FIREBUGS ARE AGAIN FOILED.

Flames in West 40th Street and Harlem Extinguished Just in Time.

MANY FAMILIES PUT IN PERIL.

Contents of Two Coal-Bins Soaked with Turpentine, Then Set on Fire.

A SECOND ATTEMPT NEXT DOOR.

Forty Mysterious Fires Have Occurred in Uptown Districts in the Last Four Months.

A daring attempt was made at 5 o'clock this morning to burn down the six-story flat-house at 107 West Fortieth street. Two fires were started in the cellar, but were discovered before any great damage was done. That the work is the most glaring of any recently perpetrated by incendiaries is admitted by the police and the firemen.

The house is the third in a row of six of the same build, which runs from 101 to 111. William H. Malcolm is the owner.

The fire was first noticed by a negro in the street. He called out to the janitor, Matthew Falkner, who ran through the house and placed all the tenants on their guard before he turned in an alarm. The six families in the house made a hurried exit and got to the street without much confusion.

The firemen had little trouble in putting out the blaze when they arrived, for the flames had not spread further than the basement.

Then the firemen went to work investigating the cause of the fire. They had suspected incendiarism, and they were not disappointed in their search. In two of three coal bins that were side by side on the west side of the basement two fires had been started. One was in a pile of rubbish on the ground, the other was in an old trunk piled upon some wood and about four feet from the ground. The rubbish and the trunk had both been saturated with turpentine. There was no mistaking the fumes of the inflammable liquid.

The two fires had apparently been started at the same time. The sides of the coal bins were burned and a hole had been burned almost through the ceiling. The lock on the door leading to the cellar had been forced.

Tried to Fire No. 105, Too.

The firemen continued their investigation, and found that at No. 105, also, the cellar had been forced. Just inside the door they found a wine bottle about two-thirds full of turpentine. On the bottle was the label: "H. M. Erringer, 194 Bleecker street."

The firemen believe that it was the intention of the firebugs to set fire to both houses at the same time, but that the flames in No. 107 started prematurely, according to the way in which their plans were arranged, and thus spoiled their intentions as regards No. 105.

The Fire Marshal was immediately notified, and special detectives were placed on the case.

The discovery of the fire was no surprise to the tenants and those in the vicinity. Many there had observed during yesterday suspicious actions on the part of one or two men whom they saw in the street, that presaged no good.

In the afternoon a Mrs. Cobb, who lives in 105, saw a young man patrolling the sidewalk on the other side of the street, apparently making himself familiar with the arrangement of the buildings. She told her husband, but before he could get to the street the man had gone. Mrs. Cobb says that he was about twenty years old and that he wore a dark mustache and a light suit.

Soon afterwards the janitor of 107 saw another man trying the cellar doors along the row. He followed him and was about to notify a policeman of the man's actions when the man, evidently seeing that he was observed, left and rode downtown on a Broadway car. Then the janitor told the patrolman who was on post that he had better keep a sharp lookout during the night, as there were firebugs about. If the patrolman kept a close watch he was not around at the time that the fire was discovered.

This is not the first time that the row has been visited by a mysterious fire. There was one in the basement of No. 111 about three years ago, and its origin has not yet been determined.

Mr. Erringer, from whom the turpentine was bought, has now moved to 167 Bleecker street, but he still uses the labels he had in his old store. He said when shown the bottle by the police that it had without a doubt been bought in his place, but he could not recall by whom.

Mystery About This Fire.

There is considerable mystery about a fire which was discovered about [illegible] this morning in the cellar of the flat-house 237 Third avenue. The ground floor is occupied by Adolph Mossbacher as a butcher shop.

Mossbacher's clerk, Louis Schrint, and his errand boy went into the cellar at noon yesterday to get some sawdust. Upon leaving they locked the door and started for home.

The only entrance to the cellar is from the outside, which Schrint had secured, locked, and Mr. Mossbacher has the only key. The door was still locked when the fire was discovered.

With the assistance of another man Janitor John Dawson forced the lock of the cellar door. In the mean time the firemen arrived and put out the flames before much damage was done.

It was found that the fire was started in a box of wrapping paper, of which Mossbacher had received 1,000 pounds a few day ago. The origin is a complete mystery.

Schrint said he had no light in the cellar yesterday and that he does not smoke, and, therefore, could not have dropped any spark from a pipe or cigar. Both he and the errand boy were equally certain that neither is responsible for the blaze.

Mrs. Nellie Murphy, who lives on the top floor, went to the janitor last night at 9 o'clock and told him that she had smelled smoke for some time previous to the discovery of the fire. The janitor made an investigation but without satisfactory results. The smell of smoke, Mrs. Murphy said, became stronger before she retired at 10 o'clock. It is, therefore, believed that the fire was smouldering in the paper all the afternoon and evening.

Fire Marshal Mitchell has been notified and an investigation will follow.

These Firebugs Used Oil.

The members of sixteen families, numbering nearly one hundred men, women and children, were asleep in the four-story double tenement 194 East One Hundred and Fourth street when a fire started there at 1 o'clock yesterday morning. The merest kind of accident saved their lives, as had the fire gained the slightest headway the building would have gone up and many persons have undoubtedly perished. There is every reason to believe that it was the work of an incendiary.

The blaze was discovered by Michael Vonanz, a teamster, who lives with his wife and three children on the ground floor. He had been too tired even to sleep, and while his wife and children slumbered he was awake.

While lying there, restless, he heard a crackling sound as if the building was on fire, and springing out of bed he rushed into the front room and saw a blaze beneath the door leading into the hall. On opening the door he saw the hall carpet was on fire, while the odor of kerosene was strong.

Arousing his wife, they both got buckets of water and tried to extinguish the flames, which were rapidly eating their way to a room in which his children slept. Felice Pica, who has a grocery on the other side of the hallway, was awakened by Vonanz's cries and rushed to his assistance. The flames were soon extinguished. Several of the other tenants had crowded around, but most of them slept on unconscious of their peril.

Investigation showed that the oilcloth carpet in the hall had been drenched with kerosene, which had then been lighted. The fire had not been burning a minute before discovery.

Charles Zerbarini, of 56 Centre street, owns the property. He says that the only one he can suspect of the incendiarism is a tenant whom he had evicted two months ago. The Fire Marshal is investigating this blaze, as well as another fire which broke out in the cellar of the five-story flat-house 206 West Sixty-seventh street, at 1.30 o'clock yesterday afternoon.

A fire which started in a stable at 8 West One Hundred and Eighteenth street at 7.30 o'clock this morning, from an unknown cause, did slight damage.

There was a rumor around Fire Headquarters this morning that Mayor Strong had requested the Fire Commissioners to investigate the Bureau of the Fire Marshal. It was said that the Mayor thought that the Fire Marshal's men were prone to attribute the origin of most fires to carelessness.

Fire Marshal Mitchell said that his books would show that every fire to which there was the slightest suspicion attached had been thoroughly investigated.

All These Fires Mysterious.

During the last four months the following fires, of mysterious origin, concerning which the police and Fire Marshal have been unable to learn little or nothing, have occurred on the upper west side:

Feb. 8—117 East Ninety-second street; damage, $25,000.
March 10—1436 Lexington avenue; damage, $5,000.
March 12—150 Columbus avenue; damage, $500.
March 14—1985 Seventh avenue and 157 West One Hundred and Nineteenth street; damage, $30,000.
April 11—148 West One Hundred and First street; damage slight.
152 West Eighty-second street; damage, $5,000.
153 West One Hundred and Third street; damage slight.
905 Columbus avenue; damage, $8,000.
80 West Ninety-fourth street, one life lost; damage, $10,000.
April 12—3 and 5 West Eighty-seventh street; damage slight.
665-669 Columbus avenue and 79 West Ninety-second street; damage, $7,000.
72 West One Hundred and Second street; damage, $1,500.
105 West One Hundred and Third street; damage, $500.
April 13—359 Boulevard; damage slight.
April 14—625 Columbus avenue; damage, $500.
908 Amsterdam avenue; damage slight.
207 West Seventieth street; damage slight.
April 17—2208 Seventh avenue; damage slight.
2194 Seventh avenue; damage slight.
May 1—211 West Eighty-eighth street; damage slight.
573 Western Boulevard; damage slight.
May 2—100 West Eighty-eighth street; damage slight.
2253 Seventh avenue; damage slight.
123 West One Hundred and Thirty-third street; damage slight.
West One Hundred and Twenty-ninth street and Western Boulevard, Sheltering Arms Society.
239 West One Hundred and Twenty-third street; damage, $2,000.
313 West One Hundred and Forty-fifth street.
May 6—182 Amsterdam avenue; damage, $500.
May 8—343 and 345 West Fifty-eighth street; damage, $300.
116 West Eighty-fourth street; damage, $200.
101 and 103 West Seventy-seventh street; damage slight.
May 12—150 Columbus avenue; damage, $150.
May 14—915 Columbus avenue; damage, $100.
May 15—139 West Eighty-fourth street; damage, $50.
May 16—2270 Seventh avenue; damage slight.

FOR MORE FIRE PROTECTION.

Brooklyn Aroused Regarding the Needs of Her Suburbs.

The many fires which, during the past few months, have broken out in Bensonhurst, Bath Beach, Coney Island and other sections of the recently annexed county towns have caused the Brooklyn Fire Department to take definite action looking to a better protection for the citizens of the outlying districts.

Some of the fires might have been extinguished with but little difficulty, but for two causes, the scarcity of water and the fact that the regular Fire Department had no engine-house outside the old city limits.

The last defect is about to be remedied, and in consequence the old volunteer fire department of Fort Hamilton and other places will probably go out of existence.

Fire Commissioner Wurster to-day sent the Brooklyn Board of Aldermen for permission to award a contract for four engine-houses, to be erected at [illegible] street and Thirteenth avenue, Eighteenth avenue and Eighty-sixth street, Fifth avenue and Ninety-sixth street, and Bay Ridge avenue and Second avenue. It was referred to the Fire Department Committee.

City Works Commissioner White asked for [illegible] to complete the approach and the base of the water tower in Prospect Park. It was referred to the Water Committee.

CHILD HELD FOR DEBT.

Daiesandro Agreed to Pay Her Board, but Could Not.

Gaitano Daiesandro, a laborer, of [illegible] Mulberry street, appeared in the Harlem Police Court this afternoon to ask the assistance of Agent King, of the Gerry Society, to obtain the custody of his twelve-year-old daughter, Annie, who is being held in the St. Ann's Asylum, Ninetieth street and Avenue A, for a debt of [illegible].

Two years ago Daiesandro's wife deserted him, and his child was committed to the asylum. The father agreed to pay $1 per week for the child's board. This, the father said, he has been unable to do, as he has been out of work ever since the child was committed.

The Gerry Society to-day refused to surrender the girl until the debt was paid. Daiesandro is going to ask the aid of the Supreme Court.

INCOME TAX IS BEATEN.

(Continued from First Page.)

apportionment, according to representation, in order that the former system as to ratio might be retained, while the mode of collection was changed.

This is forcibly illustrated by a letter of Mr. Madison, of Jan. 29, 1789, recently published, written after the ratification of the Constitution, but before the organization of the Government and the submission of the proposed amendment to Congress, which, while opposing the amendment as calculated to impair the power, only to be exercised in "extraordinary emergencies," assigns adequate ground for its rejection as substantially unnecessary, since, he says, "every State which chooses to collect its own quota may always prevent a Federal collection by keeping a little beforehand in its finances, and making its payment at once into the Federal Treasury."

The Chief Justice next discussed the reasons for the constitutional provisions regarding direct taxation. The States had plenary powers of taxation, he said, but gave up the great sources of revenue derived from commerce and retained the power of levying taxes and duties covering anything other than excises, but in respect to them the range of taxation was narrowed by the power granted to the Federal Government over interstate commerce.

While they granted the power of apportioning direct taxation, they secured to the States the opportunity to pay the amount apportioned and to recoup from their own citizens in the most feasible way. The Constitution ordained affirmatively that representations and direct taxes should be apportioned among the several States according to numbers, and negatively that no direct tax should be laid otherwise.

The founders anticipated that the expenses of the Federal Government would chiefly be met by indirect taxation. They knew that the power to tax involved the power to destroy. The opinion continued: "It is said that a tax on the whole income of property is not a direct tax, but a duty. We do not think so. Direct taxation was not restricted in one breath and the restriction blown to the winds in another."

The Hylton case was again reviewed and the opinion given that Madison and Hamilton (whose views have been questioned), regarded the carriage tax bill as unconstitutional. The Federalist was then quoted from to show that Hamilton considered all internal taxes, except duties and excises on articles of consumption, to be direct taxes. Hamilton, the opinion says, supported the carriage law, which Madison opposed, because he regarded it as an excise, and Justice Chase, it is said, thought the carriage tax was a tax on expense because on a consumable commodity, and "expressly declined to give an opinion as to what were the direct taxes contemplated by the Constitution."

Hylton Case Dismissed.

The opinion then dismisses the Hylton case with this comment: "What was decided in the Hylton case was that a tax on carriages was an excise and therefore an indirect tax."

The opinion next took up the argument that tax on property is not a direct tax within the meaning of the Constitution, and on this point says:

"The Constitution prohibits any direct tax unless proportioned in numbers as ascertained by the census, and in the light of the circumstances to which we have referred is it not an evasion of that prohibition to hold that a general unapportioned tax imposed upon all property-owners as a body for or in respect of their property is not direct, in the meaning of the Constitution, because confined to the income therefrom?

Whatever the speculative views of political economists or revenue reformers may be, can it be properly held that the Constitution, taken in its plain and obvious sense, and with due regard to the circumstances attending the formation of the Government, authorizes an unapportioned tax on the products of the farm and rents of real estate, although imposed merely because of ownership, and with no possible means of escape from payment, as belonging to a totally different class from that which includes the property from whence the income proceeds?

There can be but one answer, unless the constitutional restriction is to be treated as utterly illusory and futile, and the object of its framers defeated. We find it impossible to hold that a fundamental requisition, deemed so important as to be enforced by two provisions, one affirmative and one negative, can be refined away by forced distinctions between that which gives value to property and the property itself.

Nor can we perceive any ground why the same reasoning does not apply to capital in personality held for the purpose of income or ordinarily yielding income, and to the income therefrom. All the real estate of the country, and all its invested personal property, are open to the direct operation of the taxing power if an apportionment be made according to the Constitution.

The Constitution does not say that no direct tax shall be laid by apportionment on any other property than land. On the contrary, it forbids all unapportioned direct taxes; and we know of no warrant for excepting personal property from the exercise of the power or any reason why an apportioned direct tax cannot be laid and assessed, as Mr. Gallatin said in his report when Secretary of the Treasury in 1812, "upon the same objects of taxation on which the direct taxes levied under the authority of the State are laid and assessed."

Nor are we impressed with the argument that because in the four instances in which the power of direct taxation has been exercised Congress did not see fit, for reasons of expediency, to levy a tax upon personalty, that this amounts to such a practical construction of the constitution that the power did not exist that we must regard ourselves bound by it.

We should regret to be compelled to hold the powers of the General Government thus restricted, and certainly cannot accede to the idea that the Constitution has become weakened by a particular course of inaction under it.

The stress of the argument is thrown, however, on the assertion that an income tax is not a property tax at all; that it is not a real estate tax, or a crop tax, or a bond tax; that it is an assessment upon the taxpayer on account of his money spending power as shown by his revenue for the year preceding the assessment; that rents received, crops harvested, interest collected, have lost all connection with their origin, and although once not taxable, have become transmuted in their new form into taxable subject matter; in other words, that income is taxable irrespective of the source from whence it is derived.

Rule Applies to All Revenues.

The Chief Justice said that since the Court had held unanimously that the receipts from municipal bonds could not be taxed because the bonds were instruments of the States, the same rule applies to revenue from other sources not subject to the tax; and the lack of power to levy any but an apportioned tax on real and personal property equally exists as to the revenue therefrom.

The Court doesn't understand, it says, that the income tax has ever been regarded in England as other than a direct tax.

After this review of cases and consideration of arguments of counsel, the Court, as it approached its conclusion, made the following general argument:

If it were the fact that there had been no income tax law such as this at the time the Constitution was framed and adopted, it would not be of controlling importance. A direct tax cannot be taken out of the constitutional rule because the particular tax did not exist at the time the rule was prescribed. As Chief Justice Marshall said in the Dartmouth College case: "It is not enough to say that this particular case was not in the mind of the Convention when the article was framed, nor of the American people when it was adopted.

"It is necessary to go further, and to say that, had this particular case been suggested, the language would have been so varied as to exclude it, or it would have been made a special exception. The case being within the words of the rule, must be within its operation likewise, unless there be something in the literal construction so obviously absurd, or mischievous, or repugnant to the general spirit of the instrument, as to justify those who expound the Constitution in making it an exception." 4 Wheat., 518, 644.

Being direct, and, therefore, to be laid by apportionment, is there any real difficulty in doing so? Cannot Congress, if the necessity exist of raising thirty, forty or any other number of million dollars for the support of the Government, in addition to the revenue from duties, imposts and excises, apportion the quota of each State upon the basis of the census, and thus advise it of the payment which must be made, and proceed to assess that amount on all the real and personal property or the income of all persons in the State, and collect the same if the State does not in the mean time assume and pay its quota and collect the amount according to its own system and in its own way? Inconveniences might possibly attend the levy of an income tax, but that it is apportionable is hardly denied, although it is asserted that it would operate so unequally as to be undesirable.

In the disposition of the inquiry whether a general unapportioned tax on the income of real and personal property can be sustained, under the Constitution, it is apparent that the suggestion that the result of compliance with the fundamental law would lead to the abandonment of that method of taxation altogether, because of inequalities alleged to necessarily accompany its pursuit, could not be allowed to influence the conclusion; but the suggestion not unnaturally invites attention to the contention of appellants' counsel, that the want of uniformity and equality in this act is such as to invalidate it. And figures drawn from the census are given, showing that enormous assets of mutual insurance companies, of building associations, of mutual savings banks, large productive property of ecclesiastical organizations, are exempted and that the exemptions reach so many hundred millions that the rate of taxation would perhaps have been reduced one-half if they had not been made.

We are not dealing with the act from that point of view, but assuming the data to be substantially reliable, if the sum desired to be raised had been apportioned, it may be doubted whether any State which paid its quota and collected the amount by its own methods, would, or could under its constitution have allowed a large part of the property alluded to to escape taxation. If so, a better measure of equality would have been attained than would be otherwise possible, since, according to the argument for the Government, the rule of equality is not prescribed by the Constitution as to Federal taxation, and the observance of such a rule as inherent in all just taxation is purely matter of legislative discretion.

Elaborate argument is made as to the efficacy and merits of an income tax in general, as on the one hand equal and just, and on the other elastic and certain; not that it is not open to abuse by such deductions and exemptions as might make taxation under it so wanting in uniformity and equality as in substance to amount to deprivation of property without due process of law; not that it is not open to fraud and evasion, and inquisitorial in its methods, but because it is pre-eminently a tax upon the rich, and enables the burden of taxes on consumption and of duties on imports to be sensibly diminished.

And it is said that the United States as "the representative of an indivisible nationality, as a political sovereign equal in authority to any other on the face of the globe, adequate to all emergencies, foreign or domestic, and having at its command for offense and defense and for all governmental purposes all the resources of the nation," would be "but a maimed and crippled creation after all" unless it possesses the power to lay a tax on the income of real and personal property throughout the United States without apportionment.

The Power to Tax.

The power to tax real and personal property, and the income from both, through apportionment, is conceded; that such a tax is a direct tax in the meaning of the Constitution has not been, and in our judgment cannot be, successfully denied; and yet we are thus invited to hesitate in the enforcement of the mandate of the Constitution, which prohibits Congress from laying a direct tax on the revenue from property of the citizen without regard to State lines, and in such manner that the States cannot intervene by payment in regulation of their own resources, lest a government of delegated powers should be found to be, not less powerful, but less absolute, than the imagination of the advocate had supposed.

We are not here concerned with the question whether an income tax be or be not desirable, nor whether such a tax would enable the Government to diminish taxes on consumption and duties on imports, and to enter upon what may be believed to be a reform of its fiscal and commercial system. Questions of that character belong to the controversies of political parties, and cannot be settled by judicial decision.

In these cases our province is to determine whether this income tax on the revenue from property does or does not belong to the class of direct taxes. If it does, it is, being unapportioned, in violation of the Constitution, and we must so declare.

Differences have occurred in this Court—differences exist now—but there has never been a time in its history when there has been a difference of opinion as to its duty to announce its deliberate conclusions, unaffected by considerations not pertaining to the case in hand.

If it be true that the Constitution should have been so framed that a tax of this kind could be laid, the instrument defines a way for its amendment. In no part of it was greater sagacity displayed. Except that no State, without its consent, can be deprived of its equal suffrage in the Senate, the Constitution may be amended upon the concurrence of two-thirds of both houses, and the ratification of the legislatures or conventions of the several States, or through a Federal Convention, when applied for by the legislatures of two-thirds of the States, and upon like ratification. The ultimate sovereignty may be thus called into play by a slow and deliberate process, which gives time for mere hypothesis and opinion to exhaust themselves, and the sober second thoughts of every part of the country to be asserted.

We have considered the act only in respect of the tax on income derived from real estate and from invested personal property, and have not commented on so much of it as bears on gain or profits from business, privileges or employments, in view of the instances in which taxation on business, privileges or employments has assumed the guise of an excise tax and been sustained as such.

Being of opinion that so much of the sections of this law as lays a tax on income from real and personal property is invalid, we are brought to the question of the effect of the conclusion upon these sections as a whole.

It is elementary that the same statute may be in part constitutional and in part unconstitutional, and if the parts are wholly independent of each other, that which is constitutional may stand while that which is unconstitutional will be rejected. And in the case before us there is no question as to the validity of this act, except sections 27 to 37 inclusive, which relate to the subject which has been under discussion, and as to them, we think the rule laid down by Chief Justice Shaw in Warren vs. Charleston, is applicable, that if the different parts "are so mutually connected with and dependent on each other, as conditions, considerations or compensations for each other, as to warrant a belief that the Legislature intended them as a whole, and that if all could not be carried into effect, the Legislature would not pass the residue independently and some parts are unconstitutional, all the provisions which are thus independent, conditional or connected, must fall with them."

Mr. Justice Matthews Quoted.

Or, as the point is put by Mr. Justice Matthews in Poindexter vs. Greenhow, "It is undoubtedly true that there may be cases where part of a statute may be enforced as constitutional and another be declared inoperative and void, because unconstitutional; but these are cases where the parts are so distinctly separable that each can stand alone, and where the Court is able to see and to declare that the intention of the Legislature was that the part pronounced valid should be enforcible, even though the other part should fail. To hold otherwise would be to substitute for the law intended by the Legislature one they may have never been willing by itself to enact."

And again, as stated by the same eminent Judge in Spraigue vs. Thompson, where it was urged that certain illegal exceptions in a section of a statute might be disregarded, but that the rest could stand: "The insuperable difficulty with the application of that principle of construction to the present instance is that 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."

According to the census the true valuation of real and personal property in the United States in 1890 was $65,307,-901,197, of which real estate with improvements thereon made up $39,544,544,-333. Of course from the latter must be deducted in applying these sections all unproductive property and all property whose net yield does not exceed $4,000; but even with such deductions it is evident that the income from realty formed a vital part of the scheme for taxation embodied therein.

If that be stricken out, and also the income from all invested personal property, bonds, stocks, investments of all kinds, it is obvious that by far the largest part of the anticipated revenue would be eliminated, and this would leave the burden of the tax to be borne by professions, trades, employments or vocations, and in that way what was intended as a tax on capital would remain in substance a tax on occupations and labor. We cannot believe that such was the intention of Congress. We do not mean to say that an act laying by apportionment a direct tax on all real estate and personal property, or the income thereof, might not also lay excise taxes on business, privileges, employments and vocations.

But this is not such an act, and the scheme must be considered as a whole. Being invalid as to the greater part, and falling, as the tax would, if any part were held valid, in a direction which could not have been contemplated except in connection with the taxation considered as an entirety, we are constrained to conclude that sections 27 to 37, inclusive, of the act, which became a law without the signature of the President, on Aug. 28, 1894, are wholly inoperative and void.

Then follows the conclusions of the Court as before given.

Justice Harlan's Opinion.

The Chief Justice concluded the reading of his opinion at 12.52 o'clock, its delivery having consumed fifty minutes. He was immediately followed by Justice Harlan in a dissenting opinion.

Justice Harlan said that at the former hearing it had been adjudged that a tax on rents was a direct tax and must be apportioned among the States. He had dissented from that view, concurring in the able opinion of Justice White, to which he thought nothing could be added. He wanted, however, to cite one additional authority, the opinion of Justice Strong in the case of Clark vs. Sickle, which he quoted at some length.

He said this decision was significant, and meant virtually all incomes could be taxed. Mr. Harlan said he would later file an opinion giving his views in detail, and his views as now presented would be of a very general character. Capitation taxes and taxes on land, he conceded, should be considered as direct, as they had been uniformly held to be.

He quoted from the views of Justices Iredell, Patterson and others on the operation of the constitutional provision as to apportionment, holding that the rule should be consulted only when it could be reasonably applied. The changes contemplated from the former practice in this matter, Justice Harlan said, was little less than a revolution. Every one concedes that the decisions in former cases would have been the same as they were if there had been no reference in the Constitution to direct taxes. He held the tax on rents to be a duty on something entirely distinct from the tax on the land from which the rent was collected.

He combated the idea that rents were a devise of land in view of the fact that the present law was to continue in operation for only five years. A tax on the land is generally a lien on land, while that on rents is not. In its essence a tax on rents is a tax on money, where the tax is payable in money. He said that the present decision was a step in advance of its former decision, and said incidentally that the present conclusion had been reached by a bare majority.

In his judgment, to say nothing of former holdings of the Court, the decision might well excite very grave apprehension in that it strikes at the authority of the Government to protect itself in times of great emergency. It is a tendency to return to the old system of the time of the Federation before the Constitution was adopted. Such a change menaces the authority of the Government, relieving, as it does, all the wealth of the country from the operations of an income tax.

Such a decision could not have any other effect than that of arousing such indignation among the free men of the people that it would never be repeated. It was a wicked assault upon the rights of the people. He predicted that the decision would provoke a contest such as the country should have been spared.

In conclusion, Justice Harland said, speaking of the decision of the Court: "Such a result is one to be deeply deplored. It cannot be regarded otherwise than a disaster to the country. The practical, if not the direct effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage that is inconsistent with the fundamental principles of our social organization, and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government, and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should not be at the mercy of the lawless."

Justice Jackson's Views.

Justice Jackson at 1.45 began the delivery of a dissenting opinion and will be followed by Justice Brown. The dissenting Justices, therefore, are Harlan, Jackson, Brown and White.

Justice Jackson said that he regretted that his strength would not permit him to prepare a full opinion. He concurred fully in the opinion expressed by Justice White at the former hearing of the case, and would content himself with adding briefly a few points to that opinion. He could not understand, he said, what difference there was between that class of incomes decided by the Court to be within the rule of apportionment and the other classes decided not to be within the rule of uniformity.

Nor could he understand how the valid portions could be invalidated because of the unconstitutionality of other portions. If the principle upon which this decision was made were sound it could be extended so as to render the entire act of 1894 invalid. The two portions of the income tax were wholly separable, and to hold that an invalid portion broke down the valid portion was, he thought, without authority and without law.

No rule or canon, he proceeded, was better settled than that the Court should not declare unconstitutional an enactment of the legislative branch of the Government unless its repugnance to the Constitution was clear beyond a reasonable doubt. He objected to the decision of the Court because he thought the Court had adopted a wrong method in arriving at its conclusions as to what a direct tax was.

The founders of the Constitution had bases of taxation in view when the rule of apportionment for direct taxes was laid down, and they certainly did not have in view the things which did not have a general distribution. A direct tax on cotton, rice or tobacco, for instance, laid by the rule of apportionment would have been absurd. The framers of the Constitution evidently had land in view.

There was a certain relation between population and land. But there was absolutely no relation between population and personalty and the income therefrom or rents or bonds and their incomes. A tax that could not be equitably apportioned by the rule of numbers could not be a direct tax within the meaning of the framers of the Constitution. This was after all the best and most practical test of a direct tax."

This decision, in his opinion, practically destroyed the power of the Government to reach incomes. It takes from Congress its rightful power to fix the rate of taxation and substitutes therefor a rule incapable of application without imposing the most monstrous inequality on the citizens of a common country. The decision reversed the common rule of taxation by exempting those who were best able to pay and forcing the burden upon the shoulders of those least able to pay.

In concluding, Justice Jackson said in his opinion the decision was the most disastrous blow ever struck at the constitutional power of Congress. It struck down an important, vital and essential power of the Government. It left the Government, in case of necessity, without power to reach, by taxation in any form, the vast incomes derived from the real and personal property of the country.

"The decision," he concluded, "is a disaster, and must be regarded as a public calamity."

Justice Brown Dissents.

Justice Jackson finished at 2.30 and was followed by Justice Brown, who also delivered a dissenting opinion.

He held to the doctrine of stare decisis. Even a century of error, he said, may be pregnant with less evil to the state than a newly discovered truth.

Justice White followed Justice Brown, re-enunciating the opinions expressed by him when the case was first decided.

The income tax, it was anticipated, would yield a revenue large enough to more than make up the deficiency expected through the operations of the Wilson Tariff law.

The rate levied was 2 per cent. on all incomes over and above $4,000 a year. Incomes of less than $4,000 a year were exempt from taxation. Even after the emasculation of the law by the Supreme Court in its decision some weeks ago, by which real estate rentals were exempted, it was estimated that the aggregate income tax for the nation would reach $30,000,000 a year.

The income tax idea has been immensely popular, especially in the West and South, as more than 70 per cent. of the entire wealth of the country is heaped up by the millionaire magnates of the Eastern States, the great bulk of tax would come out of their surplus.

Mr. Schley Delighted.

Grant B. Schley, of Moore & Schley, No. 80 Broadway, who brought the original suit upon which decision was rendered, was delighted at the Supreme Court's action.

"It was a most unjust tax," he said, "and deserved to be repealed. We hoped for this change all along. Otherwise we should not have brought our suit against the tax. It was expensive litigation, but it was in a good cause.

"I hardly think, though, that the fact that the tax is beaten will make the times any better. Neither will it affect any boom that municipal bonds may have received lately, for the former decision of the Court covered that point."

Joseph H. Choate would not talk on the subject.

"I've nothing to say about it," said he. "I said all I had to say before the Court. Of course, I am very much pleased with the result."

James C. Carter, of Carter & Ledyard, 54 Wall street, was out of town when an "Evening World" reporter called at his office to-day.

MILLER WIRES FOR RETURNS.

Everything Pertaining to the Tax Ordered to Washington.

WASHINGTON, May 20.—Internal Revenue Commissioner Miller has telegraphed all collectors of Internal Revenue to forward at once to his office all Income Tax returns and everything else pertaining to the tax.

Up to this time there has been collected about $[illegible] under the Income-Tax law, which was to-day declared unconstitutional. While no action has yet been taken in the matter, it is almost certain that Internal Revenue Commissioner Miller, as soon as he is officially informed of the Court's decision, will take steps to refund all of these collections.

The internal revenue laws give the Commissioner specific authority to refund all moneys illegally or wrongfully collected by him, and there seems to be no doubt that this authority covers the income-tax cases.

HARRISON SAW PLATT.

Both Are Presbyterians and Only Talked Religion, He Says.

Ex-President Harrison had his third sitting for a White House portrait in Artist Johnson's studio to-day, and while posing he had a good opportunity to think over a conversation he had with ex-Senator Platt yesterday, and also the possibility that he will meet Gov. McKinley while in this city.

Gen. Harrison met Mr. Platt yesterday morning before church time, and according to the latter they discussed nothing but religion. Both are Presbyterians, and it is presumed that the conversation was harmonious.

Afterwards the ex-President and his daughter, Mrs. McKee, went to St. Thomas's Church, where they occupied the pew of William Hosea Ballou. In the afternoon Gen. Harrison returned to the Fifth Avenue Hotel and was called on by Gen. Collis, Deputy Commissioner of Public Works, who asked him to attend the memorial services at Grant's tomb on Memorial Day, when Gov. McKinley is to deliver the oration. Gen. Harrison said he would wait for the occasion.

Gen. Harrison was up and doing at an early hour this morning. He left the Fifth Avenue Hotel, where he is stopping, before 9 o'clock, without taking breakfast. He walked up to the Hotel Netherland, where he breakfasted with his daughter, Mrs. McKee, and his grandchildren.

SENATORS SEE PLATT.

Politics Are Quiet Nowadays, So Nothing Was Done.

Legislators are getting back to town to-day from the excursions made by them after the adjournment of the Legislature on Thursday last. A notable party, including Senators Cantor, McMahon and Lexow, returned this morning from a four-days' stay at Saranac Lake. The other members of the party stopped off at Albany.

Lexow, with Senators Kilburn and Coggeshall, called on Boss Platt to-day, but there was apparently little use for them to do so, because the Republican caldron is scarcely simmering. Most of the leaders are preparing for their Summer vacation and are not going to bother with politics for a month or two to come.

The Democrats are going to get to work early. All the big Democratic editors of the State are coming to town on Thursday to hold a convention and gather some new material for the campaign, next Fall.

Along in June there is to be a pow-wow of Democratic leaders to lubricate the State machine and patch up factional differences.

TAMMANY SCENTS VICTORY.

Row Expected Over Aldermen's County Committee Changes.

At the meeting of the Board of Aldermen to-morrow the Committee on Rules will present two reports on the question of increasing the number of members of the Committee on County Affairs from five to seven.

It was said to-day by a member of the Committee on Rules, that the majority report would favor the policy of keeping the Committee on County Affairs as it is, and the minority report will advocate the addition of Aldermen Windolph and Lantry to the Committee's personnel.

It is expected that the question of the adoption of one or the other of the reports will be the occasion of a jolly row in the Board to-morrow. It is understood, however, that Aldermen Schilling and Dwyer will vote for the adoption of the minority report, which will settle the matter and give to the Tammany side of the house a victory over the Reform element.

Dull, Languid

Headaches, and That Tired Feeling are what thousands are complaining of at this season. They are not due so much to the warm weather as to the condition of the blood. Let the blood be purified, enriched and vitalized by the use of Hood's Sarsaparilla and strength, ambition, elasticity and vigor will return.

Hood's Sarsaparilla
IS THE ONLY
True Blood Purifier
Prominently in the public eye to-day.

HOOD'S PILLS the after-dinner pill and family cathartic. 25c.

MUST WARD'S ISLAND GO, TOO?

Strong Opposition to Letting the State Have the Insane.

One Man Says Mayor Strong May Go to Sing Sing.

There was a notable gathering of insanity experts in the Mayor's office this afternoon, at a hearing given to the bill which provides for turning over Ward's Island Insane Asylum to the State and to make the State responsible for the care of the city's pauper insane.

Dennis McMahon, of 243 Broadway, held that the city had no right to turn over to the State property so valuable as Ward's Island, which was worth anywhere from $10,000,000 to $15,000,000.

The Mayor, Mr. McMahon declared, would be violating the law, if he signed the bill.

"If, Mr. Mayor," continued the speaker impressively, "at some future time your political associates should become dissatisfied with some of your actions, they would only have to look in the Penal Code for a law which would fit your case exactly, and land you in State's prison for two years or so."

Mayor Strong didn't seem to be alarmed, and winked good-naturedly at Corporation Counsel Scott.

Dr. Landon Carter Gray, of 6 East Forty-ninth street, presented a petition signed by a large number of specialists in mental disorders also opposing the bill. Dr. Gray said the city, with the eminent insanity experts at its command, could care for its insane poor better than the doctor, the lawyer and the farmer who made up the State Board.

Dr. Charles L. Dana said that a study of the matter showed that State care of the insane had not proved a success.

Corporation Counsel Scott didn't agree with Mr. McMahon that the city's credit would suffer, and he was opposed to the State policy of grabbing all it could of whatever belonged to New York City, and appropriating it by "brute force."

Prof. Charles Chandler, of Columbia College, spoke in favor of the bill.

Seth Low, Assemblyman Hammond and Miss Rosalie Butler also spoke in favor of the measure.

CRUISER COLUMBIA SAILS.

The decks of the cruiser Columbia, lying at the Cob dock, at the Navy-Yard, were crowded with visitors this morning who came to bid good-by to the tars who will accompany the vessel to Kiel, where she is to take part in the celebration of the opening of the Baltic Canal.

A story printed this morning to the effect that there would be a race between the Columbia and the cruiser New York, which sailed on Saturday, was denied.

The tars who had been out in the city and did not reach the ship on time were put in irons.

The Columbia sailed from the Navy Yard at 3 P. M.

"CAMMEYER"
STAMPED ON A SHOE MEANS STANDARD OF MERIT.
6th Ave., Cor. 20th St.

Have on Sale the Largest and Most Varied Line of

WOMEN'S OXFORDS

in Button and Lace,

At the Uniform Price of **$1.50** *Per Pair.*

Every pair is guaranteed to possess the merit, service, fit, and finish of a regular $3.00 Shoe.

LADIES' WHITE CANVAS BUTTON OXFORD, KID TOPS 1.50
LADIES' RUSSET GOAT BUTTON OXFORD, STRAIGHT TIP 1.50
LADIES' SOOLMA KID BUTTON OXFORD, POINTED PATENT LEATHER TIPS 1.50

LADIES' RUSSET GOAT OXFORD TIES 1.50
LADIES' WHITE CANVAS OXFORD TIES 1.50

LADIES' RUSSET GOAT OXFORD TIES, POINTED TIP 1.50
LADIES' BROWN GOAT OXFORD TIES, POINTED TIP 1.50
LADIES' SOOLMA KID OXFORD TIES, POINTED TIP 1.50

These are new and regular lines of this season's production, made on different shaped lasts, from the narrow Piccadilly to the Wide Common Sense, with high, medium or low heels, so that every foot can be fitted and every purchaser satisfied, whether they may be the follower of fashion or one who is seeking after solid comfort.

CAUTION.—HAVING NO AGENCIES OR BRANCH STORES, MY SHOES CAN BE PURCHASED ONLY AT MY ESTABLISHMENT.

A. J. CAMMEYER
6th Ave., cor. 20th St.

Linens,
for Summer Furnishing.

Exceptional value in Tablecloths, Napkins, Sheets, Pillow Cases and Towels.

72 in. Damask,
65c., 75c., 85c. & $1.00.

5/8 Napkins,
$1.10 to $5.00 per dozen.

3/4 Napkins,
$1.75 to $7.50 per dozen.

Large size Napkins,
$9.00 per dozen,
formerly $12.00.

Hemmed & Fringed Towels,
$1.50, $1.75, $1.85 & $2.40 per dozen.

Webb's Hand-woven Towels,
$3.00 to $15.00 per dozen.

Lord & Taylor,
Broadway & 20th St.

BREAKFAST—SUPPER.
EPPS'S
GRATEFUL—COMFORTING.
COCOA
BOILING WATER OR MILK.

Real Estate at Auction.

Do It!

And do it now, because in all human probability you'll never again have such an opportunity. Can you deliberately let slip a chance to secure your own home at practically your own price?

There are about 120 unsold lots left in Erastina Park, the choicest residence site on North Staten Island. These will be sold at public auction for what they will bring; two or three hundred dollars may buy a lot the like of which have never sold for less than six and seven hundred, and the terms are made so easy that nobody making a fair living would miss the money.

It's cheaper than paying rent. It's paying your rent money to yourself and saving it. Can you make a safer investment than your own home?

Erastina Park is restricted against all nuisance. The title to the land is now guaranteed by the Lawyers' Title Insurance Co. The lots to be sold all face an elm-shaded boulevard nearly 100 feet wide, are situated one block from tide-water and 60 feet above sea-level; the property is provided with pure water and can be lighted by electricity.

Among the numerous advantages, in addition to its accessibility to New York, are good stores, well-supplied markets, fine schools and churches, and the fact that New York merchants deliver goods daily, the same as in the city.

Auction Sale of these lots on Wednesday, May 22, at 2 P. M., at the Park.

D. T. CORNELL,
Auctioneer,
8 AMOS ST., CLIFTON, S. I.

Send for free passes and information to the Auctioneer, or

ALBERT LUPTON,
253 Broadway, N. Y.

PETER F. MEYER, Auctioneer.
PEREMPTORY SALE OF
85 Choice and Valuable Lots
ON 2D AND 3D AVES.,
85TH, 86TH AND 87TH STS.,
BAY RIDGE,
NEAR FORT HAMILTON, L. I.,
30th Ward, Brooklyn.

New shore road, newly laid out Park and Driveway. Gas and water on the property. To be sold at auction on

TUESDAY, MAY 21, 1895,

at 12 o'clock, at the New York Real Estate Salesrooms, 111 Broadway, New York.

By PETER F. MEYER & CO., Auctioneers.

This will close out the entire holding of the Hamilton Land Co., and will be the last opportunity to get lots at reasonable prices in this fast growing and improving neighborhood.

60 per cent. can remain on bond and mortgage at 5 per cent. for one, two or three years.

Titles guaranteed by the Title Guarantee and Trust Co. free of charge to each purchaser.

Access may be had by the 39th Street Ferry and Electric Railroad, which passes the property; by Bridge, via 3d Ave. Electric Cars; by boat direct from Battery, or 5th Ave. Branch of the Brooklyn Elevated Railroad.

For maps and particulars apply to the Auctioneer's office, 111 Broadway (basement) N. Y.

Threw Hot Coffee on a Policeman.

Policeman Hoffman, of the Mercer street station, went into Peter Ritter's saloon, 177 West Houston street, yesterday, and got into a fight with Ritter. Mrs. Ritter aided her husband by pouring boiling hot coffee down the policeman's neck and beating him over the head. The saloonkeeper and his wife were arrested, and were held for trial in Jefferson Market Police Court to-day.