
SOME CONSTITUTIONAL QUESTIONS REGARDING THE FEDERAL
INCOME TAX LAWS

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Pacific Railroad Company sought to enjoin the corporation from paying the recently-imposed income tax on the grounds that the tax was unconstitutional. The Supreme Court, in a decision written by Chief Justice White, first noted that the Sixteenth Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the Constitution, quoted above. Direct taxes were, notwithstanding the advent of the Sixteenth Amendment, still subject to the rule of apportionment and indirect taxes were still subject to the rule of uniformity. Rather, the Court found that the Sixteenth Amendment sought to restrain the Court from viewing an income tax as a direct tax because of its close affect on the underlying property.

The Court noted that the inherent character of an income tax was that of an indirect tax, stating:

Moreover in addition the conclusion reached in the Pollock Case did not in any degree involve the holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in the nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxes was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it.

240 U.S. at 16-17.

The language of the Sixteenth Amendment, the Court found in Brushaber, was solely intended to eliminate:

the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly