INCOME TAX QUESTION IN HISTORY

Until 1894 Not Considered Direct Tax—Who Responsible for Supreme Court Reversal—Rich Say Tax Unjust in Principle.

Honors and emoluments are to be won by aviators. Governments are eagerly bidding for a solution of the problem of aviation as it relates to the airship in war. The public has passed from ridicule to admiration; from skepticism to unbounded faith. Mr. Haskin in his next article will review facts accomplished and pass on to discuss the future of the airship.

By FREDERIC J. HASKIN.

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Washington, June 21.—The refusal of congress, to date, to pass an income tax law, largely on the ground that it would be a direct tax, serves to show how legal opinion, as well as public sentiment, may change. For a hundred years the courts and congress proceeded on the theory that an income tax was not a direct tax—or, more strictly speaking, that taxes on lands and capitation taxes were the only forms of direct taxation, which must, according to the federal constitution, be apportioned among the various states in proportion to population. Twenty-one justices of the supreme court had taken this view, directly or indirectly, while only five had held a contrary opinion.

Then came the fight on the income tax of the Cleveland administration. First, the supreme court held that a tax on rent was a tax on real estate, and therefore unconstitutional. Another case was soon brought before the court in which it was contended that any sort of an income tax was unconstitutional. This was the famous Pollock case, in which the court stood four to four, Judge Jackson of Tennessee being ill and unable to sit. On a rehearing, Judge Jackson took part and supported the constitutionality of the law. But one of the justices who had voted to uphold the law at the first hearing, voted against it on the rehearing, and in spite of Justice Jackson's arising from a sick bed to sustain the law, it was declared unconstitutional by a majority of one vote.

Was It Shiras That Changed?

The world at large, and even the most careful writers, have always attributed the change to Justice Shiras of Pennsylvania; but Senator Bailey is authority for the statement that it was not Shiras, but Horace Gray of Massachusetts, who voted to uphold the law in the first case and to declare it unconstitutional at the second hearing. Justice Shiras never affirmed or denied the charge that he had changed his mind, it being an unwritten law that no justice shall discuss outside the consultation chamber that which takes place behind its portals. If Senator Bailey is correct concerning this matter, and he seems to know whereof he speaks, this furnishes a remarkable and unusual instance of widely disseminated information of an erroneous character. However it may be, the fact remains that the changing of a single mind served to reverse precedents of 100 years.

First Income Tax Law.

The first income tax law enacted by the American congress was that of 1861, known as the Stevens-Morrill act. Practically everybody acquiesced in it, and as a part of a general emergency revenue measure it was but little discussed. The law was repealed in 1862, and another substituted therefor. The second law was amended several times. The first year of the income tax law the revenue derived from it was about $15,000,000. The next year it was $21,000,000. During the fiscal year 1865-66 the income tax revenue was $60,000,000, and the following year, $57,000,000. Thereafter the line of exemption was continually placed higher and the revenues from the tax declined to $27,000,000 in 1870.

The agitation that led to the repeal of the income tax law in 1870 was directed more against the excessiveness of the tax than against its principle. Special Commissioner Wells stated in his report that an income tax of 5 per cent was higher than any nation had ever before levied except in time of great emergency. He advocated that the rate be cut to 3 per cent and levied on all incomes above $1000. In 1870 the law was amended so as to make the exemption $2000, and the rate 2½ per cent. It was by its own terms to remain in force only one year. That winter a bill was introduced by Senator Scott of Pennsylvania, the effect of which was to repeal the income tax law entirely. Senator John Sherman, afterward secretary of the treasury and secretary of state, reported the bill adversely. A few days later it was considered and passed by a majority of one vote.

The matter was brought up in the house by a resolution denying the right of the senate to originate income tax legislation. Randall of Pennsylvania made a point of order against the resolution, but Speaker Blaine held that it was in order. The house adopted the resolution, but the senate tenaciously adhered to its course in spite of the action of the house. Both houses appointed conferees, but they were unable to agree. Later a bill was offered in the house to repeal the law. Consideration of this measure was refused by a majority of one vote, just as one vote had passed the income tax measure in the senate.

First Direct Test of the Tax.

From the beginning of the government there had been many cases decided which indirectly affirmed the constitutionality of an income tax. But the first case in which that precise question arose was that of the Pacific Insurance company against Soule. Originally it was not at all a case to test the validity of the income tax law. The suit grew out of the difference in the value of gold and paper money. The insurance company tendered $5376 as the amount of its income tax, the tender being in paper money. The collector refused this, declaring that it should be in gold, or the equivalent of gold—$7365 in paper. It was on this issue that the case went to the supreme court. The attorneys for the insurance company raised every question that could be raised—among them the constitutionality of the law itself. The court answered this question by declaring that an income tax is not a direct tax. William M. Evarts was the attorney general in this suit.

How Springer Lost His Home.

Several other decisions of a similar nature followed this one, the most important of which was the case of William H. Springer, afterward a Democratic leader in the house of representatives. He refused to pay his income tax, declaring that the law was unconstitutional. The government levied on and sold his homestead, purchasing it for itself at the execution sale, and then brought suit to eject Springer. On this issue the case reached the supreme court. Springer prepared his own brief, and fighting for his very hearthstone, he is said to have brought in as nearly a complete presentation of his case as ever was made of any case in the supreme court. Nevertheless, the court held that an income tax was not a direct tax, and that therefore it was constitutional.

Question Old as the Nation.

The whole controversy over what constitutes direct taxes began when the constitution itself was being framed. It was in the course of that debate that Rufus King asked his famous question: "What are direct taxes?" We have the word of Mr. Madison that the question went unanswered. The school of political thought which holds that income taxes are included in the term direct taxes makes much of this failure to answer Mr. King's question. The other school replies that it is doing violence to reason to assume that the constitution framers would put into that instrument a phrase whose meaning they themselves could not explain.

Carriage Tax Not Direct.

The first case in which the supreme court attempted to pass upon this question was the Hylton case, which grew out of the carriage tax law passed by congress in 1794. Madison had bitterly opposed it, asserting that the bill could be passed only by a combination of those who were for it from principle and those who were the opponents of luxury. Alexander Hamilton and John Marshall each had a part in arguing the case. Madison went so far as to have a letter of Edmund Pendleton's published in the hope that the court would read it before rendering a decision. The contention of Hamilton was that a tax on carriages could not be apportioned, that one state might have a hundred and another a thousand, although having the same population. This would force the people of one state to pay ten times as much on their carriages as those of the other. The court held that the tax on carriages was not a direct tax.

The opponents of an income tax today declare that this tax on carriages was a tax on the use of the carriages and not on the carriage itself. They make this the crucial point of their argument. If they can prove that it was on the use of the carriage and not upon the carriage itself, they believe they have overcome the conclusion of the court that a tax upon personal property is not a direct tax.

Income Tax Like Carriage Tax.

It is claimed by the advocates of an income tax that it is not an apportionable tax. The population of the state of New York is approximately six times as great as that of Arkansas, yet the aggregate of incomes of New York above the limit of exemption is at least 24 times as great as the aggregate of taxable incomes of Arkansas. The result would be that Arkansas would have to pay $4 on its incomes where New York paid $1, were the tax regarded as direct and apportioned according to population. This is identical with Hamilton's claim with reference to the carriage tax.

Massachusetts Colony Began It.

The first income tax in the United States was levied by the Massachusetts Bay colony in 1646. Since then many states have followed suit. From the Declaration of Independence down to the present time about 100 state constitutions have been adopted. Thirteen of these provided for taxation of incomes. There are now 16 states in which legislative provision has been made for the collection of income taxes. In most of these states the amounts collected are woefully out of proportion to the incomes in the state.

It is of particular interest to note that in the consideration of the income tax laws of the civil war period there was little or no opposition to an income tax on the ground that it was a direct tax. The debates show that most of the opposition to it was based on considerations of its expediency. When the law ceased to be operative it did so through the provision of the last act, which set forth that it should be effective for the fiscal years 1870 and 1871 "and no longer."

The opponents of income taxes argue that beyond the question of unconstitutionality, such taxation is inherently unjust. They assert that in the states it is the wealthy who pay the taxes, and that wealth bears unusual burdens. To this the friends of the income tax reply that only 20 per cent of the personal property of the rich is assessed for taxation. Senator Borah recently emphasized this point by declaring that 107 estates then in course of settlement in a single state showed values aggregating $215,000,000, yet the total amount upon which these estates had paid taxes had never amounted to more than $3,000,000.

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WOMAN IMPLICATED IN SAFE CRACKING

(United Press Leased Wire.)

San Francisco, June 21.—Believing that they are on the trail of an organized band of safe crackers, the police today are "sweating" James C. Hall and his wife, Lillie, whom they arrested on suspicion of being implicated in a number of robberies recently.

The Halls were arrested in a raid in a house on Castro street, which is suspected to have been used as headquarters for the gang. The woman was wearing clothing which she admitted came from Lobree brothers store, which was robbed a short time ago, but declared that she purchased the articles there.

Further search for evidence against the pair is being made and the police expect to make more arrests within a short time. A number of holdups are also charged to the couple, a gang which has been operating here recently having used a woman as a decoy.

GIVES REASONS WHY HIS AIRSHIP WILL NAVIGATE

John J. Rekar, of This City, Hopes to Perfect Machine That Has Puzzled Geniuses of All Nations for Years.

"Birds kin fly and why caint I"? Darius Green questioned before, poised on home made pinions he essayed to fly from the roof of his father's barn and succeeded in landing in the hospital. So far as can be learned Darius furnished no inspiration for flight to Zeppelin or the Wright brothers, for there have been many like him desirous of imitating the flight of birds.

Comes now to Portland John J. Rekar down from the high peaks of California mountains where he has been inventing a flying machine while the people thought him a gold-mad miner. He seeks to enlist in his enterprise the aid of local capital and will make Portland his home hereafter. Rekar was born in Germany where he was educated. He says that he was always fascinated by the possibilities of flight and spent many youthful hours conjecturing how the aerial ascent might be accomplished.

"I have a flying machine under process of construction now that combines the good points of all the other successful inventors, and has besides its own distinctive characteristics," said Rekar talking of his invention at his office in the Fenton building yesterday. "I propose," continued the inventor, "to make aerial flight with heavier-than-air machines a commercial asset of a modern day. I propose to revolutionize the war methods of the twentieth century. I propose to make existence in the air easier and safer than life has ever been on the ground."

Rekar made these statements calmly as other men talk of what they will order for their dinner. Into his eyes as he spoke came a look as though he were already looking into the future with all that he hopes his invention to accomplish.

Machine Heavier Than Air.

The young German's flying machine is so constructed that it will be always heavier than air, no matter at what altitude or what the condition of the air may be. It has motor and lifting propellers, air planes and gas reservoirs. If it justifies the inventor's expectations it will be possible to raise it bodily from the ground with the lifting propellers, then keep it in motion with the motor propellers, balancing and sustaining its flight with the air planes and making sure of its safety by means of the gas reservoirs. The young man is confident that his plan will work out practically and explains different methods of construction so thoroughly and so simply that his words bring conviction that he will with proper equipment attain success.

Constructing an airship demands that a man know the essentials of flight, that he be a scientist, a physiologist, and many different kinds of a mechanic. In order to make his plans better understood Mr. Rekar gives the following detailed outline:

Application of Simple Forces.

"When the word airship is mentioned the minds of the mass of people are apt to at once revert to some great mystery of construction or some new, heretofore unknown and unsolved law which the inventor alone has been able to fathom. Let me say here that there is no mystery or aplication of the unknown in airship construction, but rather a new application of simple forces which are well known and understood but which have up to the present time been unapplied toward the solution of the navigation of the air.

"That aerial navigation is possible now, although in a very primitive way, no man who reads can deny, for it is a problem to which the mighty nations of the civilized world are giving deeper consideration than any other question of national defense now confronting them. This is attested by the fact that notwithstanding a knowledge of the truth, the present prevailing types of airships are as crude and primitive in their construction and field of operation as the first locomotive was in its time, yet the powers are showering honors and gifts upon the inventors and appropriating millions of dollars for the construction of pristine types of craft now in existence, yet which have demonstrated that the air can be navigated.

"This incontrovertible fact is staring us in the face, and the knowledge that man can fly opens an era which demands recognition from every individual and urges upon them the advisability of keeping in touch with the situation, for the near future will develop situations which will eclipse the most sanguine dreams of a Jules Verne.

Aerial Navigation Means Much.

"The untold problem that will confront mankind when a successful airship is evolved are multitudinous.

"Stop to think of what it will mean. Can you conceive of the advantages that an army will have in time of war and the destruction that would ensue with an airship to aid it?

"What of our boasted fortifications? Of what avail will they be against the camera of the aviator, coupled with the destructive possibilities of the airship?

"Of what use will be magazines against the powerful wireless electric current of the future?

"How about the movements of armies when pitted against the warship in the air, coupled with sympathetic intonated wireless telephone.

"What about the ocean navy, as we will hereafter be compelled to call it, when attacked from below by submarine and from above by the aerial navy directing powerful electrical currents against their magazines, or being surrounded by a hail of explosives dropped from the clouds, which, being exploded simultaneously by wireless, will be able to blow any navy that floats from the face of the sea?

Can Destroy Cities at Will.

"How about fire grenades filled with liquids which will ignite and flow over buildings in burning masses, and about other grenades filled with poisonous gases, which upon being dropped to the earth, will spread over its surface, permeating its atmosphere with poisonous gases with an effect far more deadly than any firearm or projectile is capable of inflicting upon an army? These are not the dreams of imaginative minds, but absolute realities that we must face in the near future.

"Means of guarding against these features of attack will be devised, no doubt, but the era of the conquest of the air is now on us, and as rapidly as one system of defense is devised by the land forces another one of attack will be inaugurated by the forces in the air.

Has Studied Explosives.

"I have made a careful study of explosives as an adjunct to aviation and have experimented considerably along lines already mentioned and know that all that has been stated concerning the weapons of the air is possible. I believe that notwithstanding all of the plaudits of the press and people still ringing in our ears over the accomplishments of Zeppelin and Wright brothers.

"They have neither of them solved the problem of the airship question for several reasons, yet I feel that they deserve all the praise that can be given to them; I also believe that the world is more concerned over the war airship than the commercial airship—in other words, they are going at the true solution—backwards—for the true war airship can never be made and will never be a success until the successful commercial airship has been built, for if a ship is not able to mee the requirements of commerce, such as carrying mails and express and a limited amount of passengers, it certainly could never fulfill the requirements of war.

"The successful airship must be the one which can be made to fly in any direction at the will of the operator, remain absolutely stationary at any altitude, and raise and lower itself without discharge of ballast or gas, or by pumping air into balloonets to make the ship heavier, and be able to glide to the ground in case of an accident or disabled in time of war.

"It must also be able to make flights of several thousand miles if necessary without alighting.

"It must be able to conserve energy by other means than resorting to its mechanical power.

Must Be Heavier Than Air.

"To meet these requirements the ship must of necessity to a certain extent be heavier than air. We are more or less familiar with the different types of airship, the most successful of which are Count Zeppelin's air ship and the Wright Brothers aeroplane, each of them being only partially successful on account of difficulties of controlling these types of airships and dangers to be encountered in case of accident.

"At present the Count Zeppelin type has to carry 5000 pounds of ballast in order to remain up in the air any length of time. A great volume of gas, amounting to 450,000 cubic feet, is carried, and in order to go to a height of 5000 feet it is necessary to discharge 1240 pounds of ballast. The difference in temperature in 24 hours may be 30 degrees, which as it contracts the gas diminishes the lifting power. As this takes place more ballast must be discharged, consequently with his type of machine long flights are only possible under very favorable conditions. At the present time his type of ship cannot go to a greater altitude than 5000 feet on account of the expansion of such a great volume of gas.

Aeroplanes Have Drawbacks.

"Now the aeroplanes present other difficulties. In order to sustain the weight of the machine speed is necessary. Therefore, if the aeroplane is to travel at an elevation of 5000 feet it must travel at that much greater speed than it would at sea level, hence more power will be required to drive the machine at the requird speed. In time of war it will be very difficult to take photographs or drop explosives at a given place, because the weight dropped from the aeroplanes will have the same momentum as the machine."

The Rekar airship is a combination of the prevailing types of airship adopting the successful features of the most promising, and avoiding the weak features of all them.

The distinct features of this airship are Heliocopters, wedge shaped ends, aeroplanes along the sides, horizontal and perpendicular rudders and driving propellers of turbine design.

By the combined use of these several instrumentalities the ship will be in complete and perfect equipoise and control, capable of rising to any height, traveling in straight lines at any speed, coursing or gliding from great heights to lower levels without power, safely starting and safely landing at the will of the operator.

Requires No Ballast.

No ballast is required, hence it is not necessary to return to the earth to replenish either the gas or the ballast nor drop ballast to the danger of people on the earth beneath. Sustained flights of many days and long distances are possible, limited only by the amount of fuel carried and the will of the operator.

The airship will be capable of carrying passengers, mail and express.

The sustaining power of the air is much less at 10,000 feet above the earth than at the sea level. It will therefore require more outside power to sustain a body at 10,000 feet above the level than at the surface of the earth. The sustaining power of the air is proportional to its density.

Has Figures for All.

This airship will be 200 pounds heavier than air when ready for flight, and at the 10,000 foot level the gas in the machine will lose 225 pounds in lifting power. It will therefore weigh 425 pounds, having a potential energy stored up of 4,250,000 foot pounds. One horsepower is estimated at 33,000 pounds raised one foot every minute, therefore the stored up potential energy will be equal to about 128 horsepower, which is then transferred into kinetic energy. The airship has two 40 horsepower engines, or a total of 80 horsepower. Therefore at an elevation of 10,000 feet the combined power will be 208 instead of 80 horsepower as at sea level.

One engine is sufficient to drive the machine at any desirable speed.

Hardly limit to Speed.

By transferring the potential energy into kinetic energy, or energy of motion, from an elevation of 10,000 feet the ship will be able to glide through the air 150 miles or more without any additional power except gravity, the speed which is equal to the space traversed to the square of times of descent.

The helicopters are capable of raising 50 pounds to the horsepower, therefore 80 horsepower will have a lift of 4000 pounds. The machine is only 200 pounds heavier than air, therefore only a small percentage of power developed by the helicopters will be required to raise the machine up in the air to any desired height.

This invention is fully protected by patents allowed and pending in other countries.

MILITARY GENIUS LOYAL TO CHINA

Patriotism Prompts Yuan Shih Kia to Leave the Empire to Maintain Peace.

(United Press Leased Wire.)

Peking, June 21.—Yuan Shih Kai, the military genius of China, who recently received the "golden cord" from the imperial government, which is a sinister suggestion to commit suicide as the only alternative to assassination, today has petitioned the Prince Regent for permission to visit England and the United States. The petition sets no date for his return and has been accepted as an expression of the willingness of China's Napoleon to expatriate himself for the good of the empire.

With a rare display of patriotism, Yuan Shih Kai at the time of the death of the Dowager Empress submitted to humiliating censure from the Prince Regent, and though he controlled the situation at Peking with his splendidly disciplined troops which constitute the only efficient military force of the empire, Yuan withdrew to his native province without protest.

It was fear of foreign intervention alone which prompted this unusual patriot to forego the pleasure of overturning the present government and decorating one of the Peking's many gates with the head of the Prince Regent.

Realizing that any international disorder would be followed by the occupany of Chinese territory by the military forces of the powers, with the inevitable levying of tribute, Yuan quietly withdrew his troops after suppressing several incipient outbreaks among the perennial revolutionists. Since then he has been constantly harassed by the government which fears his power but has been relying on his dread of foreign occupation to prevent his employing it against the present dynasty.

ELOPE TO ESCAPE CHILDREN'S WRATH

(United Press Leased Wire.)

Willows, Cal., Jue 21.—While lovers usually elope to escape parental wrath, Mrs. Mary Adelia Robings slipped away from her home near this city to wed George Washington Yocum because her romance was frowned upon by her children. Mrs. Robins, who is now Mrs. Yocum, is 71 years of age, while the groom confesses to 69 years.

Late Friday, Yocum hitched up the family horse, and drove to a secluded spot on the Robings' farm. Here he was joined by his bride-to-be and they hurried to this city where they were made husband and wife.

This is Yocum's fifth martial venture while his bride has been married twice before.

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Every One-Piece Cloth Dress in the house at exactly half price. Val. $30 to $55 on sale at $15.00 to... **$27.50**

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Very handsome Tailored Skirts, pleated and gored, of choicest fabrics—one of our biggest bargains. Values to $22.50 on sale at..... **$8.85**

Cloth Suits for $5.45
Practical and well tailored, though not in the very latest style. Neat for beach wear, travel, etc. Values to $44 on sale at..... **$5.45**

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Distinctively designed, one of a kind, some very dressy Dresdens, others plain tailored, in Ottoman and Bengaline; all the chosen tints—gray, rose, wistaria, etc. Values $10 to $21 at $7.87 to **$15.75**

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Our regular good grade daintily trimmed Waists; also some plain tailored ones. Values to $3.50 on sale at..... **$2.48**

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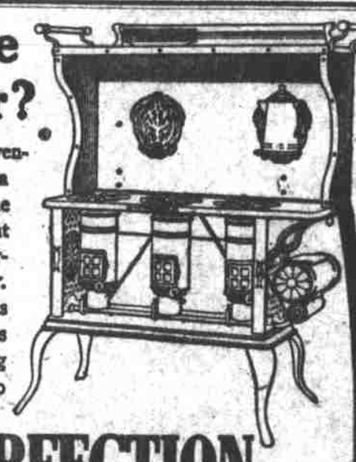

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