

United States Courts
Southern District of Texas
FILED

APR 05 2017

David J. Bradley, Clerk of Court

-IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.)
)
JOHN B. TROWBRIDGE,)
)
Respondent.)

CIVIL ACTION NO. 16-mc-2688

RESPONSE TO PETITION

The order to show cause (Document 2) in pertinent part of pages 1 and 2 thereof states “[T]he respondent must file with the court and serve on the Internal Revenue Service a written response . . . demonstrating that enforcement of the summons would be an abuse of process.”

CONSTITUTIONAL AUTHORITY

The executive and judicial power of the United States is co-extensive with the legislative power established by the U.S. Constitution, and executive and judicial officers have jurisdiction to the same extent that Congress have legislative power; to wit:

It [the judicial power] is indeed commensurate with the ordinary legislative and executive powers of the General Government . . . *Chisholm v Georgia*, 2 U.S. 419, 435 (1793).

[I]t is an obvious maxim, “that the judicial power should be competent to give efficacy to the constitutional laws of the Legislature.” The judicial authority, therefore, must be co-extensive with the legislative power. . . . *Osborn v. Bank of United States*, 9 Wheat., 738, 808 (1824).

What distinguishes the U.S. Constitution from all other instruments of creation in the community of nations is that it confers upon the legislative body, Congress, only limited legislative power over the collective geographic area occupied by the respective bodies politic of members of the Union; to wit:

It is clear that Congress, as a legislative body, exercise two species of legislative power: the one, limited as to its objects, but extending all over the Union; the other, an absolute, exclusive legislative power over the District of Columbia. . . . *Cohens v. Virginia*, 19 U.S. 264, 434 (1821).

Because Congress have only limited legislative power over the Union, executive and judicial officers have only limited jurisdiction within the Union.

The limited legislative powers over the Union conferred upon Congress by the U.S. Constitution are found at Art. I, § 8, cl. 1–16 and are limited to subject-matter and personal legislative power only.

Whereas, there is no provision of Art. I, § 8, cl. 1–16 that confers upon Congress territorial legislative power over the Union, executive and judicial officers of the United States possess no territorial jurisdiction within the Union.

“Territorial jurisdiction” is defined as:

—Territorial jurisdiction. Jurisdiction considered as limited to cases arising or persons residing within a defined territory, as a county, a judicial district, etc. The authority of any court is limited by the boundaries thus fixed. Henry Campbell Black, *A Law Dictionary*, Second Edition (St. Paul, Minn.: West Publishing Co., 1910), p. 673.

Enforcement of the summons would require that the Court take territorial jurisdiction over respondent and respondent’s aforementioned property in Harris County, Texas, without constitutional authority.

Constitutional authority is the supreme prerequisite to any act undertaken by any executive or judicial officer in pursuance of any act of Congress; to wit;

As regards all courts of the United States inferior to this tribunal, two things are necessary to create jurisdiction, whether original or appellate. The Constitution must have given to the court the capacity to take it, and an act of Congress must have supplied it. Their concurrence is necessary to vest it. . . . It can be brought into activity in no other way. *The Mayor v. Cooper*, 73 U.S. (6 Wall.) 247, 252 (1867).

There being no provision of the Constitution that confers upon Congress power of territorial legislation anywhere in the Union, no judicial officer of the United States has the capacity, as given by the U.S. Constitution, to take territorial jurisdiction or enter an order against property located or an American residing anywhere in the Union. Further, it is indisputable that such power is the exclusive domain of the respective members of the Union themselves; to wit (Underline emphasis added.):

[W]ithin any state of this Union the preservation of the peace and the protection of person and property are the functions of the state government. . . . The laws of congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national goverment [sic]. *Caha v. U.S.*, 152 U.S. 211, 215 (1894).

The several States of the Union are not, it is true, in every respect independent, many of the right [sic] and powers which originally belonged to them being now vested in the government created by the Constitution. But, except as restrained and limited by that instrument, they possess and exercise the authority of independent States, and the principles of public law to which we have referred are applicable to them. One of these principles is that every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory. . . . *Pennoyer v. Neff*, 95 U.S. 714, 722 (1878).

[95 U.S. 714, 723] [T]he exercise of this jurisdiction [over those domiciled within its limits] in no manner interferes with the supreme control over the property by the State within which it is situated. *Penn v. Lord Baltimore*, 1 Ves. 444; *Massie v. Watts*, 6 Cranch 148; *Watkins v. Holman*, 16 Pet. 25; *Corbett v. Nutt*, 10 Wall. 464.

For the Court to enter an order to enforce the summons would be an abuse of process because the Court would have to take territorial jurisdiction over person and property in Harris County, Texas, without the capacity, as given by the U.S. Constitution, to do so.

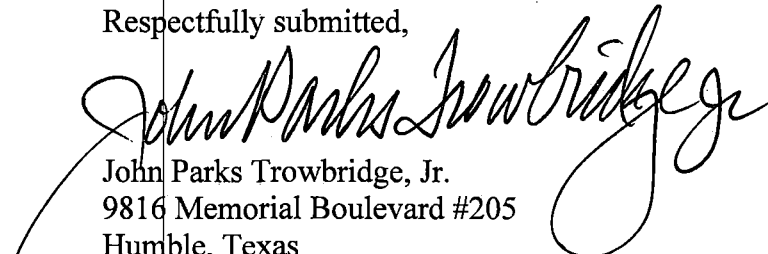
Further, whereas the executive power is co-extensive with the judicial power, *Chisholm*, *supra*, page 1, any executive enforcement of the summons likewise would be an abuse of process because any such officer would have to take territorial jurisdiction over person and property in Harris County, Texas, without the capacity, as given by the U.S. Constitution, to do so.

Wherefore, respondent should not be ordered to comply with the Internal Revenue

Service summons.

Date: April 4, 2017

Respectfully submitted,

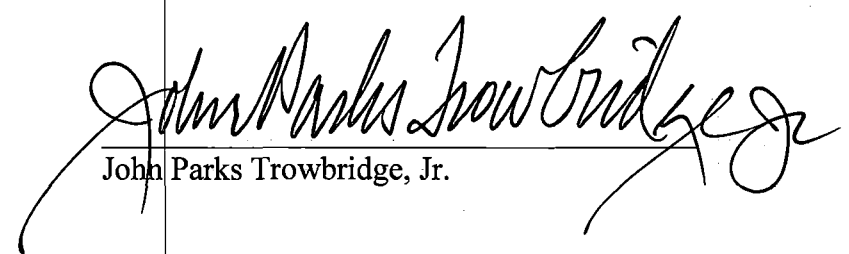


John Parks Trowbridge, Jr.
9816 Memorial Boulevard #205
Humble, Texas
Phone: (832) 472-3683
Fax: (281) 540-4329
Email: dr.john.parks.trowbridge.jr@earthlink.net

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2017, I served a complete copy of RESPONSE TO PETITION (12b6) by FedEx overnight courier on the following parties:

LEWIS A. BOOTH
Special Assistant
United States Attorney
8701 S. Gessner, Ste. 710
Houston, Texas 77074



John Parks Trowbridge, Jr.