AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 7: The Republican Era – Taxing and Spending Power

Springer v. United States, 102 U.S. 586 (1880)

In the midst of the Civil War, Congress for the first time adopted an income tax. The war measure expired in 1873. In 1866, William Springer was served notice that he would need to complete a set of income tax forms. Springer was at that time a young Democratic lawyer and politician, but by the time the case was decided he was a notable member of the U.S. House of Representatives. He completed the forms, indicating that he owed almost $5,000 in taxes on a very large income for the period, nearly $51,000. He nonetheless protested that the tax was unconstitutional and refused to pay. In 1867, the tax collector seized Springer's real estate (including his house and barn) in Springfield, Illinois, and sold them to the United States government for the amount of the tax debt. In 1874, the federal government moved to eject Springer from the property. Springer objected that the government's deed to the property was invalid on the grounds that the income tax was unconstitutional, and moreover contended that the property had been assessed by the state as being worth more than twice what the federal government claimed that he owed. A jury found in favor of the government, a motion for a new trial was denied and that denial was affirmed by the circuit court. Springer appealed to the U.S. Supreme Court, contending that a tax on income is a direct tax within the meaning of the Constitution and must therefore be apportioned among the several states according to population. The U.S. Supreme Court unanimously affirmed the lower courts, concluding that the income tax was not a direct tax and was constitutionally valid.

On what basis does the Court reach this conclusion? What are "direct" taxes? How do we know what the Constitution means by direct taxes? How much weight should the Court give to prior cases evaluating other federal taxes, such as the Federalist tax on carriages? Should the Court have taken into account the categorization of taxes adopted by economists? Should the Court defer to Congress on the scope of its taxation power if the meaning of the term "direct tax" is unclear?

JUSTICE SWAYNE, delivered the opinion of the Court.

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The proceedings of the collector were not in conflict with the amendment to the Constitution which declares that "no person shall be deprived of life, liberty, or property without due process of law." The power to distrain personal property for the payment of taxes is almost as old as the common law. The Constitution gives to Congress the power "to lay and collect taxes, duties, imposts, and excises." Except as to exports, no limit to the exercise of the power is prescribed. . . . Why is it not competent for Congress to apply to realty as well as personalty the power to distrain and sell when necessary to enforce the payment of a tax? It is only the further legitimate exercise of the same power for the same purpose. . . .

The prompt payment of taxes is always important to the public welfare. It may be vital to the existence of a government. The idea that every tax-payer is entitled to the delays of litigation is unreason. If the laws here in question involved any wrong or unnecessary harshness, it was for Congress, or the people who make congresses, to see that the evil was corrected. The remedy does not lie with the judicial branch of the government.

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This brings us to the examination of the main question in the case.
The clauses of the Constitution bearing on the subject are as follows:

> "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. . . . No capitation or other direct tax shall be laid unless in proportion to the census hereinbefore directed to be taken."

Was the tax here in question a direct tax? If it was, not having been laid according to the requirements of the Constitution, it must be admitted that the laws imposing it, and the proceedings taken under them by the assessor and collector for its imposition and collection, were all void.

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It appears that on the 11th of July [of 1787, in the Philadelphia constitutional convention] there was a debate of some warmth involving the topic of slavery. On the day following, Gouverneur Morris, of New York, submitted a proposition "that taxation shall be in proportion to representation." It is further recorded in this day's proceedings, that Mr. Morris having so varied his motion by inserting the word "direct," it passed *nem. con*. [without dissent], as follows: "Provided always that direct taxes ought to be proportioned to representation." . . .

. . . . All parties seem thereafter to have avoided the subject. With one or two immaterial exceptions, not necessary to be noted, it does not appear that it was again adverted to in any way. It was silently incorporated into the draft of the Constitution as that instrument was finally adopted.

It does not appear that an attempt was made by anyone to define the exact meaning of the language employed.

In the twenty-first number of the *Federalist*, Alexander Hamilton, speaking of taxes generally, said: "Those of the direct kind, which principally relate to land and buildings, may admit of a rule of apportionment. Either the value of the land, or the number of the people, may serve as a standard." . . . Nothing is said of any other direct tax. In neither case is there a definition given or attempted of the phrase "direct tax."

The very elaborate researches of the plaintiff in error have furnished us with nothing from the debates of the State conventions, by whom the Constitution was adopted, which gives us any aid. . . .

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It is important to look into the legislation of Congress touching the subject since that time. . . .

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It will thus be seen that whenever the government has imposed a tax which it recognized as a direct tax, it has never been applied to any objects but real estate and slaves. The latter application may be accounted for upon two grounds: 1. In some of the States slaves were regarded as real estate; and, 2, such an extension of the tax lessened the burden upon the real estate where slavery existed, while the result to the national treasury was the same, whether the slaves were omitted or included. The wishes of the South were, therefore, allowed to prevail. . . . It does not appear that any tax like the one here in question was ever regarded or treated by Congress as a direct tax. This uniform practical construction of the Constitution touching so important a point, through so long a period, by the legislative and executive departments of the government, though not conclusive, is a consideration of great weight.

There are four adjudications by this court to be considered. They have an important, if not a conclusive, application to the case in hand. . . .

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All these cases are undistinguishable in principle from the case now before us, and they are decisive against the plaintiff in error.

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Mr. Justice Story says all taxes are usually divided into two classes, -- those which are direct and those which are indirect, -- and that "under the former denomination are included taxes on land or real property, and, under the latter, taxes on consumption."

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We are not aware that any writer, since *Hylton v. United States* (1796) was decided, has expressed a view of the subject different from that of these authors.

Our conclusions are, that direct taxes, within the meaning of the Constitution, are only capitation taxes, as expressed in that instrument, and taxes on real estate; and that the tax of which the plaintiff in error complains is within the category of an excise or duty. . . .

Against the considerations, in one scale, in favor of these propositions, what has been placed in the other, as a counterpoise? Our answer is, certainly nothing of such weight, in our judgment, as to require any special reply.

The numerous citations from the writings of foreign political economists, made by the plaintiff in error, are sufficiently answered by [Alexander] Hamilton. . . .

Judgment *affirmed*.