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THE CONSTITUTIONALITY OF THE INCOME TAX.

A Thesis Presented to the School of Law,
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by

Thomas Chattle Rogers.

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1895.
THE CONSTITUTIONALITY OF THE INCOME TAX.

The provisions of the sections of the Tariff Laws for 1894 devoted to the tax upon incomes of individuals and Corporations are so intricate and confusing that more than passing notice must be given to the details, and much careful study and scrutiny is necessary for a proper understanding of the law. To a layman the mass of technical terms and legal phrases are almost bewildering as to their meaning and intent. Who was exempted from the payment of this tax, what property is exempted, what are the formalities necessary to the making and filing of returns, and the scores of other similar questions that may be raised are of personal importance to every property-holder in this country. But a far more important question is raised as to this law at the very outset.
This question is "is this tax on incomes constitutional?"

A word first as to the reason for framing this law. Beginning early in the year 1893 there came upon the business community of this country a series of financial troubles and embarrassments that affected the whole length and breadth of the land. So far-reaching and widespread was this trouble that the credit of our own national government was impaired to such an extent that by the withdrawing of money from our sub-treasuries to pay for American bonds of all kinds that were being constantly sent from Europe to this country for payment, the actual money finances and assets of the National Government were reduced to a very low point, and actual national bankruptcy was threatened. To meet this reduced condition of the public treasury, and to retrench for future decrease of revenues owing to the reduced tariff rates, the Congress of the United States passed, including it in the new Tariff Laws of 1894, a tax upon incomes.

This tax recognizes in its workings two classes of taxable beings, the individual and the corporation. And what was this tax? Upon the individual, it is a tax of two percentum on the excess of four thousand dollars on
the gains, profits and incomes of every citizen and every person residing in the United States, derived from any kind of property, rents, interests, dividends, salaries, or from any trade, profession, vocation, or employment carried on in the United States or elsewhere, granting a few certain exceptions such as bonds of the United States whose principal and interest are by law exempt from taxation, and the salaries of state officers, and a few of like nature. As to corporations, the entire annual income of all corporations is subjected to an annual tax of two percent, exempting not only charitable, religious, and educational institutions, as was allowed in prior acts, but also are building and loan associations or companies, savings banks, and mutual insurance companies exempted, provided that these either loan to their shareholders only, or divide their profits with their depositors, or do their business on the mutual plan. The exemptions are granted without regard to the amount of property or income of such concerns. In addition to being obliged to pay upon the whole income, the discrimination between individual and corporation is not confined to this inequality. Individuals whose incomes are under
thirty-five hundred dollars ($3500) make no returns, corporations must make returns if there is a single dollar of income. Individuals need pay a penalty only in case of wilful neglect or refusal to make a return, the corporation by mere default is subjected to a penalty of one thousand dollars ($1000). Corporations must disclose the details and items of their business, individuals need not. Corporations must keep full and accurate accounts which must be opened for the collector’s inspection at any time, an individual’s books are free from inspection.

This section requiring the taxation of corporations is an entirely novel idea. The previous Income Tax Laws, those of 1861 and the next succeeding years, and those of 1870, did not tax the incomes of corporations except as their dividends were included in the incomes of the individual stock holder.

It is claimed by the opponents of this law that, being within Art. I section 2 and sec. 9 of the United States Constitution, it is unconstitutional. The tax is a direct tax, they say, and as such is within the Constitutional prohibition. There is no ambiguity about these sections of the Constitution. They say plainly, and
clearly, that direct taxes shall be apportioned among the states according to their representation and although the framers of the Constitution may have overlooked this case in hand, yet this is absolutely no reason, so they argue, why the present law should be upheld. Argument may be made in favor of the law in that otherwise no tax on incomes can constitutionally be laid. But even granting this to be true the plain terms of the Constitution cannot be controverted, for we must assume that when the Constitution was accepted by the people, they did it with full knowledge and understanding of their act. It is as Chief Justice Marshall has said in the case of Gibbons vs. Ogden, 9 Wheaton at p.188 "As men whose intentions require no concealment generally employ the words which both directly and most aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution must be understood to have employed words in their natural sense and to have intended what they have said."

But is a tax on income a direct tax within these provisions of the Federal Constitution? Do the words "direct taxes" mean a tax on incomes as well as a tax on
land, or is it strictly confined to the tax on land?
It is known that in the year 1787, when this provision of
the Constitution was adopted, many of the European nations
including Austria, Bohemia, Belgium, France, Germany,
Switzerland, and Sweden were defining and treating as a
direct tax a tax on income. The Privy Council of Eng-
land has said "An income tax is always spoken of as a
direct tax and is generally looked upon as a direct tax
of the most obvious kind. To deny it this character
would run counter to the common understanding of men on
this subject, which is the one main clue to the meaning
of the legislature." When in 1797, Mr. Pitt, then Prime
Minister in England, found the indirect taxes inadequate
to furnish revenue, he laid direct taxes to meet the de-
ficiency, and among them he included an income tax of ten
per cent. As a direct tax was this known, and subse-
quently through the many years following was it so known,
and mentioned by the political parties and by the public
press.

Mill in his "Principles of Political Economy", Book
V, Chap. 3 says "A direct tax is one demanded from the
very persons desired or intended to pay it. Direct taxes are either on income or expenditure. The sources of income are rent, profit, or wages. This includes every kind of income except gift or plunder. Taxes may be laid on any one of these three kinds of income, or a uniform tax on all of them." Professor Ely in his "Taxation in American States and Cities" says that an income tax is a direct tax and so the Supreme Court of Missouri in 43 Mo. 479, has held.

The first judicial decision to deny this principle, that a tax on income is a direct tax, is the Springer case, Springer vs. the United States 102 U. S. 586. In this case the tax was held to be an excise or duty. The decision here was based upon the so-called "Carriage Case" Hylton vs. the U. S., 3 Dallas 171. In this latter case Mr. Hamilton, while defending the tax advanced the following theory "It is presumed," said he, "that a tax on income is not a direct tax." But although he gave absolutely no authority and absolutely no evidence to support his presumption, the theory was adhered to by the Court, and even in spite of the fact that nine years had passed since the Constitution had been adopted. The justices
who supported this opinion were by no means positive of the correctness of their views. Mr. Justice Patterson used the words "questionable point", Mr. Justice Chase "I am inclined to think", Mr. Justice Iredell "considerable doubt."

But it is upon this mere presumption of Mr. Hamilton's, and these three doubtful expressions of the justices that the later cases have been decided, Veazie Bank vs. Fenno 8 Wallace 546, Scholey vs. Rew, Pacific Insurance Co. vs. Soule, 7 Wallace 433 and Springer vs. the United States, 102 U. S. 586. And when the opinion is unsupported or unwarranted by any evidence, then the judicial decision can carry but little weight. Certainly when all three justices were in doubt as to the correctness of their position, the question must still be open for review, and the decision capable of being modified by later direct evidence. In later cases it is only a valid opinion because of the doctrine of "stare decisis". Yet this must not be considered binding. As Mr. Lincoln once said in regard to a certain judicial decision "In this country nothing is ever finally decided until it is decided in the right." Let us remember too
that the statute in question in the Springer case was a statute passed in time of war and at a time of public need. It was distinctly a war measure and was necessary to strengthen the government in its weakened condition and therefore it is not unreasonable to suppose that loyalty to the Union may have influenced even the honored justices.

But if the conclusion in the Hylton case was unsupported by authority, and if now during a time of peace we can leave out loyalty and public necessity from the present consideration of the question, then the older decisions should have no weight upon the present question, with new evidence, and should not prove a bar to a different conclusion if such conclusion is justifiable.

As has been already shown, at the time the United States Constitution was adopted, direct taxes included in most of the European countries a tax on income and we have nothing in the published reports of the proceedings previous to the adoption of the Constitution, or in the debates incident thereto, which lead us to suppose that our early patriots intended to exclude the tax on income from the list of direct taxes. At that time the terms
"Direct tax" and "direct taxes" were well known to every person in this country. The subject of taxation had figured very prominently among the causes which led to the War of the Revolution, and it can safely be presumed that every patriot in those stirring times knew fully the idea intended to convey by those terms. They were largely used all through Europe, and to this day, as already shown, the term includes a tax on income. It is difficult to believe that the makers of the Constitution intended to exclude such taxes. Had such been their intention we should have had some trace of it. Did they then in prohibiting such taxation except in a certain prescribed manner, intend to give it the full and logical meaning given elsewhere in the world, or did they intend to limit and restrict the signification to taxes on land and capitation taxes only? It is necessary to find the true intention of these men and only then can we discover the answer to this question. The phrases must be taken in their original and derivative meaning as they were introduced from Europe into this country, or else they must be taken as applying to the "direct taxes" which the states themselves were at that time imposing and collect-
And in the debates incident to the submission of the Constitution for ratification, we find a general unanimity of opinion that taxes are to be laid according to a basis of population only. So Mr. Chase, so Mr. Adams, so Mr. Payne, repeatedly urged. 1 Elliot's Debates pp. 70, 71, 72, 73. So it was held in the original Articles of Confederation which provided that "all expenses incident to war or general welfare shall be defrayed out of a common treasury, supplied by the several states in proportion to the value of the land, buildings and improvements thereon." One of Elliot's Debates 81. Had this been allowed to stand in such form it would of course have been logical to assume that neither direct nor indirect taxes being mentioned, the only taxes allowed to Congress to impose would have been upon the aforementioned property, land, buildings and improvements thereon. But not so. The Articles were amended so that they now read "all expenses incident to war and the general welfare shall be defrayed out of a common treasury supplied by the states in proportion to the number of inhabitants." 1 of Elliot's Debates 95.
As to the reason that this change was made, we need only quote Mr. Storey, "Storey on the Constitution" sec. 253, "The principle which formed the basis of the apportionment was sufficiently objectionable as it took a standard extremely unequal in its operation upon the different states. The value of the land was by no means a just representative of the proportion that each state ought to make towards the discharge of the common burdens. The principle was objected to as unjust, unequal, and inconvenient in its operation." Mr. King of Massachusetts gives substantially the same reason, 2 Elliot's Debates pp. 36, 56.

We have now this testimony that the tax on "lands, buildings and improvements thereon" was deliberately rejected as being unjust, unequal, and inconvenient, yet at this later day it is proposed to show that the term "direct taxes" included the very things that were rejected and only those things.

It has been previously asserted that in the European countries a direct tax included a tax on income. Not only was this true of Europe, but it was true of this country as well. See "Ely on Taxation", pp. 109, 110,
"New Netherlands Colonial Taxation. Taxes on property and polls. Direct taxes were laid either in relation to property held or according to income." As early as 1779 incomes were taxed in Vermont, so in Massachusetts as early as 1706, in Connecticut in 1769, so in Delaware, in New Jersey, in Virginia, in South Carolina. And how were these taxes known to the people while they were paying them? Mr. Dawes of Massachusetts said in Convention "The only course of Massachusetts was to a direct taxation." 2 Elliot's Debates 41. And Mr. Nicholas of Virginia "At present very little is raised by indirect taxes in this country. The public treasuries are supplied by means of direct taxes." 2 Elliot's Debates 99. Mr. Iredell of North Carolina said "Our state legislature has no way of raising any considerable sums but by laying direct taxes." 4 Elliot's Debates 146. Morris on "The Finances of the United States" says "There is a concurrent jurisdiction respecting internal or direct taxes." And in Mr. Gallatin's Report to Congress in 1812 he speaks of the taxes in convincing terms as direct taxes.

This establishes the fact that all the taxes which the people in 1787 were paying were commonly known and
understood by them to be direct taxes, and that in addition to other sources of collection of those taxes incomes were included and the tax on those incomes was used for purposes of federal government, and the mere fact that in 1895 it is purposed to collect this by Federal officers, while in 1789 it was collected by State officers, is not in itself sufficient ground for calling an indirect tax that which in earlier times under precisely similar provisions was called a direct tax.

To return to the Hylton case, which is the ground work and main reliance for the contention that a tax on income is not a direct tax. In this case we find the following dictum "The general division of taxes is into direct and indirect. Although the latter term is not to be found in the Constitution, yet the former necessarily implies it. Indirect stands opposed to direct. Both in theory and in practice a tax on land is deemed to be a direct tax. Whether direct taxes in the sense of the Constitution comprehend any other tax than a capitation tax and a tax on land is a questionable point." The pertinent question now is, where the Court discovered this division of taxes into direct and indirect. The liter-
nature of the day considered a tax on land and a tax on income as alike direct taxes. This has been already shown. It has also been shown that the customs of the people paying the taxes were to consider the tax on land and the tax on income as direct taxes.

It now safely follows:-

(1) That an income tax, as a direct tax existed long before the Constitution, as in New Netherlands, Vermont, Massachusetts, Connecticut, Pennsylvania, Virginia, New Jersey, Delaware and South Carolina; it exists also in some of the states after the Constitution, as in Massachusetts and in Connecticut; and in one of the states, Massachusetts, it has existed until the present day. It was as well recognized in those localities as any other tax, and it was known and called as a direct tax.

(2) When the words regarding direct taxes were introduced into the Constitution, they were used, as Chief Justice Marshall said, "in their natural sense" and are to be taken, as he also said, "in their natural and obvious sense." It is not an "obvious sense", nor a "natural and obvious sense", to reject, from the taxes which the people were paying as direct taxes when these words
were used, all of such taxes except a tax on land, and to limit and restrict the words, which were used to that single tax.

The previous decision on this question should not be of sufficient weight to altogether preclude any other chances of a change of decision, for, as Judge Story says "Arguments drawn from impolicy or inconvenience ought to be of no weight as the only sound principle should be to declare - This is the law-, follow and obey-.

But even if these taxes are not direct, and therefore the tax law could not be held void on that ground, do they not still violate another Constitutional provision in that they lack the uniformity which by that instrument is necessary to the validity of any tax laws passed by Congress? The Constitutional requirement is that "all duties, taxes, and imposts shall be uniform throughout the United States", Art. I sec. 8. Once, in a case reported in 5 Wheaton at p. 317, the Court has in respect to "excises" declared that they must be "alike" for every purpose. In other respects we have uniformity, as to states, as to ports, as to the thing taxed, as to the
person taxed, as to the rate. Then how can Congress be permitted to violate, as it does, the rule of such uniformity? How can Congress be permitted to exempt either all incomes under four thousand dollars ($4000), of private individuals, or the total incomes of certain favored corporations?

In the case of Building and Loan Associations this lack of uniformity is very apparent. These associations have been increasing in number and in capital during the past few years until now the total amount of cash represented by their combined capitals will reach high up into the billions. One in Dayton, Ohio, alone has an actual capital of over ten million dollars, and in the state of Ohio alone the earnings of these associations for the year 1893 amounted to over $2,900,000. A similar state of affairs can be found in any of our states, and the individual association will in nearly every case be found to be having an average profit of at least ten percent. Yet there is nothing in the nature of any of these exempted corporations or associations that can be possibly claimed to be of a specially public or benevolent character.
The case with Savings Banks is that of a commonly accepted, though erroneous, belief that these are in the nature of a public charity and so must receive special public aid and exemptions. But in this respect the Pennsylvania courts have said, in West's Appeal, 64 Pa. St. 186, 193 "It has not the semblance of a charity. It is specifically a business corporation for pecuniary purposes - to receive deposits of money, invest them for the security of the depositors, and repay them with interest." And so in the case of Coite vs. Society for Savings, 32 Conn. 173, "There is no reason why they should not contribute their full share to support the government through which they exist and flourish." This case was carried to the United States Supreme Court and the decision was affirmed, 6 Wallace 594.

As regards mutual insurance companies. Under the prior laws, as in 1864 (sections 120 and 122, Laws of 1864) and in 1870 (sec. 15, Laws of 1870) these companies were specifically taxed and why should they be exempted now or ever? It is true that they conduct their business on a somewhat different plan from that of other insurance companies, but still this business is a strictly private one
in which the public has no interest and repeatedly we find them held to be in no sense benevolent or charitable organizations. So hold the cases reported at 21 How. 35, 21 N. Y. 52, 46 N. Y. 477, 30 Kan. 585, 75 Mich. 385, 35 Minn. 458, 69 Tex. 561, and many others.

See the immense amounts of capital of these mutual insurance corporations. Out of a total of 1926 corporations engaged in the insurance business, we find that 1689 are doing business on the mutual plan. The total assets of the 237 companies working on a plan of stock-holding is $278,000,000, while the total assets of the companies working on the mutual plan is $1,200,000,000. The $278,000,000 of capital is taxed, the $1,200,000,000 is exempted simply from the fact that they are doing business on the mutual plan. Thus a company carrying on business on a plan of stock holding must pay the tax, while its next door neighbor, with the same business in the same locality, with the same customers, but carrying on business on the mutual plan need not pay. For illustration, the largest marine insurance company in the United States is a New York concern with $12,000,000 of assets. Its principal competitor is a Pennsylvania corpo-
ration with $5,000,000 assets but on a stock plan. The New York company is exempted, the Pennsylvania company pays two per cent upon every dollar of net profits or income.

The sole condition for the exemption of these favored corporations and associations is declared to be that they shall make loans to, or divide their profits among, their members, or depositors, or policy-holders. Every corporation, no matter how created is for the benefit of its own individual members whether they be called stock holders or depositors. Exemptions like this were never before made but, on the contrary, these associations were expressly taxed. But now if the business of the company is carried on for its stock holders' benefit, every dollar of its income is taxed, yet if carried on for its policy-holders' or depositors' benefit every dollar of income is exempted from taxation. Immense amounts of money will be thus exempted from their fair amount or proportion of payment by the causes in this act. Over $1,000,000,000 in the state of New York alone is thus exonerated and in the other states in proportion to their wealth.
Judge Cooley in his work on "Constitutional Limitations" says, "Every thing that may be done under the name of taxation is not necessarily a tax, and it may happen that an oppressive burden, imposed by the government, when carefully scrutinized will prove, instead of a tax, to be an unlawful confiscation of property and unwarranted by any principle of constitutional government. In the second place it is of the very essence of taxation that it be levied with equality and uniformity, and to this end that there should be some system of apportionment. Where the burden is common there should be common contribution to discharge it. Taxation is the equivalent for the protection which the government affords to the person and property of its citizens, and as all are alike protected, so alike should all bear the burden, in proportion to the interest secured. .............

Whatever be the basis of the taxation, the requirement that it be uniform is universal." So Dillon in his work on "Municipal Corporations", "Taxation implies that the imposition shall be by some system of apportionment so as to secure uniformity among those who are, or ought to be subject to the particular tax or assessment."
Hence we may readily conceive of acts of the Legislature, demanding sacrifices of citizens, that could not be sustained as legitimate exercises of the taxing power, although no specific provision of the Constitution shall be infringed." So Desty, "Desty on Taxation", "Equality in the imposition of the burden is of the very essence of the right, and though absolute justice and absolute equality may not be attainable, the adoption of some rule tending to that end is indispensable. .......... Where property is taken from the citizen, by the sovereign will, and appropriated, without his consent, to the public benefit the exaction should not be considered a tax unless similar contributions are exacted from such constituent members of the same community generally as own the same kind of property. .... A tax though not perhaps universal must still be general and uniform."

In view of these statements and figures is this exemption of a certain few favored corporations the "uniformity" that is required, and promised to all of the people, by the Constitution? Mr. Hill, the senior senator from N. Y. state, said, in his speech in the Senate on January 11, 1895; " 
"The tax on incomes is not uniform throughout the United States for the following reasons,

(1) The act professes to exempt all incomes of $4000 and under, yet if a citizen has an income of $4000 or less, and it is all invested in corporate shares, there is no exemption at all for the corporation in which the earnings are held is required to deplete the net earnings to which the share holder is entitled, by the amount of the income tax. Thus a person so situated is deprived of the exemption accorded to others.

(2) If several persons each having a taxable income happen to live together as one family they are jointly entitled to but one exemption of $4000, instead of an exemption of $4000 on each income.

(3) The salaries due to state, county, and municipal officers are exempt from the payment of the income tax.

(4) All corporations for charitable, religious, educational, or beneficial purposes, all building and loan associations, who loan to their share holders only and a large class of insurance companies and savings institutions are exempt from the payment of the income tax.

(5) The income on certain United States bonds is exempted.
If it be urged that the United States cannot repudiate its contract with the bond holders, that their bonds shall be free of tax, it is a sufficient answer to say that the Constitution requires a uniform tax on income, and if it exonerates one person from the payment of the tax, it thereby exonerates all."

So speaks Mr. Hill, and he seems correct in his reasoning and logical in his argument. But another view is presented when we consider that there is absolutely no reason why the exemption of any income whatever should be allowed. A uniform rate would require that every person, no matter how small his income, should pay his just and fair proportion. It is the privilege and duty of every citizen of this country to contribute his own share towards the maintenance of his own federal government, and the man with $500 income should be no more exempted than should the man with $5000 income. Upon grounds of public policy and prudence it might be contended that the exemption of the smaller incomes is because of the greater need, of the man with the small income, for every penny that he earns. But this is a question of the practicability of the income tax, not of
its constitutionality, and the requirement of uniformity is not fulfilled when any exemption of however small an income is allowed.

These are the principal constitutional objections to the validity of the sections of the Tariff Laws of 1894 devoted to a tax on income. There are other questions such as the "class legislation" so made by the exemptions and limitations, and also the question of the power of the government to tax an income derived from state bonds, or the bonds of counties or municipalities. But these questions are of minor importance and need not be considered here in this paper. The main points in question are as to the alleged violation of the Constitutional requirement that direct taxes shall be laid only by apportionment upon the several states, and that taxes must be uniform throughout the whole land.

As to the first contention we have shown that at the time of the adoption of the Constitution the colonies were imposing and collecting a tax on income and that such tax was considered a direct tax. We have shown that this was the common understanding throughout civilized Christendom, and is the common understanding to
this day in all European countries. We have shown that in several of the states the tax on income was continued for many years after the adoption of the Constitution and in one of the states is so continued, as a direct tax, to this day. We have shown that there was nothing said or done in the Constitutional Conventions previous to the adoption of the Constitution that would lead any one to suppose that the Constitution-makers intended to exclude a tax on income from the list of direct taxes where it had always been placed. The cases holding otherwise, notably the Springer case, were based on fallacious reasoning deduced from the early Hylton case in 3 Dallas, and that even this case was decided on the bare assertion by Mr. Hamilton that it was presumed that "a tax on income would be an indirect tax." This presumption was absolutely without authority and unaccompanied by evidence as to the intention of the framers of the Constitution. Mr. Hamilton gave this presumption nine years after the debates in the convention, and it is neither unpatriotic nor treasonable to believe that his memory was faulty, especially when we recollect that the opposite view was universally held at the time of the adoption.
As to the other contention, that it lacks the uniformity required by the Constitution, we have already given the points and the speech of Mr. Hill reiterates them in a concise manner. "Uniformity" requires that all persons be taxed alike as the given cases show and otherwise such enactments must be totally invalid. 45 Ala., 44 Ill. 229, 145 Ill. 313, 8 1a. 82, 31 Kan. 473, 62 Maine 62, 40 Md. 22, 145 Mass. 108, 95 Mich. 466, 60 N.H. 219, 62 Pal. St. 491, 57 Tex. 635. There can be no valid reasons why those corporations are to be exempted. They are not for public benefit, and can not claim any privileges as such. Any attempt to exclude them because of any such purported public character must therefore fail, and vitiate the whole law.

The words "vitiate the whole law" are used because it is manifestly impossible to separate the law into its parts and to leave standing one part and expunge another. It was the plain intention of Congress to exempt certain corporations, and to include in the tax a tax on property that would necessarily become a direct tax. To cut out one part and to allow another to stand would be in effect a new law, arising it is true from the ruins of
the old, but still a new law and the old would be entirely eliminated.

The authorities are numerous that hold to the proposition that if this law is to fail in any of its essential parts the whole structure must fail. The principle cases are 114 U. S. 270, 120 U. S. 678, 127 U. S. 1, Congress specifically enacted this measure and particularly held certain corporations exempt, and if we now say that this exemption was illegal the means are still lacking to enforce collection and payment of taxes by these corporations. The case of Sprague vs. Thompson, 118 U. S. 90, is an authority and here we find this statement, "By rejecting the exceptions intended by the legislature of Georgia, the statute is made to enact what confessedly the legislature never meant. It confers upon the statute a positive operation beyond the legislative intent, and beyond what any one can say it would have enacted in view of the illegality of the exceptions."

And even if the previous decisions are, as in the Hylton and Springer cases, against the correctness of this argument, let us still remember the words of Kent in Book I at p. 477 "Even a series of decisions is not
always conclusive, and the revision of a decision often resolves itself into a mere question of expediency."

And it is to be hoped that the present contention in the Supreme Court will result in a decision against the validity and constitutionality of this tax law. It is odious, it is inquisitorial, it is un-American, it is a blot upon the fair name of this country, and to the Supreme Court is left righting of this wrong perpetrated upon the citizens of the United States by their representatives in Congress. And of that tribunal it has been said:

"Having its origin in the sovereignty of the people, it is the bulwark of the people against their own unadvised action, their own unadvised will. It saves them not only from their enemies, it saves them from themselves.

April 6, 1895.