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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BILL WALKER,

10 Plaintiff,

11 v.

12 MEMBERS OF CONGRESS OF THE UNITED
13 STATES, et al.,

14 Defendants.

CASE NO. C04-1977RSM

ORDER TO SHOW CAUSE

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17 Plaintiff Bill Walker, appearing *pro se*, has filed this action against all members of the United
18 States House of Representatives and the United States Senate, plus the Secretary of the Treasury and the
19 Commissioner of the Internal Revenue Service. He asserts that Congress has violated the United States
20 Constitution by failing to call a convention to consider repeal of the Sixteenth Amendment. The
21 complaint alleges absolutely no basis for this Court's jurisdiction. The civil cover sheet, attached to the
22 complaint, lists four statutes as bases for the action, but not one of these confers standing on plaintiff or
23 confers jurisdiction over the subject matter of this complaint. The first, 5 U.S.C. § 7311, provides that
24 no one who advocates the overthrow of our constitutional form of government may hold a position in
25 government. This section does not provide for a private right of action, and it cannot serve as a basis for
26 the Court's jurisdiction. The second, 26 U.S.C. § 7214, does not provide any private right of action for
27 an aggrieved taxpayer. Detweiler v. United States, 406 F. Supp. 695 (E.D.Pa. 1975); *affirmed*, 544 F.

28 ORDER TO SHOW CAUSE - 1

1 2d 512 (3rd Cir. 1976); *cert. denied*, 429 U.S. 1105 (1977). Plaintiff has alleged no facts to state a cause
2 of action under 42 U.S.C. § 1973, which addresses denial of the right to vote “on account of race or
3 color.” 42 U.S.C. § 1973(a). Similarly, an allegation of conspiracy motivated by invidious, class-based
4 discrimination is an essential element of a cause of action under 42 U.S.C. § 1985(c). United
5 Brotherhood of Carpenters and Joiners v. Scott, 463 U.S. 825, 835-36 (1983); Trerice v. Pedersen, 769
6 F. 2d 1398, 1402 (9th Cir. 1985). Plaintiff has made no allegation that he is a member of a protected
7 class, nor that defendants have any impermissible animus toward any protected class. Finally, and most
8 important, even if plaintiff could amend his complaint to make the requisite allegations under § 1985, the
9 members of Congress are immune from such suit under the Speech or Debate Clause of the Constitution,
10 Article I, § 6, Clause 1. This clause has been construed broadly to immunize virtually all acts performed
11 in furtherance of the legislative function, specifically including voting. Gravel v. United States, 408 U.S.
12 606, 624 (1972).

13 It is a fundamental principle of jurisprudence that federal courts are courts of limited jurisdiction.
14 Owen Equipment and Erection Co. v. Kroger, 437 U.S. 365, 374 (1978). They possess only that power
15 authorized by Constitution and statute, which is not to be expanded by judicial decree. Thus, it is to be
16 presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary
17 rests upon the party asserting jurisdiction. Kokkonen v. Guardian Life Insurance Co. of America, 511
18 U.S. 375, 377 (1994) (citations omitted). The basis for federal question jurisdiction must appear on the
19 face of the well-pleaded complaint. Bell v. Hood, 327 U.S. 678, 680-82 (1946). The complaint must
20 establish either that federal statute creates the cause of action, or that the plaintiff’s right to relief
21 necessarily depends on the resolution of a substantial question of federal law. Franchise Tax Board v.
22 Construction Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983).

23 The complaint here contains no jurisdictional statement whatsoever. It appears that the essence
24 of this lawsuit is a complaint regarding income taxes in the amount of \$7333. Although plaintiff has
25 briefly referred in the body of the complaint to 26 U.S.C. § 7422, a section which authorizes civil actions
26 for refund of taxes paid, he has neither invoked the jurisdiction of this Court under that section, nor
27 sought relief available thereunder.

1 Accordingly, plaintiff is ORDERED TO SHOW CAUSE on or before October 22, 2004, why this
2 action should not be dismissed for lack of jurisdiction.

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4 DATED this 8 day of October , 2004.
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7 /S/ Ricardo S. Martinez
8 RICARDO S. MARTINEZ
9 UNITED STATES DISTRICT JUDGE
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