't know, sir.

THE COURT: 1991 correspondence.

Q Now, the letter, up in the top right-hand corner, mentions the tax year 1989? Do you see that?

A Yeah.

Q Upper right-hand corner?

A Uh-huh.

Q And the first paragraph of the letter says, "The federal tax return for the above year has been assigned to me for examination." Well, you had not filed an income tax return for that year, had you?

A That's correct.

Q So, you knew when you received this letter that he wanted to ask you some questions about whether you should've filed a return and about how much money you owe, if anything, didn't you?

A Here again, sir, I didn't feel that I was liable. I had asked the IRS to tell me I was liable, to show me the section that makes me liable.

Q And Mr. Winburn tells you that he wants to come out and talk with you, and he set up a time and date to meet with you. That's in the first paragraph?

A I believe that's right, yes, sir.

Q Now, this would've been a perfect opportunity for you to sit down with a real person and say, "Here's how much I made. Here are my expenses. These are my deductions. Tell me whether I owe any money or not, and also tell me whether I have to pay." This would've been a perfect opportunity, wouldn't it?

A Well, sir, I believe at that time, you know, if I had gone and done that, I would've been saying, "Hey, I believe that I'm liable for this." And I didn't believe I was liable, sir. So, I asked him the next best thing, to show me the authority he had, to a citizen of Tennessee, to ask for these records, and he wouldn't show them to me.

Q One of the questions I asked you this morning that again came out of one of these books was about how you deal with the IRS. When they ask you questions, make demands, ask about personal information. That came out of one of the books. Remember that?

A I believe I remember you saying that, yes, sir.

Q This is your reply. It's four pages. "Before I can meet with any IRS official, the following questions must be answered and facts determined." Who was going to determine those facts? You were, weren't you?

A If I got any, yes, sir.

Q So, you were going to be the fact determiner here?

A Yes, sir. Would that not apply?

Q "What is the home address, telephone number, proper name, job title, and employee number of Mr. Mel Winburn, revenue agent, the district director, group manager, and other Internal Revenue Service employee connected with this incident action?" So, not only did you want Mr. Winburn's home address, telephone number, proper name, job title, employee number, you wanted the district director's, the group manager, and any other Internal Revenue Service employees, that same information, for anybody else that might be --

A Well, how else would I check him out, sir?

Q So, you were going to check them all out?

A No. But if I don't know his superior, how am I going to find out if that's who he works for?

Q The next question, "What is the ultimate purpose of the information document request? If it is for the purpose of completing Internal Revenue Service forms, please explain what kind of forms, what is the authority, and list all the forms that you can execute under this authority." You asked for that, didn't you?

A Yes, sir. I believe that's right in line with what I've been asking for before.

Q "Please furnish me with a copy of the assistant commissioner's and/or district director's notice served upon me to keep such records."

A Yes, sir.

Q Number five. "Please explain why the information document request that I received is not an attested copy."

A Yes, sir.

Q Number six. "Please provide the following: The date Delegation Order Number 4 was published, date Delegation Order Number 15037 was published, the date Delegation Order Number 15010 was published, the date Delegation Order Number 1537 was superseded."

A Yes, sir.

Q You're making all these demands on somebody who just wants to come out to see whether you owe any taxes and whether you filed a return? That's the only thing he wants to do.

A I'm trying to determine if he has authority to do that, sir.

Q Number seven. "Since the information document request is asking for information and there is no ongoing court action involving a presumed valid assessment, it does not meet the summons exclusion under the Paperwork Reduction Act of 1980 and, therefore, must have an OMB control number. Please explain why the information document request that I received does not have an OMB control number." Why do you care? If you're trying to find out whether you owe taxes or not, why do you care about this?

A There's a lot of questions that I'd like to have answered, sir.

Q And what the book says that if you do this, you buy time, you scare the Internal Revenue Service off and you get more time.

A I don't believe they're scared, sir.

Q You did buy more time, though, didn't you?

A I don't know. I don't know what the time frame is, sir.

Q Number eight. "Since Form 4564 does not have an OMB control number, am I required to respond?" Number nine. "Why wasn't an OMB control number posted on your request?" Number ten. "Was there an application made to the Office of Management and Budget for OMB review?" Where did you get that?

A Why is that so funny, sir?

Q Where did you get the question from, Mr. Long? Where did that question come from?

A Well, I know for a fact that any form that comes to me is supposed to have an OMB number.

Q Where did you get that question from, though? You didn't make that up. Who told you to ask that question?

A Why do you think I didn't come up with that question? I've read a lot. I've got a whole file on OMB numbers.

Q Did you make that question up yourself, sir?

A Yes, sir.

Q No one gave you any help with it?

A No, sir, not that one.

Q Which ones did they give you help with?

A Not any of them so far, sir.

Q How about the --

A But you act like you want to think somebody did.

Q I'm not going to go through all of them. There are four pages of them. You said, "not so far." How about the rest? Who helped you with the other questions?

A I don't know that I had any help, sir. But like I say, you know, I'm a school teacher, and if there was anything available that would help me come up with these questions, I would've used it. And is it -- I'm sorry.

Q Sorry?

A I'm sorry. I was going to ask a question.

Q As a result of this four page request, Mr. Winburn wrote you a letter back and said that in view of all these demands, he really thought that you did not want to cooperate and that he would have to complete his examination through other means?

A Yes, sir, that's what he said.

Q And you read that. You didn't read the last sentence in this letter, though.

A I'm sorry, I left that out a while ago.

Q Read that to the jury.

A "If at any time you wish to cooperate, please let us know." That's why I wrote my letter, the other letter, which is right behind it.

Q Did you ever write to Mr. Winburn telling him that you were sorry for the demands that you had made, that you really wanted to sit down and get some answers and he could come on by your house and sit down and talk with you? Did you ever do that?

A I wasn't sorry, sir.

Q Did you ever do that?

A No, sir.

Q Did you ever call him on the telephone and tell him to come on by?

A I don't believe I did, no, sir.

Q Now, during July of last year, 1992, you met with Mr. Geasley; is that right?

A That's correct.

Q You called Mr. Geasley up and asked him to meet with you?

A That's correct.

Q And during your discussion with Mr. Geasley, you told him that everybody told you to file your income tax returns? Did you tell him that?

A When? That's all I told him? I told him that I, you know --

Q Was that one of the things you told him?

A I don't really recall, sir. I didn't record --

Q Would you like to see a copy of the report?

A That's okay. If he said I said it, I may've said something to that effect.

Q You don't dispute that?

A No, sir.

Q Was that true, what you would've told him, that you'd been told by a lot of people --

A Tell me one more time.

Q This is you. "He stated," he being Long, "I know everyone have told me to file."

A Okay. Yeah. People around me didn't understand and hadn't learned what I had learned and they were worried about me. So, they told me I should've done it.

Q And you disregarded their advice?

A I had studied it, sir, and had written letters asking to see the statute that makes me liable.

Q And you regarded their advice?

A Yes, sir.

Q Okay. Now, on the fourth page of the report, this is again you. You indicated that you'd done some research at the library, that you got some of your information from newsletters, and that "When he first got involved," that is, you, he read a book by Irwin Schiff."

A No, sir. He may've took it that way, but I didn't say when I first got involved I read that. I said I had read it.

Q He misunderstood what you said?

A Yes, sir.

Q "Long indicated that" -- he also asked you about Tupper Saussy?

A Yes, sir.

Q And you told Mr. Geasley that Mr. Saussy had talked to you about his opinions on income tax?

A I may've mentioned that. I was under a lot of stress at that time, sir.

Q And he said, that is you, "Long said that this was just prior to Tupper Saussy's troubles with the government."

A I really don't recall whether it was prior or after or whatever. See, this was what, in 1992? You know, eight or ten years later, sir.

Q And the other agent with Mr. Geasley, Special Agent Rankin, commented that when Saussy was convicted, didn't that tell you that your arguments would not hold up. Your reply was that every case is viewed differently. Did you tell them that?

A I may've said something to that effect, because I really didn't know what Mr. Saussy had done, sir.

Q But you knew it involved taxes?

A I knew it involved taxes.

MR. COLLIER: May I have the Court's indulgence for a moment?

THE COURT: Yes. (Brief pause.)

MR. COLLIER:

Q Mr. Long, you told us about getting a videotape or seeing a videotape. I think someone in your group had a videotape from a man named, you thought the name might've been Carter?

A Could've been.

Q The name was actually Marvin L. Cooley, wasn't it?

A No, sir.

Q Do you know Marvin L. Cooley?

A No, sir.

MR. COLLIER: We have nothing further, Your Honor.

MR. BECRAFT: Real briefly, Your Honor. I don't want it to be a tennis match here.

REDIRECT EXAMINATION BY MR. BECRAFT:

Q Mr. Collier asked you some questions about these books that you have written -- read. He held up, oh, some of Irwin Schiff's books, a few of those others, George -- Gordon, things of that nature. And he pointed out to you in there passages that had opinions, right?

A Right.

Q Now, are you telling this jury that the books that they wrote that you had in your possession were one hundred percent opinions? I mean, if the jury had that book, would they sit there and read just page after page or opinion after opinion after opinion? Is that what the books are about?

A I didn't understand that.

Q I'm sorry. I broke a rule of examination. Those opinions that he read to you were only a part of the books; is that right?

A That's correct.

Q Now, those opinions that were a part of the books were maybe a chapter or a few pages; is that correct?

A I believe so.

Q Those books would contain other things; is that right?

A Correct.

Q Now, Alan Stang, have you ever met him before?

A No, sir.

Q Do you know anything about him?

A No, sir, I don't.

Q Where did you get the book?

A I believe it came to the group. It was one we just shared, you know, passed around.

Q Now, Irwin Schiff's book, the pages that Mr. Collier pointed to, that's only a small part of the book; is that right?

A Yes, sir.

Q And that's an opinion?

A Absolutely.

Q Have you met Mr. Schiff?

A No, sir.

Q Do you know anything about him other than...

A Just that I had heard that he was a corporation and that was one of the reasons he was required to file.

Q Now, this other book, you mentioned this Mr. Benson that wrote a book about the 16th Amendment?

A Yes, sir.

Q You got that book, right?

A Yes, sir.

Q Now, you're not telling this jury that that forms the basis of your belief, are you?

A Oh, no.

Q Now, you acquired that book sometime in the past?

A That's true.

Q Read it?

A Yes, sir.

Q And you're not telling this jury that this man has been convicted of any crime right now, are you?

A No, sir.

Q Is it your understanding that his conviction was reversed?

A That's what I understood, yes, sir.

Q Okay. Now, have you read books that were published by people who have not been convicted of anything?

A I believe I have, yes, sir.

Q This George Gordon fellow that Mr. Collier was talking about, he held up this book, didn't he?

A Yes, sir, he did.

Q And he didn't ask you to tell the jury what Mr. Gordon was doing, did he?

A No, sir.

Q What does the book say Mr. Gordon was doing?

A This one just says resisting arrest.

Q So, those might be the maximum amount of convictions for Mr. Gordon?

A Yes, sir.

Q Well, it's your understanding that this book is written by Scott Reynolds, right?

A Yes, sir.

Q Has he been convicted of anything?

A Not that I know of.

Q Pat Deech, Lynn Johnson?

A Not that I know of, sir.

Q So, you've read books of people that haven't been convicted of anything, right?

A That is correct, yes, sir.

Q Well, what about this Tupper Saussy fellow? The Court's -- you understand that Judge Edgar knows a whole lot about Tupper Saussy, right?

A I assume he probably does.

Q In fact, his case was tried here, right?

A Yeah.

Q Is it your understanding that he was only convicted of one out of three counts?

A I just heard he was convicted. I don't know how many, honestly.

Q Have you ever heard that it was for filing 5th Amendment tax returns?

A I remember hearing something about 5th Amendment, but I really didn't know what the actual circumstances were.

Q Was that what you heard that he was charged with?

MR. COLLIER: I'm going to object because it's leading, first of all.

MR. BECRAFT: I'll quit leading.

MR. COLLIER: He's already said he doesn't know. And Mr. Becraft is testifying.

THE COURT: Well, the questions are leading.

MR. BECRAFT: I'll quit it.

MR. BECRAFT:

Q We , what was your understanding about the type of charge that was brought against Tupper Saussy?

A I really had no understanding other than it involved taxes.

Q How about this Dr. Leonard?

A Same thing. At that point in time I was just beginning to try to learn, and I was trying to raise my family and working, and I just, had just started.

Q Okay. Well, so you got started in '83, '84, right?

A Somewhere in there, '82.

Q But it would be your judgment and recollection that it would be about '85, '86 when these cases came up, Dr. Leonard and Tupper?

A I really don't remember.

Q Was that about the approximate time?

Q From January 1, 1990, until October 13, 1993, have you told anyone associated with the Internal Revenue Service what your expenses were for the year 1990?

A No, sir.

Q And just based upon what you did in 1988, you know that nobody could tell whether you're liable for taxes if they don't know what your expenses were?

A No, sir, I don't know that.

Q If your expenses exceed what you made --

A No, sir.

Q -- you wouldn't be liable for anything?

A I don't know that at all.

Q You don't know that from basic math?

A No, sir. It has to be, the liability has to be whether you're liable or not, period, sir. It's not based on -- the state Supreme Court has said I have a right to receive income, sir, and that right can't be taxed as a privilege.

THE COURT: Is that it?

MR. COLLIER: That's it, Your Honor.

THE COURT: Okay. You can step down. (Witness excused.)

MR. BECRAFT: Nothing further, Your Honor. We rest.

THE COURT: Okay Any rebuttal?

MR. COLLIER: No, Your Honor.

THE COURT: All right. Ladies and gentlemen of the jury, if you-all would step out briefly at this time. We have some other matters to take up. (Jury excused from courtroom while the following proceedings were held in their absence:)

THE COURT: Did you want to make your motion at this time, Mr. Becraft?

MR. BECRAFT: Yes, Your Honor, I do. Before I get started, I want to kind of give the, possibly the Court an idea as to what I think we've got time wise. I had an opportunity to look over the instructions last night. I'm clean on what the Court has got, so I don't think our charge conference would have to be all that very long. In addition, my comments that I have now will also be, or our arguments are likewise set forth within my requested theory of defense jury instructions. So, I think I probably, to condense the time frame could, when we get to these particular instructions, incorporate my comments at the present time in reference to those requested charges, if the Court doesn't mind. Your Honor, it seems like to me, and correct me if I'm wrong, but I have a requested jury instruction in here that says the income tax is an excise tax. And I think that the prosecution would strenuously disagree with that. Am I right, Mr. Collier?

MR. COLLIER: I'm sorry, Mr. Becraft? What did you say?

MR. BECRAFT: It's the government's position that my requested jury instruction about the income tax being an excise tax is wrong? You disagree with that?

MR. COLLIER: I don't know if I've even read that. That's in one of the jury instructions?

MR. BECRAFT: Yeah. Well, just let me ask you this question. It's the government's position that the tax is not an excise?

MR. COLLIER: I don't have a position on that at all, Your Honor. I'm not going to state a position on that. I'm not sure it's even necessary.

MR. BECRAFT: Okay. Well, Your Honor, you know, I don't -- even though the prosecution is unwilling at this stage -- if it doesn't concede that it's an excise, then I think I'll be entitled to that type of an instruction. But nonetheless, my argument is predicated upon the fact that I really sincerely believe that the government contends otherwise. That's been its whole position throughout this trial. Now, it seems like to me we've got a real problem. If that is the case, even though the government doesn't want to admit it at the present time, if that is the case, we've got uncertainty in the law. We've got official representations from the government that it's an excise and a contrary position taken by the government here in this case. They disbelieve it.

THE COURT: Wait a minute. Mr. Collier said he doesn't take a position on it one way or another. He doesn't say one way or the other whether it's an excise tax.

MR. BECRAFT: Okay. Well, if he has no position, then I think I'll be entitled to an instruction on that point.

THE COURT: Sorry. I don't think that has anything to do with the primary legal issue in this case, which is, whether or not your client willfully failed to file a federal income tax return for 1989 and 1990.

MR. BECRAFT: That's true. That's true.

THE COURT: He has been allowed to testify at length regarding his theory about excise taxes and so forth. But I am not going to tell this jury one way or the other whether or not the income tax is an excise tax. Frankly, I don't know. I haven't reached that point myself.

MR. BECRAFT: Well, that's the point I want to make, Your Honor. I don't know what number it is, but there's a requested instruction in there that says it's an excise. Now, I will tell the Court that I've done a survey of the circuits on the point. Now, just right over the mountain over here east of us, in the 4th Circuit, you've got a prevailing case law that looks like to me that says it's an excise. Now, I think I've also put a contrary case from either the 8th or the 9th Circuit in same instruction which says it's the exact opposite. Now, we're dealing with a clearly known legal duty in this case. I mean, he's got to violate a clearly known legal duty in order for it to be shown that he acted willfully. Now, I must rely again upon a case that's over there across the hills in the 4th Circuit. There's a case called Critzer. And in Critzer's case, she was a Indian, and the only place I can think of is it has to be up here in the Smoky Mountains. She was told by the Bureau of Indian Affairs that she didn't to have a file return and she was told by the IRS she did.

THE COURT: Mr. Becraft, your client didn't consult with you, did he, about whether or not to file a return?

MR. BECRAFT: No, sir.

THE COURT: I wondered about that.

MR. BECRAFT: No.

THE COURT: Okay.

MR. BECRAFT: But in any event, what Critzer was -- you know, to make a long story short, the Critzer case holds that she got conflicting opinions, conflicting views from the government. And it came out and was shown in spades in the case. And the Court said, you know, the issue of intent is problematical in a situation when you can show a conflict inside the government. And there's another line of -- that's a line of cases on the point.

THE COURT: Mr. Becraft, let's cut this pretty short here. I think what you're trying to do is make a Rule 29 motion?

MR. BECRAFT: Yes, Your Honor.

THE COURT: I mean, frankly, it doesn't seem to me whether the income tax is an excise tax or not an excise tax has much to do with this case. I know that you, certainly you would disagree with that and your client certainly disagrees with that. The question is, though, did, he willfully fail to file his return here. If you're asking me for a jury instruction along your requested instruction 49, that instruction is respectfully denied.

MR. BECRAFT: I understand.

THE COURT: Now, let's move on to --

MR. BECRAFT: That kind of relates to the thrust of my argument, because I wanted to incorporate this argument in my argument on the instructions. Here's my point, Your Honor. You know, it seems like to me we're dealing with a clearly known legal duty. And the Critzer case shows that when you can show and demonstrate factually that there's a dispute inside the government, then that has a substantial impact upon that, quote, clearly known legal duty, I mean if the government is conflicting.

THE COURT: Well, whether or not there's a dispute about whether the income tax is an excise tax or not, that doesn't mean that there's a dispute among, you know, at the government about whether or not somebody should have to file their income tax returns. I fail to follow that logic. There seems to be a failure of logic here somewhere, Mr. Becraft.

MR. BECRAFT: There are two areas, Your Honor. I just wanted to introduce the Court to my due process argument, which is essentially --

THE COURT: You see, the last time you were here didn't you make that --

MR. BECRAFT: In Dr. Leonard's case?

THE COURT: Well, you made the OMB argument.

MR. BECRAFT: I think that's probably the case, Your Honor.

THE COURT: Didn't you make that? You've abandoned that argument now?

MR. BECRAFT: Well, no. We went up to the 9th Circuit, I went up to the 11th Circuit on that case and the appellate courts have rejected it. But at the time it was a novel issue, hadn't been addressed. I explored it in litigation, carried it up and the courts rejected it. So, you know, next year I'll have some other argument.

THE COURT: All right.

MR. BECRAFT: And maybe I won't ask this Court to pass on that.

THE COURT: Okay.

MR. BECRAFT: But in any event, I think what we have here in this case, looks like to me, principles of due process is particularly applicable in a case where the issue is a clearly known legal duty, the violation of a clearly known legal duty. And my position is that I smell it, even though the government doesn't want to admit it and they want to avoid the issue. To me, from my client's viewpoint and from the evidence in this case, there's a clear -- you know, if the government doesn't want to admit it -- there is definitely a clear split in the circuits as to whether or not the tax is an excise tax or a direct tax, which, you know, is a monumental conflict. And when you have a monumental conflict of that nature, and I've indicated in the requested instructions, you know, I adopt those cases that are there -- we have this tremendous split. If the government can't make up its mind what the nature of the tax is, if it says that it's an excise to him and in an official representation to it he determines what excise is, and yet the government itself is uncertain as to what the duty is, it seems like we can't have a violation of a clearly known legal duty. But due to the conflict, there's a due process problem. Now, quickly, in passing, Your Honor, and I'll sit down, there's also another due process problem here about a conflict of the statutory foundation for the requirement to file returns, you know. The witness on the stand has said that it was Section 6012 and Section 151. You know, their expert came on the stand and said those are the two laws. And I didn't argue with them about the substance. I just want the numbers. Now, that is different from what another official representation of the IRS was in this case that he relied upon. He relied upon two sections, 6001 and 6011, 6012. Those are the three. Now, I'll tell the Court that I've seen these Private Act notices and that Section 6012 was only adopted and brought into the Privacy Act statement in 1986. Before that time there was just these two other laws. So, it's -- the compliance with the Privacy Act by the IRS has been evolving over time. They can't make up their mind. And here in this case where I have Mr. Long relying upon that representation of the government, and yet when we get into court we find out that the government has a different position. And just like the question of whether

the income tax is an excise tax or a direct tax, we've got a conflict over what is the law in this case. I consider that such a conflict is a due process problem. And since there's a due process problem here, a violation of a clearly known legal duty is not present here because of the conflict, and therefore a due process judgment of acquittal should be entered.

THE COURT: Okay. Do you want to respond to any of that, Mr. Collier?

MR. COLLIER: Your Honor, fortunately Mr. Becraft's arguments are frivolous. They've been made in tax protest cases frequently. And the decision on remand out of the 7th Circuit, I believe, everything that he just said was considered and rejected. They're frivolous tax protest arguments.

THE COURT: I don't see what the Privacy Act has to do with this. I've been trying to figure it out during the course of the trial. I don't think it's germane to this case at all. Maybe I'm missing something here. But, you know, I guess that's the whole question. Whether or not I'm missing something or whether or not Mr. Long is missing something, I don't know. I don't think it's me.

MR. BECRAFT: Okay. I'll be arguing that position when we talk about the instructions, Your Honor.

THE COURT: well, let's talk about them now. Your motion is denied.

MR. BECRAFT: Fine. If we're moving on to the Court's instructions, let me just tell this, you know, I don't think that Mr. Collier has any major comments about the Court's proposed instructions. Do you, Mr. Collier?

MR. COLLIER: I've looked at them, Your Honor, and they seem fine.

MR. BECRAFT: That was my view, too, Your Honor.

THE COURT: Well, gee, whiz, good. I'm glad of that.

MR. BECRAFT: However, I would -- I'm trying to find my copy here. I've shuffled it around here on the table. You know, I think they're fine insofar as they go, Your Honor. But I would like to suggest, I think I had my instruction number nine dealing with charts, and perhaps inadvertent -- well, no, not in that packet, Your Honor. There's another packet of instructions. But the Court's instructions, you know, I know that the Court was probably in haste doing it, but it seems like to me an instruction on charts would be helpful in this case.

THE COURT: I'm sorry?

MR. BECRAFT: Well, I have one on mine, but I don't know what the 6th Circuit would say. We just have these humongous charts here. Mine says, you know, that charts are summaries.

THE COURT: And is that charge request that you submitted?

MR. BECRAFT: Yes, Your Honor.

THE COURT: What date?

MR. BECRAFT: Rusty, when were these filed? Last week? There's two packets of defense requested instructions. One was filed last week before we had the pre-trial conference last week.

THE COURT: I'm afraid that I don't have that. Oh, wait a minute. The only ones I have are numbered 44 through 50. I don't have any other ones that I can find here in this court file. Have you got a file stamp copy of them?

MR. LEONARD: I'm looking, Your Honor.

THE COURT: Are you aware of any other ones Mr. Collier?

MR. COLLIER: I didn't get a copy, Your Honor. The only thing that I have is the request to allow jury instructions to be filed out of time.

THE COURT: I've got the Government's requests and then I've got the ones you filed yesterday or today. I don't have any other ones here that I can locate at this time.

MR. BECRAFT: Well, you know, be that as it may --

THE COURT: Of course, I've told the jury that, at the time that the --

MR. BECRAFT: I'm going to leave it up to the Court.

THE COURT: I mean, there's nothing wrong with that instruction. I don't mind telling the jury that, as I've told them before, and we'll just see if you have a problem with this, that --

MR. BECRAFT: It's just a suggestion. Your Honor. I could live with it or not. I remember the Court giving the instruction at the time that they were used.

THE COURT: I told them that the summaries themselves were not evidence but were only aids in evaluating the evidence.

MR. BECRAFT: I'll live with that. I just offered it as a suggestion if the Court felt like it. But other than that, Your Honor, I think instructions are, you know, the typical instructions that cover the boilerplate stuff. They've got the issues in there. I'm

pleased with the bulk of the instructions that the Court has given. And my only complaints about the instructions relate to, at least the ones we've got here, the supplemental requested jury instructions, would be 44 through 50. Now, dealing with, I will talk about 44 and 45 together. The IRS said these two sections related to the requirement to file returns. They did it in their Privacy Act notice. In relying on that Privacy Act notice, he studied these two laws. He relied upon these two laws. Forty-four and 45 are actual quotes of, these parts of, these two code sections, that he relied upon. And I contend that they're a theory of defense jury instruction and should be given. This is the law that supports for our side of the case, these instructions. They can't be, can't be inappropriate or irrelevant because, you know, at least on our side of the case we've got an official representation from the IRS that they do, even though their own witness disagrees with that and fails to mention it.

THE COURT: Well, the thing is where do I draw the line? I mean, your client says he relied on all kinds of things. I mean, I can't obviously charge the jury with everything your client says he relied on. I mean, what about 6012? Do you want to put 6012 in here? I mean, somehow I've got to make some judgment about how long this charge is going to be. I mean, I could sit here for days and days and read to the jury the Internal Revenue code. You see, I've got to make some sort of informed judgment here and exercise some kind of discretion about what the jury hears and whether or not what they hear is germane to the issues in this case. And frankly, I mean there's really no dispute. I mean, your client has been allowed to read those provisions over and over again to the jury. And I don't think there's any dispute about what they say. The only problem is that the, there's one other section of the code which they've --

MR. BECRAFT: Section 6012. I don't know what I did with my Court's instructions. But the Court's got an instruction on that. One of the instructions that the Court has got on, what is it, the \$9,200 and \$9,500 filing requirement? That's a Section 6012 instruction. You know, it summarizes.

THE COURT: It summarizes. It's not in there verbatim.

MR. BECRAFT: Right. Even though it's not, you know, reading the statute, but that's the thrust of that section. So that section is covered in the charge. But, you know, we don't have these others that are plainly stated by the IRS to be relevant. And they're particularly applicable in this case because he relied upon it. And this jury -- this jury has been repeatedly told, and I made every effort to -- you know, in order to assure that the testimony would be admissible, I made every effort I possibly could to tell the jury that, you know, he's going to only be giving his belief about the law, and the law is going to be coming from the Court during the instructions. And that's the posture I have maintained. I think it's a completely accurate posture I'm required to maintain. You know, he can't tell the jury the law. So, you know, I think it's a theory of defense jury instruction that should be given, 44 and 45.

THE COURT: All right. Anything else about any proposed instructions?

MR. BECRAFT: Yes, Your Honor. I'll adopt the same thing about 46. He's given as his view. I think it's critically important that the jury be informed about the operation of the Privacy Act. It's a critical aspect of the defense's case. Forty-seven, you know, the jury can take it or leave it whether these documents are official. But, you know, I think it's crystal clear that the Privacy Act notice is official. They've seen the instruction booklet, and nobody can doubt the accuracy of that. They can accept at face value the Exhibit Numbers 1 and 2 that relate to the excise tax argument. I have no doubt that they're genuine, although I think that Mr. Collier probably disputes their authenticity. But nonetheless, it's the principle of law that someone can rely upon a representation of the government. And that's what I'm asking for in 47. Now, if the jury, you know, believes that these are official representations, it comes right to the heart of acting willfully. You know, if the government says something...

THE COURT: That's not the law. Estoppel does not run against the government. I don't know if that's what you're saying there or not, but --

MR. BECRAFT: I don't think it's -- I didn't mean to interrupt the Court.

THE COURT: The general rule is estoppel does not run against the government.

MR. BECRAFT: I understand that. I'm not making an estoppel type argument. But I do think that these cases that are cited down there, *Raley vs. Ohio*, *Cox vs. Louisiana* -- and just to summarize, the *Cox vs. Louisiana* case is a case where some people were demonstrating outside of a courthouse. The town chief of police said you can hold your demonstration over there, that wouldn't be demonstrating near a courthouse. But then later on they're prosecuted for demonstrating near a courthouse. And the Supreme Court said, you know, that's violating principles of due process.

THE COURT: Your charge requests number 44 through 50 are respectfully denied. Okay. Are we ready to argue this case?

MR. BECRAFT: Your Honor, 49 and 50 relate to the excise tax argument. I think it's critically important that the jury be told it's an excise and what an excise tax is. That's 49 and 50. In reference to 48, Your Honor, I think that there's two definite views of the laws that are applicable in this case. They've heard evidence that it's this group of statutes over here; and then the IRS says it's some other group of statutes, showing the uncertainty of the law. And I think that this is an absolute defense. If there's a -- you know, these cases say that, the *Critzer* case and all these others. They all say, you know, if the law is uncertain, you can show it and that's a defense. And I'm requesting an instruction on that defense.

THE COURT: How long will it take you-all to argue this case?

MR. COLLIER: A total of 15 minutes, Your Honor. That's opening and the closing.

THE COURT: Fifteen on both sides. Each side 15?

MR. BECRAFT: I thought he said 50, Your Honor.

THE COURT: No, no. Fifteen.

MR. BECRAFT: Fifteen?

THE COURT: One five.

MR. BECRAFT. Could I have 20?

THE COURT: I'll give you 20. I'll give both sides 20 minutes. And don't go longer than 20, because if you do I'll cut you off.

MR. BECRAFT: Okay. Can we have a break before we do that, Your Honor?

THE COURT: We will. And Ms. Ashby here will give you a warning. You just tell her, you arrange with her when you want to be told about what your time schedule is.

MR. COLLIER: Your Honor, before we break, I asked Mr. Long a series of questions regarding blowups of some of these exhibits, letters that he had received back from the Internal Revenue Service. I did not have those marked. I'd like to have those marked as Exhibits S, the next numbered S. There are five of them. So, the next five numbers in the series.

THE COURT: S-10, 11, 12, 13, and 14, I guess.

MR. BECRAFT: Is he offering it into evidence after the close of all the proof? I have an objection about that.

THE COURT: Is that right?

MR. BECRAFT: Number one, because it's after the close of proof. Number two, it's cumulative.

MR. COLLIER: They've already been shown to the jury.

THE COURT: All they are --

MR. BECRAFT: I don't have any objection to them being used in closing. My objection is, you know, that the government has got this armload of material that's going to take up two or three chairs in the jury room.

MR. COLLIER: If they choose to use them. That's the jury's choice.

MR. BECRAFT: Is the Court leaving it up to the jury to call for these?

THE COURT. No. My practice is that all exhibits are permitted to go back to the jury room, in fact are sent back to the jury room on the front end. Because my experience is that if they're not, the jury just asks for them anyway.

MR. BECRAFT: I objected when they were offered and I'm objecting to them now. They're cumulative and they're huge. You can trip over them. Somebody might get hurt.

THE COURT: All right.

MR. COLLIER: That's the first time I've heard an objection to evidence because it's huge.

MR. BECRAFT: That's a practical rule.

THE COURT: That's a new one here. They may be marked and they will be, in effect, received into evidence as exhibits because they're already, the documents themselves are already in evidence. All they are blowups of documents that are already in evidence. They'll be numbered Government's Exhibits 10, 11, 12, 13, and 14. S-10, 11, 12, 13, 14. (Government Exhibits S10 through S14 were received into evidence.)

THE COURT: Anything else?

MR. BECRAFT: How long is the Court going to let us have a break?

THE COURT: Well, how long do you want?

MR. BECRAFT: I need ten minutes, Your Honor.

THE COURT: Okay, I'll give you ten minutes. Be in recess for ten minutes. (Brief recess.)

## **CLOSING REMARKS:**

THE COURT: Ladies and gentlemen of the jury, you've now heard all the evidence you're going to hear in this case. We're at that point in the trial where you're going to hear the final arguments made by the attorneys for both sides, and then I'll instruct you on the law, and then you'll be given the case to decide. Because the government has the burden of proof in this case, Mr.

Collier on behalf of the government has the privilege of going both first and last in the sequence of the arguments here. Mr. Collier.

MR. COLLIER: May it please the Court. Ladies and gentlemen of the jury, this is the time for closing arguments, which means that this is the last time the lawyers in the case will have a chance to talk to you. I will speak first, and then Mr. Becraft will speak and have an opportunity to reply to things that I may've said, and then I will have a chance to reply to anything that Mr. Becraft may have said. I know this case has been tedious at times, and I appreciate the attention that you've given to it. It's been very evident yesterday and today that you've paid very careful and very thoughtful attention to the evidence that was coming before you. When we made the opening statements yesterday, I told you that the defendant in this case was charged with two counts. You've not seen those counts yet, but you will be seeing them soon. Both of the counts charge the identical offense, and the only difference is that the dates are different. One year is for 1989 and one year is for 1990. Those charges allege that the defendant, Mr. Long, willfully failed to file his income tax returns for two years, 1989 and 1990. I also told you that for a person to be guilty of this offense, it is necessary that the government prove three elements. And the Court will instruct you as to what those elements are. But the Court is going to tell you, and I told you during my opening statement, that those elements are, number one, that the defendant in this case was required to file an income tax return; two, that the defendant did not file his income tax returns; and three, that his failure was willful. The witness Libby Jeu who came from the Memphis Service Center told you that he did not file his income tax return. She searched the records and could not find any indication that he had filed. Special Agent Geasley also testified that he talked to Mr. Long last year, in July of 1992, and that during that interview Mr. Long told him that he did not file his income tax returns for 1989 and 1990. Mr. Long told him that the last income tax return he filed was in 1988. Lastly, Mr. Long, when he testified, conceded that he had not filed his income tax returns. So, there can be no doubt that this element of this offense has been proven. That's element number two. The first element is the defendant was required to file an income tax return. The witness Virginia Sherard testified on this. She sat throughout the trial. She told you she was familiar with the tax code and the tax regulations; and, based upon what she heard here in the courtroom, Mr. Long was a person who was required to file income tax returns for the two years in question. The Court will also have some instructions on this point. The last point, and this is really the crux of the case here, is the willfulness issue. The government has to show that the defendant's failure to file was willful. What evidence have you heard in this case that shows that the defendant's actions were willful? The Court will tell you what that means. But basically it means that the person acted intentionally and it was not an accident or mistake. Mr. Long on the witness stand told you that he did not file his income tax returns intentionally. He knew what he was doing and he did not file them. He knew when April 15th came by that he did not file and he had no intentions of filing. He had filed his income tax returns for some 16 or 17 years before that, and you can look at the dates on the three returns that are in to see when they were filed. That shows that he knew about the April 15th filing requirement. In determining whether the defendant's actions were willful, you need to look at him. Who is it that we're talking about? We're talking about a mature individual. This is a man who back at that time was 43, 44 years old. This is a man who was mature, a man who was experienced. This is a man who was educated. This is a man who not only had gone to college, but this is a man who had gone back to get his master's degree. He was educated. This is also a man who, by his own admission, was told repeatedly, over and over again, that he had to file his income tax returns. He told you that. He said his friends told him. This is a man who grew up in a household where his father every year did his income tax returns, kept his records so he would do them, didn't have to gather up a lot of things, didn't have to go searching for things, never complained about doing income tax returns. His father was organized, kept everything in place, so when it came time to do his income tax returns, he could do them. So, it was willful. The judge is going to tell you that in looking at willfulness, a defendant can have a good faith defense. That is, if a person in good faith does not understand the requirements of the law, then that's a valid offense which you ought to consider in determining the facts. But the Court is also going to tell you that a good faith defense does not mean that someone understands the rules and understands the law but disagrees with the law. If you understand the law and you disagree with the law, then that's too bad. That is not a defense. You still acted willfully. And that is really what all the defendant's testimony comes down to. Ask yourself this question. This defendant is charged with a violation of Section 7203 of the Internal Revenue Service Code. Well, he told you about that statute himself. He did research into it. So, he knew it. He just disagreed with what it said. He wrote letters to the Internal Revenue Service. They wrote them back. They said Section 6012 requires every individual. Well, he disagreed that that applied to him. He wasn't mistaken about it. He didn't misunderstand that. He just disagreed with it. Mr. Long talked about the studies that he had done and the people that he relied upon. One of the things that you need to consider is whether he was justified in relying upon the people he said he relied upon. Almost every single book that he said he relied upon, the people who wrote those books have had problems, very, very serious problems. They were not the type of people that a reasonable person would rely upon in making a decision that affects their own lives. Mr. Long says that he wrote to the Internal Revenue Service to ask questions. But you look at the first letters that he wrote. He didn't tell them anything at all about his income. So, the United States would submit to you that his actions were willful and that all three of the elements necessary to find a person guilty of this offense have been proven, and that when you look at all the evidence, consider the judge's instructions, you'll find this defendant guilty as charged. Thank you.

MR. BECRAFT: May it please the Court. Ladies and gentlemen, let's go back to the year 1492. Columbus sets sail. The prevailing opinion at that time was the earth was flat. Yet, he sailed out over the horizon and learned that the earth was round. He popped a popular misconception. He made a discovery. Let's talk about another man that made a discovery. Do you remember a fellow by the name of Galileo? At the time Galileo was -- I guess this was around the same time as Columbus. I'm bad on history. But Galileo faced a world that thought that the sun traveled around the earth. Well, Galileo said, "I disagree." He came up with some facts and said, "No, it's the other way around. The earth goes around the sun." That was a discovery he made. Did Galileo -- did the world applaud this discovery? No. He was subjected to house arrest. Criminal charges were brought against him for making the discovery. I've heard here recently that, I think the bar association tried him over again and found him innocent. Of course, that's right up there with the bar association trying Al Capone and finding him innocent. But in any event, you know, I think you can sit back and take a look at history and you can see there have been people that have -- you know, it's part of the human spirit to be inquisitive, to inquire, to learn the truth. Some people have learned the truth, it's been revolutionary and it's changed the world. Others have determined the truth today -- I mean, today we all know that the earth goes around the sun. Yet, Galileo was punished for that. Now, I think that these cases are a little bit similar to this one. But I'm not saying that he's a Galileo or Columbus, Lloyd Long. But at least he has that inquisitive spirit, that inquisitive mind. Now, the government has brought along these charges and they say that he willfully failed to file federal income tax returns for two years, '89 and '90. Now, I told you at the beginning of this case, Mr. Collier did, and he just did a minute ago, he told you what the elements are, what the government has got to show to convict somebody of this charge. And I agree with, you know, what those basic elements are. And the Court is going to give you that here in a minute. Now, Lloyd Long doesn't dispute the fact that he made money. You know, I don't know why they brought them on, but they brought all these people to show what was made. And there wasn't any contest about that. We've freely acknowledged that. Said so from the very beginning. We don't dispute Lloyd made any money. We don't dispute that he didn't file. What we do dispute is whether what I've described in my opening argument, whether or not this was done with a criminal state of mind. That's the bottom line issue. That's the, when the Court instructs you on what willfulness is, that's the bottom line issue in this case. And I might be a little bit so bold right here, but I'm going to give you an advance -- you know, the Court has given us some instructions. I'm going to kind of read to you what the Court is going to say about willfulness. It says, "The defendant's conduct was not willful if he acted through negligence, inadvertence, mistake, or due to good faith misunderstanding of the law." If the defendant had a subjective good faith belief, no matter how unreasonable, that the law did not require him to file tax returns, he didn't act willfully. The Court will instruct you in that respect. Now, the inquiry that you are facing is did Lloyd Long have a good faith misunderstanding of the law. Well, let's go back through the evidence. Is there anybody in this room that doesn't doubt that Lloyd Long studied it? Now, Mr. Collier wants to sit there and say, you know, he wants to paint contrary to the great weight of the evidence, the testimony of Mr. Long. He wants to say, oh, well, all he's relying upon is a bunch of these, what the prosecution considers as people of less than sterling character. Well, I don't remember that during Lloyd's direct testimony when I was asking him the questions, that Lloyd was saying I'm relying upon these criminals or these people of bad character or whatever. No. Lloyd said he -- he surprised me when he talked about the case *Coppage vs. Kansas*. You know, I'm a lawyer, and I don't know this and I don't think Mr. Collier does. But he said, he threw out the name of the judge, Judge Pitney. I had to -- when he first told me about it, I looked it up, and he's right, but I didn't know that. But are we saying that these judges of the United States Supreme Court have got bad character, that you can't rely upon it? And what about these other judges from the state courts? Now, we don't know what their names are. We didn't have the time -- it would've been useless to have Lloyd read off the names of the judges. But I think we all know that those are cases that he read. We all know that they're written by judges, and we all know that you can go to a law library, pull out a box just like Lloyd said, and look it up and read it. Now, is that what Lloyd relied upon? Now, someone that is wanting to conform their conduct according to the law would do that. Is it not -- you know, somebody that doesn't want to follow the law is going to come up with something entirely different. They're going to come up with, I don't know what, but it's not going to be "I relied upon the law." Lloyd went -- he relied upon Supreme Court cases that said the income tax is an excise tax. And the government hasn't shown to you at all that that's wrong. They stand right now in this court with an assertion that is unrefuted. They haven't said no, it's not an excise tax. They must agree. Lloyd read this case called *Flint vs. Stone Tracy*, and he told you what he thinks an excise tax is, and it sure didn't involve him. He's not involved in a corporation or a privileged activity. Now, that's the Supreme Court. Now, does the government refute that? No. Now, it's also, you know, I think we can all understand -- the Court's going to say use your common knowledge. And I think everybody in Tennessee knows as a matter of common knowledge there's not a state income tax. And Lloyd tells you that the reason why you don't have a state income tax in this state is because the Supreme Court of the state said it's the right to earn a living and a right can't be subjected to an excise tax. Now, is it not entirely believable and reasonable for someone to reach a conclusion like that if they're both the same type of tax, yet here in Tennessee this can't be applied to someone like Lloyd? Is it too hard to imagine that the same situation might exist at the federal level? Now, you know, that isn't all that Lloyd believes. He also has this other belief that is, again, based on the law, or at least his view of the law. Now, I don't have these -- well, yeah, here it is. We didn't offer it into evidence, but I think you can sit here and see this is what Lloyd said was a complete Internal Revenue code. Boy, that is a monster. And I think even though it is a monster, I think that we have the expectation here in our country that every common man ought to be able to look up the law and understand it. Now, in this case, that search of the law to determine

whether or not you're required to file a return has been greatly simplified. The IRS came along in this thing known as a Privacy Act notice, Exhibit No. 8 out of the instruction booklet, and it says there's laws that relate to your requirement to file a return. Lloyd looks them up, and he finds out that the general rule about being required to file a return is it doesn't say every American, it doesn't say everybody in this country. It doesn't use any of these other terms that we would expect to see in the law. It's this, I think, what did Lloyd say, term of art or whatever? But it uses this special term called "persons liable." And then Lloyd comes along, he's told, and of course, he does this, he checks out some other taxes in this big old monster of a law. He checks out and he says, you know, he uses the booze example. And he doesn't have anything to do with booze, but it's particularly appropriate here. He finds where Congress imposes a tax and he finds where somebody is liable for the tax. And what he says, the manufacturer or distiller or the importer or something like that, that somebody is made liable for the booze tax. Now, let me just tell you, it seems like to me that -- let's just take a look at this tax. You know, it seems reasonable that Congress would make specific people liable for it. They have done so. Those are the people, according to Lloyd's argument, that are required to file a return. Now, I think we can all know, now, Lloyd is not a drinking man and he's not a smoking man, but, you know, as you-all have seen, I am. And there are taxes imposed on cigarettes. You've got the stamps and all that. But I don't file a tobacco tax return. He doesn't file a booze tax return. Somebody can go down, I don't have to file a return for this. I don't have to file a return. If I walked into one of these distilleries we've got here in the hills of Tennessee and bought a gallon of booze, I'm not required to pay the -- to file a return. Why? Because I'm not liable and Lloyd's not liable. Doesn't it make all the sense in the world? Now, in Lloyd's view, the general requirement about being required to file a return is not based upon some flighty theory. It's not based on a contention that I am a Martian. It's not based on any contention other than this is my understanding and reading of the law. Lloyd's attempted to determine what the law is. And when he's made that determination, he's reached certain conclusions, but it's not some crazy theory. His view is in order to be required to file a federal income tax return he's got to be liable. And nobody has shown him where he's liable, notwithstanding the fact that he has written a series of letters here. And Mr. Collier wants to denigrate them, but just take a look at them when you get back there in the jury room. He asked specific questions. Do we not have a right to ask the government for something? I mean, isn't that what Lloyd says? Isn't it the Internal Revenue Service? Don't we see on the TV all the time, don't we -- everywhere we go, "If you've got a question, ask us." And so before, I think the series of letters started before or shortly after he filed his '88 return. And he asked these questions, which were simple. But he got no response. Go through those letters and see if there's a point-blank answer. There isn't any. None. I find it atrocious that the reason why we're here is not because of what Lloyd did. The reason why we're here in court is because there's a duty on the part of the government, when we write them and ask them a question, they ought to reply. It was very, very simple for the IRS to come back along and say, yes, Mr. Long -- read his letters. He says, just write me back and say yes or no to this. And they didn't. Here you have a man who's engaged in what, six years of study of the law and attempting to learn what the law is? Isn't that good faith? Somebody acting in that fashion, it just seems like to me in my heart of hearts that's acting in good faith. But he went a step further and asked them questions. And the redeeming theme that they want to shift the blame over to him, "Why, you have the audacity to ask questions." I say they have the audacity to not answer questions. Why? Willfulness. Ladies and gentlemen of the jury, listen to what the Court has to say. If you've got a good faith belief that the law doesn't apply to you, it doesn't matter whether it's reasonable or unreasonable, right or wrong, it'll be your duty to acquit him. Now, there has been nothing in this case that indicates anything but the fact that Lloyd Long's reasons why he did what he did are innocent reasons. And you know, ladies and gentlemen, a lot of people in America could fall right into what he did. And don't you know that they would be innocent? They're innocent because the government hasn't got an explanation in any way, shape, manner or form as to why they didn't do what Lloyd wanted them to do, which was asking -- answer those questions which were repeatedly asked over and over and over again. I don't think in America we send people -- we convict people for asking a question and having the government sit there and not answer it and let things go the way they did. To me, ladies and gentlemen, that's, you know, that shows that there's a reasonable doubt. No, I don't want to say it shows a reasonable doubt. I want to say that all the government's got in the way of a case about what his intent was is smoke in mirrors. A vague, ill defined allegation, which when tested by the testimony of Lloyd Long, it boils down to nothing. And all you've heard are innocent reasons that explain what he did. Now, ladies and gentlemen, I think that there's some other questions that need to be answered by the government in this case. I only have a few minutes to talk here and I'm about ready to wrap up. I don't have a long time. Mr. Collier is going to get up and he's going to, I guess, say, you know, he's guilty. But have him answer these questions. You know, let him answer in rebuttal why we have the letter from Joe Dickerson, before the 1990 return was due, a letter dated March 14, '91, saying he doesn't have to file a return. And he's a guy just like Lloyd. Working at Carrier? Isn't that what the testimony was? Why? If it was so clear that there's not a question, why wouldn't it happen? Why didn't that happen? And another troubling thing for me is the fact that, you know, the government hasn't offered a reason in this case as to why -- Lloyd says it's an excise tax. He's told you what an excise tax is and it doesn't include him. And there isn't a satisfactory answer for that. It's not refuted by any of the evidence or argument. But even more so, I just have this question in the back of my mind. Why, why, why? When you take a look at that Exhibit No. 17, the computer transcript, that permanent record, coming from the IRS service center over in Memphis, why does it have a code that, according to Ms. Jeu, means return not required to be mailed or filed? And she told you that, you know, that code appears above the field of computer information for 1987. We've got the '87 and '88 returns here in evidence. We show that they were filed. Yet, it seems like to

me a reasonable construction of that computer document is it says not only did Lloyd not have to file a return for '89 and '90, but '87 and '88 are in the same class. I only ask why. Ladies and gentlemen, under these circumstances I think there's but one thing that you can do. The government hasn't shown that he acted willfully. In fact, what the evidence has shown is that Lloyd Long had a good faith belief he wasn't required to file a return. And since he had a good faith belief, right or wrong, if he --

THE COURT: Your time is up.

MR. BECRAFT: Thank you, Your Honor. If you believe these things, he's not guilty.

MR. COLLIER: Ladies and gentlemen, I know you'll be happy to hear that this is the last lawyer who will have a chance to speak to you. One of the things that you do not leave out of the courtroom when you become jurors is your common sense. Now, the last thing that Mr. Becraft gave here is an example of what criminal defense lawyers try to do. Now, Mr. Becraft's job in this case is to do the absolute best he can for the defendant in this case. He's required to do that. He's obligated to do that. His job is to try to get Mr. Long off if he can. He talks about, the last thing he talked about was Defense Exhibit 17, some type of computer printout. You heard Ms. Jeu testify. Ms. Jeu said, "Mr. Becraft, you're absolutely wrong. What you're saying is not on here. It does not mean what you're trying to make it say. That's not the case." Mr. Becraft spent how long, 30 minutes with her, going over that thing? And you would've thought from the way he was asking the questions that there was some issue about whether or not Mr. Long had filed his returns or not. Mr. Becraft knew when he was asking those questions that Mr. Long hadn't filed a return. He knew that there was no return in Memphis, there was no return in Nashville, there was no return anywhere else in the United States for 1989 and 1990. Mr. Becraft knew that. But Mr. Becraft was doing his job, trying to get Mr. Long off of these crimes because he sees an opportunity to create some confusion where there was no confusion. These other questions he asked. Mr. Becraft says, well, have the government explain to you about this excise tax. Read the charges in this case. See if you can find the word "excise tax" anywhere. Listen to the judge's instructions. See if he tells about an excise tax. The only place you've heard about an excise tax comes from over here, from Mr. Long and Mr. Becraft. Mr. Long's liberty is at stake. He brings up this excise tax stuff. It doesn't make any difference whether it's an excise tax, a direct tax, a dog tax or a cat tax or anything. It doesn't make any difference. He was required to file his returns. He did not file his returns, and he did it willfully. That's the only thing. Mr. Becraft says in this country we don't prosecute people for asking questions of the government. That's exactly right. We don't do that. I would not do that. No one that works for the United States Justice Department, as far as I know, would ever do that. That is not a crime in this country. Crimes in this country are defined by the United States Congress. They are interpreted by the courts and they're prosecuted by the executive branch. The crimes in this case are in the information. You'll see it. The judge is going to tell you what the charges are. This man is not being prosecuted for asking questions. This man is being prosecuted because he willfully, intentionally and knowingly committed a crime. He did it. The Dickerson letter he asked about. He's a man just like Mr. Long. Mr. Long, as a criminal defendant in the United States of America, has the right to bring anybody into court that he wants to. If he wanted to bring Mr. Dickerson into court, he could have if he wanted to. He didn't have to. And he decided not to. Mr. Becraft says Mr. Dickerson is just like Mr. Long. How do we know that? How do we know Mr. Dickerson is just like Mr. Long? How do we know what the Internal Revenue Service meant in those letters? How do we even know that those letters came from the Internal Revenue Service? How do we know that? Look at those letters. Look at the type on the name of the person and then look at the type in the body of the letter. We have no idea where those letters came from or what it means. None at all. We don't know. In essence, Mr. Becraft's argument boils down to a tired defense argument of trying to shift the blame, take the focus off Mr. Long and put the focus on somebody else. That's all. The evidence in this case is that Mr. Long is here because of his actions. The most telling point of all of his testimony came this morning. When I asked him, "You chose not to pay, regardless of whether the system is voluntary or involuntary, you chose not to pay, didn't you?" He said, "That's right, I chose not to pay because I didn't want to pay it." Now, what do we know about the two tax years that he didn't pay? What do we know about them? Mr. Long, he tells you these were the two greatest income years he'll ever had in his whole life, 1989 and 1990. That's another coincidence, that the only time in his life he's making big money he doesn't file his income tax returns. Mr. Long is a man who picks and chooses what he believes. He finds cases that support his position. This man that he knows, that he's talked about taxes with, Tupper Saussy, he was convicted in this courtroom. You would think that somebody who's concerned, who's interested, who wants to know what the law is, "Well, my goodness, how did old Tupper get convicted? We've talked about this. I'd better go to court to see what happened, see what he was charged with. I need to see what the appellate court said about it, what the Supreme Court say about his case." No, he doesn't do that. He's talked about 1913 cases, 1840-something cases, Arkansas Supreme Court cases. He's picking and choosing what he wants to believe. He also picks and chooses what he wants to believe from the IRS. He says, "Well, I relied on the Privacy Act statement." He gets a letter from the IRS that says any individual has to file a return. "Well, I don't believe that. I reject that. I disagree with that." He picks and he chooses. He tells you all the time that he's gone to study, he goes all the way to Vanderbilt, he's in a group, they're studying the laws, he's doing all this. But what is there peculiar about the taxes that makes him study those? I asked him about the rape laws. "How much time did you put into studying the rape laws?" Not a minute. "What's the rape statute in Tennessee?" He doesn't know because he's not concerned about that. But he's concerned about taxes. Why is he concerned about taxes? He doesn't want to pay. Mr. Long, even if this system is voluntary, how about these other people who make less

money who pay? "Well, I'm not concerned about them. I'm not concerned about them." The fact that other people who have kids, maybe working two jobs, making a lot less than he was making and are out there paying their money, that doesn't concern him. He's concerned about himself. This is a man, Mr. Long, who thinks he's above the law. The laws that apply to everybody else, they don't apply to him. The fact that Mr. Saussy gets convicted and goes to jail, Well, that's Saussy. That's not me." The fact that Mr. Leonard gets convicted and goes to jail, "Well, that's Mr. Leonard. That's not me." The fact that people in these books get convicted and go to jail, for the same crime he's accused of, "That doesn't apply to me. I'm above the law." Well, ladies and gentlemen, I'm not going to talk about Galileo or Columbus or Al Capone. Mr. Becraft talked about the United States. In this country, every man and every woman stands the same before the law. Mr. Long is no better, Mr. Long is no worse than anybody else. Mr. Long is a grown man. He decided what he wanted to do. And Mr. Long ought to bear the consequences of his action. He is not above the law. This is not a man who made a mistake. He didn't tell you in court, "Well, at the time I thought that I wasn't required to file but now I know different, I know I was required to file but I was mistaken." He doesn't say that. This man is stubborn. He hasn't changed one iota. It doesn't make any difference what anybody tells him, he's not going to believe it. He's going to do what he wants to do. He's stubborn. He thinks he's above the law. Mr. Long unfortunately is not. He's no better and he's no worse than any of the rest of us. He's liable for the same consequences as anybody else. He said two other things when he was testifying. He talked about his '88 returns. Remember? He said, "Well, I must've been a corporation then or I must've thought I was a corporation then." What sense does that make? He knew he wasn't a corporation. Why would he say something like that? Is that good faith? The one time, when he has a chance to sit down with somebody face to face and talk about whether he's required to file, to talk about whether he owes taxes, Mr. Winburn from the IRS, what does a man in good faith do?

THE COURT: Your time is up, Mr. Collier.

MR. COLLIER: What does Mr. Long do? Thank you.

## **JURY INSTRUCTIONS PRIOR TO VERDICT:**

THE COURT: Members of the jury: It is now time for me to instruct you about the law that you must follow in deciding this case. I'll start by explaining your duties and the general rules that apply in every criminal case. Then I'll explain the elements, you heard the lawyers talk about that, or parts of the crimes that the defendant is accused of committing. And then I'll explain the rules that you must use in evaluating particular testimony in evidence. Then, last, I will explain the rules that you must follow during your deliberations in the jury room and the possible verdicts that you may return. Please listen very carefully to everything I say. You have two main duties as jurors. The first one is to decide what the facts are from the evidence that you saw and heard here in court. Deciding what the facts are is your job, not mine, and nothing that I have said or done during this trial was meant to influence your decision about the facts in any way. Your second duty is to take the law that I give you, apply it to the facts, and then decide if the government has proved the defendant guilty beyond a reasonable doubt. It is my job to instruct you about the law, and you are bound by the oath that you took at the beginning of the trial to follow the instructions that I give you, even if you personally disagree with them. This includes the instructions that I gave you before and during the trial and in these instructions. All the instructions are important and you must consider them together as a whole. The lawyers have talked about the law during their arguments, and it is proper for them to do so. But if what they said is different from what I say, you must follow what I say, because what I say about the law controls. Perform these duties fairly. Do not let any bias, sympathy or prejudice that you may feel toward one side or the other influence your decision in any way. As you know, the defendant has pleaded not guilty to the crimes charged in the superseding bill of information. The superseding bill of information is not evidence at all of guilt. It's just the formal way that the government tells the defendant what crimes he is accused of committing. It does not even raise any suspicion of guilt. Instead, the defendant starts the trial with a clean slate, with no evidence at all against him, and the law presumes that he is innocent. This presumption of innocence stays with the defendant unless the government presents evidence here in court that overcomes the presumption and convinces you beyond a reasonable doubt that the defendant is guilty. This means that the defendant has no obligation to present any evidence at all or to prove to you in any way that he is innocent. It's up to the government to prove that the defendant is guilty, and this burden stays on the government from start to finish. You must find the defendant not guilty unless the government convinces you beyond a reasonable doubt that he is guilty. The government must prove every element of the crimes charged beyond a reasonable doubt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt. Possible doubts or doubts based purely on speculation are not reasonable doubts. A reasonable doubt is a doubt based upon reason and common sense. It may arise from the evidence, the lack of evidence, or the nature of the evidence. Proof beyond a reasonable doubt means proof which is so convincing that you would not hesitate to rely and act on it in making the most important decisions in your own lives. If you are convinced that the government has proved the defendant guilty beyond a reasonable doubt, say so by returning a guilty verdict. If you are not convinced, say so by returning a not guilty verdict. Your decision must be based only on the evidence that you saw and heard here in court. Do not let rumors, suspicions, or anything else that you may have heard or seen outside of court influence your decision in any way. The evidence in this case includes only what the witnesses said while they were testifying under oath, the exhibits that I allowed into evidence, and the stipulations that the lawyers agreed to. Nothing else is evidence. The lawyers' arguments and statements are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. And my comments and questions are not

evidence. During the trial I didn't let you hear the answers to some of the questions that the lawyers asked. Do not speculate about what a witness might've said. These things are not evidence, and you are bound by your oath not to let them influence your decision in any way. So, make your decision based only on the evidence as I have defined it here, and on nothing else. You should use your common sense in weighing (line indistinct) (line indistinct) (line indistinct) you that certain evidence reasonably leads to a conclusion, you are free to reach that conclusion. Some of you may've heard the terms "direct evidence" and "circumstantial evidence." Direct evidence is simply evidence like the testimony of an eyewitness which, if you believe it, directly proves a fact. If a witness testified that he saw it raining outside, and you believe that witness, then it would be direct evidence that it was raining. Circumstantial evidence is simply a chain of circumstances that indirectly proves a fact. If someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining. It's your job to decide how much weight to give to the direct and circumstantial evidence. The law makes no distinction between the weight that you should give to either one, nor does it say that one is any better evidence than the other. You should consider all the evidence, both direct and circumstantial, and give it whatever weight you believe it deserves. Another part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It's up to you to decide if a witness's testimony was believable and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. You should act reasonably and carefully in making these decisions. Let me suggest some things for you to consider in evaluating each witness's testimony. Ask yourself if the witness was able to clearly see or hear the event. Sometimes even an honest witness may not have been able to see or hear what was happening and may make a mistake. Ask yourself how good the witness's memory seemed to be. Did the witness seem able to accurately remember what happened? Ask yourself if there was anything else that may've interfered with the witness's ability to perceive or remember the events. Ask yourself how the witness acted while testifying. Did the witness appear honest? Or did the witness appear to be lying? Ask yourself if the witness had any relationship to the government or to the defendant, or anything to gain or lose from the case, that might influence the witness's testimony. Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or slant the testimony in favor of one side or the other. Ask yourself how believable the witness's testimony was in light of all the other evidence. Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way. These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe and how much weight you think it deserves. The lawyers for both sides objected to some of the things that were said or done during the trial. Do not hold that against either side. The lawyers have a duty to object whenever they think that something is not permitted by the rules of evidence. Those rules are designed to make sure that both sides receive a fair trial. And do not interpret any rulings on their objections as any indication of how I think the case should be decided. My rulings were based on the rules of evidence, not on how I feel about the case. Remember that your decision must be based only on the evidence that you saw and heard here in court. That concludes the part of my instructions explaining your duties, and the general rules that apply in every criminal case. In a moment, I will explain the elements of the crimes that the defendant is accused of committing. But before I do that, I want to emphasize that the defendant is only on trial for the particular crimes charged in the superseding bill of information. Your job is limited to deciding whether the government has proved the crime charged. The defendant has been charged with two crimes. The number of charges is no evidence of guilt, and this should not influence your decision in any way. And in our system of justice, guilt or innocence is personal and individual. It is your duty to separately consider the evidence against the defendant on each charge, and return a separate verdict for each of them. You must decide whether the government has presented proof beyond a reasonable doubt that the defendant is guilty of a particular charge. Your decision on one charge, whether it is guilty or not guilty, should not influence your decision on the other charge. As I have said, the superseding bill of information sets forth two counts or charges. Count 1 charges that the defendant, Lloyd R. Long, had and received a gross income of \$49,303 during the calendar year of 1989; that, by reason of such income, he was required by law following the close of the calendar year 1989 and on or before April 16, 1990, to make an income tax return; that the defendant willfully failed to file an income tax return for the calendar year 1989, in violation of Section 7203 of Title 26 of the United States Code. Count 2 charges that the defendant, Lloyd R. Long, had and received a gross income of \$49,518 during the calendar 1990; and that, by reason of such income, he was required by law following the close of the calendar year 1990, and on or before April 15, 1991, to make an income tax return; and the defendant willfully failed to make an income tax return for the calendar year 1990, in violation of Section 7203 of Title 26 of the United States Code. Both counts contained in the information are based upon alleged violations of Section 7203 of Title 26, United States Code. Title 26 is the Internal Revenue code. This section provides in part as follows. And I'm quoting here. "Any person required... by law or regulation... to make a return... who willfully fails to .. make such return... at the time required by law or regulations..." shall be guilty of an offense against the United States. In order for the government to prove the defendant guilty on Count 1 of the information, three essential elements of the offense must be proved beyond a reasonable degree: First, that the defendant was a person required by law or regulation to make a return of his income for the taxable year ended

December 31, 1989; Second, that the defendant failed to make such return at the time required by law, which was on or before April 16, 1990; Third, that the defendant's failure to make the return was willful. In order for the government to prove defendant guilty on Count 2 of the information, three essential elements of this offense must be proved beyond a reasonable doubt. You'll recognize these as being the same elements, but with different dates. First, that the defendant was a person required by law or regulation to make a return of his income for the taxable year ended December 31, 1990; Second, that the defendant failed to make such return at the time required by law, which was on or before April 15, 1991; Third, that the defendant's failure to make the return was willful. The burden is on the government to prove every element of the offense as charged beyond a reasonable doubt. The law never imposes on the defendant in a criminal case the burden of producing any evidence or calling any witnesses. Remember that a separate crime or offense is charged in each count of the information. Each charge and the evidence pertaining to it should be considered separately. Let's talk now about the first element. A person is required to make a federal income tax return for any calendar year in which he had gross income in excess of an amount set by law. For the defendant, that amount in 1989 was \$9,200. In 1990, the amount was \$9,550. Gross income is defined by law as "all income from whatever course derived, including... compensation for services." Gross income includes the following: Compensation for services, including fees, commissions and similar items; gross income derived from business; gains derived from dealing in property; interest; rents; royalties; dividends; alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income in respect of a decedent; and income from an interest in an estate or trust. Therefore, with respect to the phrase "gross income" as used in the information, you are instructed that wages, fees, and interest, and compensation for services received by the defendant constitute gross income. The defendant is required to file returns if his gross income for the calendar year of 1989 exceeded \$9,200, and the calendar year 1990 exceeded \$9,550, even though he may be entitled to deductions from income in sufficient amount so that no tax would be due. The government is not required to show that a tax is due and owing as an essential element of the offense charged in the information. Nor is the intent to evade payment of taxes an essential element of the offense charged. The proof need not show that the defendant received the exact amount of gross income as alleged in the information. The evidence must establish beyond a reasonable doubt that the defendant received sufficient gross income during the tax year to require him to file a tax return as required by law. Turning now to the second element. The second element of the offense of failure to file is that the defendant failed to file a timely income tax return for each of the years charged in the information 1989 and 1990. The law provides that a return made on the basis of the calendar year shall be made on or before the 15th day of April following the close of the calendar year, except when April 15th falls on a Saturday, Sunday or legal holidays, returns are due on the first day following April 15th which is not a Saturday, Sunday or legal holiday. For the offense charged in Count 1, the date of a timely filing of the required tax return for the calendar year 1980 was April 16, 1990. For Count 2, the calendar year 1990, the date of timely filing was April 15, 1991. Turning now to the third element of this offense. You are instructed that the government must prove beyond a reasonable doubt that the defendant's failure to make a return was willful. Willfulness is the voluntary, intentional violation of a known legal duty. The defendant's failure to make a return was willful if the law imposed a duty on defendant to file a return; he knew of this duty; and he voluntarily and intentionally violated that duty. The defendant's conduct was not willful if he acted through negligence, inadvertence, mistake, or due to a good faith misunderstanding of the law. If the defendant had a subjective good faith belief, no matter how unreasonable, that the law did not require him to file tax returns, he did not act willfully. However, if the defendant failed to make a return either because he disagreed with the tax laws or he thought the tax laws to be unconstitutional, these beliefs would not amount to a good faith misunderstanding of the law so as to excuse his failure to make tax returns. The defendant's state of mind is something that you, the jury, must determine. There is no way that a defendant's state of mind can be proved directly, but no one can read another person's mind and tell what the other person is thinking -- because no one can -- let me start over on that. The defendant's state of mind is something that you, the jury, must determine. And there is no way that the defendant's state of mind can be proved directly, because no one can read another person's mind and tell what that person is thinking. But the defendant's state of mind can be proved indirectly from the surrounding circumstances. This includes things like what the defendant said, what the defendant did, how the defendant acted, and any other facts or circumstances in evidence that show what was in the defendant's mind. The defendant acted willfully if he deliberately intended not to make his tax returns which he knew ought to have been filed. The government is not required to prove that the defendant had any intention to defraud the government or to evade the payment of taxes. The government must prove only that it was the defendant's deliberate intention not to make tax returns which he knew he was required to file, at the time that he was required by law to file them. There is a distinction between the civil liability of the defendant and his criminal liability. This is a criminal case. The defendant is charged under the law with the commission of a crime, and whether or not he has settled any civil liability for the payment of taxes claimed to be due to the United States is not to be considered by you in determining the issues in this case. If you find that the government has carried its burden of proving beyond a reasonable doubt that the defendant was a person required by law or regulation to make a return of his income for the taxable years in question, that the defendant failed to make such returns and the times required by law, and that the defendant's failure make the returns was willful, then the defendant would be guilty of the offense charged in Counts 1 and 2 of the information. On the other hand, if you find the facts to be otherwise, or if you have a reasonable doubt with respect to any of the elements of the crimes charged, then it would be your duty to return a verdict of

not guilty. You have heard the defendant testify. Earlier, I mentioned or talked to you about the "credibility" or the "believability" of witnesses. And I suggested some things for you to consider in evaluating each witness's testimony. You should consider those same things in evaluating the defendant's testimony. You've also heard the testimony of an expert witness. An expert witness has special knowledge or experience that allows that witness to give an opinion. You do not have to accept an expert's opinion. In deciding how much weight to give it, you should consider the witness's qualifications and how he reached his conclusions. Remember that you alone decide how much of a witness's testimony to believe and how much weight it deserves. That concludes the part of my instructions explaining the rules for considering some of the testimony and evidence. Let me finish up now by explaining some things about your deliberations in the jury room and your possible verdicts. The first thing that you should do in the jury room is to choose someone to be your foreperson. This person will help guide your discussions and will speak for you here in court. Once you start deliberating, do not talk to the jury officer, or to me, or to anyone else except each other about the case. If you have any questions or messages, you should write them down on a piece of paper, sign them, and give them to the jury officer. The officer will then give them to me, and then I will respond as soon as I can. I may have to talk to the lawyers about what you have asked. So, it may take me some time to get back to you. Any questions or messages normally should be sent to me through your foreperson. One more thing about the messages, and you will have a form for this back in the jury room there. Don't write down or tell anyone how you stand on your votes. For example, don't write down and tell anyone that you are split 6-6, or 8-4, or whatever your vote happens to be, because that should stay secret until after you are finished your deliberations. Your verdict, whether it is guilty or not guilty, must be unanimous. To find the defendant guilty, every one of you must agree that the government has overcome the presumption of innocence with evidence that proves guilt beyond a reasonable doubt. To find the defendant not guilty, every one of you must agree that the government has failed to convince you beyond a reasonable doubt. Either way, guilty or not guilty, your verdict must be unanimous. Now that all the evidence is in and the arguments are completed, you are free to talk about the case in the jury room. In fact, it's your duty to talk with each other about the evidence and to make every reasonable effort that you can to reach a unanimous agreement. Talk with each other, listen carefully and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say. Try your best to work out your differences. Do not hesitate to change your mind if you are convinced that other jurors are right and that your original position was wrong. But don't change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must be exactly that - your own vote. It's important for you to reach unanimous agreement, but only if you can do so honestly and in good conscience. No one will be allowed to hear your discussions in the jury room, and no record will be made of what you say. So, you should all feel free to speak your minds. Listen carefully to what the other jurors have to say, and then decide for yourself if the government has proved the defendant guilty beyond a reasonable doubt. If you decide that the government has proved the defendant guilty, then it will be my job to decide what the appropriate sentence will be. Deciding what the sentence should be is my job, not yours. It would violate your oath as jurors to even consider the possible sentence in deciding your verdict. Your job is to look at the evidence and decide if the government has proved the defendant guilty beyond a reasonable doubt. You will have a verdict form with you in the jury room. It has two questions on it. Question one reads as follows: "We, the jury, unanimously find the defendant Lloyd R. Long is not/is," fill in the blank, "guilty of the offense charged in Count 1 of the superseding bill of information. "Count 2. We, the jury, unanimously find the defendant Lloyd R. Long is not/is guilty of the offense charged in Count 2 of the superseding bill of information." One question for each count. At this time I'll request that the jury retire to deliberate on its verdict. (Jury was excused for deliberations at 4:15 p.m., and the following proceedings were held outside their presence, as follows:)

THE COURT: Other than the objections that have already been made on the record to the charge, are there any other additions or corrections to the charge as read?

MR. BECRAFT: No. No additions, Your Honor

MR. COLLIER: No, Your Honor.

THE COURT: Okay. If the clerk then would bring back Ms. Tripp. (Juror Tripp returned to courtroom.)

THE COURT: Ms. Tripp, sorry to have to tell you, but you're not going to have a chance to decide this case. We didn't tell you in so many words, but I think you probably figured out that you were an alternate. We need alternates, though. And as you saw, what happened in this case is an example of why we have alternates, because one of the gentlemen was not able to continue for personal reasons, and so we were able to substitute number one alternate at that time, Ms. Clark. And we would've had to have done the same thing with you if anything had happened during the course of the trial. I say that just to tell you that your service here, even though as an alternate, its very important to us. And I appreciate very much your coming down and serving. You're now excused. (Juror Tripp was excused.)

THE COURT: All right. I put responsibility on counsel to make sure that only those exhibits which are admitted into evidence are permitted to go back to the jury room. I would, of course, ask that somebody from each side be available so that we can contact you immediately in case we receive any word from the jury. So, don't go very far. I have some other matters to take up here in just a moment. So, we will be utilizing the courtroom for that purpose, although if you want to leave the

stuff on those tables, I don't think there's any problems with that. Pending word from the jury in this case, we'll be in recess. And the Court will be in recess for about five minutes. (Court was in recess pending notification from the jury, as follows:)

THE COURT: The jury has advised the Court that they want to come back tomorrow and continue their deliberations. At this time we'd request that the jury be brought back in. (Jury returned to courtroom at 5:40 p.m., and the following proceedings were held in open court, as follows:)

THE COURT: Ladies and gentlemen of the jury, you-all can go home and watch the Braves tonight and relax. But don't talk about this case with anyone. That includes members of your family or anybody else. The basic thing to remember is don't talk about this case until after it's all over, and then you can talk about it with other people other than yourselves. Also, if there's anything in the news media or anything about this case in the papers, please do not read it, or watch it if it's on television, or listen to it if it's on the radio. Please come back at nine o'clock tomorrow morning. Is that okay? Nine o'clock. And when you come back, you don't have to come back to the courtroom. Just go right back to the jury room. But don't start your deliberations until all 12 of you are here. When you are all here, then you can go ahead and start. Any questions? Okay. We'll be in adjournment until nine o'clock tomorrow morning. (Whereupon, court was adjourned at 5:45 p.m. to continue at 9:00 a.m., October 14, 1993.)

IN OPEN COURT

## JURY VERDICT:

THE COURT: We've received a communication from the jury that it has reached a verdict in this case. So, at this time we'll request that they be brought back. (The jury returned to the courtroom, and the proceedings continued, in open court, as follows:)

THE COURT: Have a seat, ladies and gentlemen. Mr. Kilgore, since you have sent the message here, I take it you have been designated as the foreperson. Is that correct?

JURY FOREMAN KILGORE: Yes, sir.

THE COURT: Okay. Has the jury reached a unanimous verdict in this case, Mr. Kilgore?

JURY FOREMAN KILGORE: Yes, sir.

THE COURT: Okay. Do you have the verdict form there?

JURY FOREMAN KILGORE: Yes, sir.

THE COURT: Please hand it to Ms. Ashby. (Foreman complying.)

THE COURT: All right. If the clerk would read the verdict form.

THE CLERK: "Question 1. We, the jury, unanimously find the defendant, Lloyd R. Long, is not guilty of the offense charged in Count 1 of the superseding bill of information.

"Question 2. We, the jury, unanimously find the defendant, Lloyd R. Long, is not guilty of the offense charged in Count 2 of the superseding bill of information."

THE COURT: Any party wish to poll the jury?

MR. COLLIER: We do, Your Honor.

THE COURT: Poll the jury.

THE CLERK: The jury verdict I have just read, Mr. Chunn, is that your verdict?

JUROR CHUNN: Yes.

THE CLERK: Mr. Anderson, is that your verdict?

JUROR ANDERSON: Yes

THE CLERK: Ms. Janow, is that your verdict?

JUROR JANOW: Yes.

THE CLERK: Mr. Olson, is that your verdict?

JUROR OLSON: Yes.

THE CLERK: Mr. Boling, is that your verdict?

JUROR BOLING: Yes, ma'am.

THE CLERK: Mr. Morrow, is that your verdict?

JUROR MORROW: Yes.

THE CLERK: Mr. Layne, is that your verdict?

JUROR LAYNE: Yes.

THE CLERK: Mr. Hicks, is that your verdict?

JUROR HICKS: Yes,

THE CLERK: Mr. Wilcox, is that your verdict?

JUROR WILCOX: Yes, ma'am.

THE CLERK: Mr. Kilgore, is that your verdict?

JUROR KILGORE: Yes, ma'am.

THE CLERK: Ms. Roark, is that your verdict?

JUROR ROARK: Yes.

THE CLERK: And, Ms. Clark, is that your verdict?

JUROR CLARK: Yes.

THE COURT: All right. The verdict form will be recorded and filed in this case. Ladies and gentlemen, thank you for your service as jurors in this case. You are now excused. Thank you. We'll call you when we need you again. (Jury excused.)

THE COURT: Okay. This case is concluded.

MR. BECRAFT: Your Honor, it's been a pleasure. I know the Court probably was troubled by us a few times, but it's always a pleasure to be here in your court.

THE COURT: Likewise, Mr. Becraft. The defendant, I don't know if he's on bond.

THE DEFENDANT: Yes, sir.

THE COURT: His bond is discharged and this case is concluded and this Court is in adjournment.

THE CLERK: All rise. This Honorable Court is now in adjournment.

END OF PROCEEDINGS

#### REPORTERS' CERTIFICATE

We, Sheila D. Wilson and Elizabeth B. Coffey, do hereby certify that we reported in machine shorthand the proceedings in the above-styled cause held October 12, 13 and 14, 1993, and that this transcript is an accurate record of said proceedings.

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Sheila D. Wilson  
Substitute Official Reporter

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Elizabeth B. Coffey  
Substitute Official Reporter