KILLS ALL THE ACT.

Second Decision of the Supreme Court on the income Tax.

PROVISIONS ARE ILLEGAL

Five Justices Declare the Whole Law to Be Unconstitutional.

FOUR DISSENTING OPINIONS.

Harlan, Jackson, White and Brown Bitterly Assail the Action of the Majority.

WASHINGTON, D. C., May 20.—The income tax law which has received so large a share of the public attention since the beginning of the regular session of the Fifty-third Congress is a thing of the past. After being twice heard in the United States Supreme Court, it was finally decided to-day by the court to be invalid and unconstitutional.

There were four dissenting opinions delivered in these cases to-day, one each by Justices Harlan, Brown, Jackson and White, showing that the court had stood five to four against the law.

Inasmuch as one of these dissenting opinions was handed down by Justice Jackson, and as he was absent at the first hearing when the court divided evenly on the question of sustaining the law on all points except those as to the tax on incomes from rents and bonds, it follows that one of the members of the court who at first pronounced for the law, except on those two points, changed his attitude after the second argument.

There is very little question that Justice Shiras is the Justice who changed his views on these points. He made no announcement, either to-day or when the first opinion was delivered, as to his opinion. While the opinion of the Chief Justice was largely in review of the general aspects of the questions involved, he based his opinion of the court to-day upon the argument that the provisions of the law regarding the tax on rents and bonds were so essentially a factor of it as to render all other parts of it dependent on them, and in accordance with the well-known rule of law bearing on this question, the law as a whole must be declared invalid.

The opinions of Justices Harlan and White were concluded in language so vigorous and were so emphatic in their arraignment of the majority as to cause very general comment. Both Justices indicated their belief that the ruling opinion was revolutionary, and intimated that serious consequences might ensue. Justice Harlan suggested the necessity for amending the constitution in view of the opinion,

The courtroom was packed during the entire three hours when the opinions were being delivered. The unexpected event of to-day was in the appearance of Justice Jackson. He had announced after casting his vote last Saturday week that he would return on the following Monday to Tennessee, but it appears that instead he went to Philadelphia to consult a specialist on internal diseases. He left the bench immediately after delivering his opinion to-day, and it is understood will now proceed South. He delivered his opinion from notes.

It should probably be stated that while the cases in which these operations were delivered are uniformly characterized as the income tax cases they are known on the court dockets as the cases of Charles Pollock vs. The Farmers' Loan and Trust Company and Louis H. Hyde vs. The Continental Trust Company of New York, both appealed from the Circuit Court of the United States for the Southern District of New York.

FULLER'S OPINION.

Unconstitutionality of a Portion of the Law Necessitated the Death of the Whole.

WASHINGTON, D. C., May 20.—Immediately on the convening of the court, Chief Justice Fuller read the income tax opinion. He said:

Whenever this court is required to pass upon the validity of an act of Congress as tested by the fundamental law enacted by the people, the duty imposed demands in its discharge the exercise of the utmost deliberation and care, and invokes the deepest sense of our responsibility, and this is especially so when the question involves the exercise of great governmental power and brings into consideration, as vitally affected by the decision, that complex system of government so sagaciously framed as to secure and perpetuate the indestructible Union composed of indestructible States.

We have, therefore, an anxious desire to omit nothing which might in any degree tend to elucidate the questions submitted, and, aided by able arguments embodying the fruits of elaborate research, we have carefully reexamined these cases, with the result that, while our former conclusions remain unchanged, their scope must be enlarged by the acceptance of their logical consequences.

Our previous decision was confined to the consideration of the validity of the tax on an income from real estate, and on an income from municipal bonds. The question thus limited was whether such taxation was direct or not in the meaning of the constitution, and the court went further as to the tax on incomes from real estate than to hold that it fell within the same class as a source whence income was derived; that is, that the tax upon realty and the tax upon receipts therefrom were alike direct; while, as to the income from municipal bonds, that could not be taxed, because of the want of the power to tax the source, and no reference was made to the nature of the tax as being direct or indirect.

We are now permitted to broaden the field of inquiry and determine whether the tax shall be derived from rents or products or otherwise, of real estate or stocks or other forms of personal property. We are unable to conclude that the inforced substraction from the yield of all owners of real or personal property in the manner prescribed is so different from the tax upon property itself that it is not an indirect tax in the meaning of the constitution. The words of the constitution are to be taken in their obvious sense and have a reasonable construction. We know no other reason for holding otherwise than that the words "direct taxes" on one hand and "Dutch imposts" on the other were used in the constitution in their natural and obvious senses, nor in arriving at what those terms embrace do we perceive any ground for enlarging them beyond or narrowing them within the natural and obvious import at the time the constitution was framed and ratified. And passing from the text we regard the conclusion reached as inevitable, when circumstances which surrounded the convention and controlled the action and view of those who framed and those who adopted the constitution are considered.

The Chief Justice discussed the reasons for the constitutional provisions regarding direct taxation. States had plenary powers, he said, but they gave up 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 apportioning direct taxation, they secured to the States an opportunity to pay the amounts apportioned and to recoup from their own citizens in the most feasible way. The opinion continued:

It is said, on the whole, that the income of property is not a direct tax, but duty. We do not think so. Direct taxation was not restricted in a breath, and restriction blown to the winds is another.

The opinion dismisses the Hylton case with this comment:

What was decided in the Hylton case was that the tax on carriages was an excise and therefore indirect tax.

The opinion next took up the argument that the tax upon property is not a direct tax within the meaning of the constitution, and said:

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 defined away by forced distinctions between that which gives value to property and property itself. Stress of argument is thrown, however, on the assertion that the income tax is not a property tax at all; that it is an assessment upon the taxpayer on account of his money-spending power as shown by his revenue for the year preceding assessments; that rents received, crops harvested and interest collected have lost all connection with their origin, and although once not taxable, have been transmuted in their new form into taxable subject matter. In other words, that the income is taxable irrespective of the source from whence it is derived.

The Chief Justice said that since the court had held unanimously that receipts from municipal bonds should not be taxed, because bonds were instruments of States, the same rule applied to revenue from other sources not subjected to the tax, and the lack of power to levy any but apportioned tax on real and personal property equally exists as to revenue therefrom. The court does not understand that an income tax has ever been regarded in England as other than a direct tax.

After a review of the cases and consideration of arguments of counsel, the court as it approached its conclusions made the following general argument:

If it were a fact 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.

The tax being direct, and therefore to be laid by apportionment, is there any real difficulty in doing so? Cannot Congress, if the necessity exists 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 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 States do not in the meantime assume and pay their quota and collect the amount according to their own system and in their 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.

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 t h conclusion, but the suggestion not unnaturally invites attention to the contention of appellant's 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 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 arguments 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 a matter of legislative discretion.

Elaborate argument is made as to the efficicacy and merits of an income tax in general, as on the one hand equal and just and on the other elastic and certain 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 burdens of taxes of 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 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 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 denied, 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 its advocates 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 systems. Questions of that character belong to the controversies of political parties, and cannot be settled by judicial decisions. In such cases our province is to determine whether this income tax on the revenue from the property does or does not belong to the class of direct taxes; if it does, it is being apportioned in violation of the constitution, and we must so declare.

Differences have often occurred in this court, differences now exist, 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 the 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 so amended upon the concurrence of two-thirds of both houses and the ratification of the Legislatures of two-thirds of the States.

The ultimate sovereignty may be thus called into place by a slow and deliberate process which gives time for a mere hypothesis to exhaust itself and the sober second thought of every part of the country to be asserted.

Being of the opinion that so much of the sections of this law as lays a tax on income for real and personal property is invalid, we are brought to the question of the effect of that 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. Charlestown 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 constitutional, all the provisions which are thus dependent, conditional or connected, must fall with them.

Or, as the point is put by Mr. Justice Matthews in Poindexter vs. Greenhowe: "It is undoubtedly true that there may be cases where one 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 separate that each can stand alone, and where the court is able to see and 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 never have been willing by itself to enact."

And again, as stated by the same eminent Judge in Prague vs. Thompson, where it was urged that certain illegal exceptions in a section of a statute might be disregarded, but 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 State 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 $65,037,091,191, 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 $4000, but, even with such deductions it is evident that the income from reality 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 this 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 the sections 27 to 37 inclusive of the act which became a law without the signature of the President on August 28, 1894, as wholly inoperative and void.

FINDINGS OF THE COURT.

Text of the Decision Which Rendered the Income Tax Null and Void.

WASHINGTON, D. C., May 20.—The conclusions of the court on the income tax were as follows:

First—We adhere to the opinion already announced that taxes on real astate, being indisputably direct taxes, taxes on rents and on income of real estate are equally direct taxes.

Second—We are of the opinion that taxes on personal property or on income personal property are likewise direct taxes.

Third—The tax imposed by sections 27 to 37, inclusive, of the act of 1894, so far as it falls on the income of real estate and on personal property, is a direct tax within the meaning of the constitution, and therefore unconstitutional and void, because not apportioned according to representation. All these sections constituting the entire scheme of taxation are necessarily invalid. The decrees hereinbefore entered in this court will be vacated.

HARLAN DISSENTS.

He Declares the Decision Strikes at the Very Foundation of National Authority.

WASHINGTON, D. C., May 20.—The Chief Justice 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 add an 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 that 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 printed will be of a general character.

Capitalization taxes and taxes on land, he contended, should be considered as direct, and they had been uniformly held so to be. He quoted from the views of Justices Iredell, Patterson and others on the operation of the constitutional provision as to the apportionment, holding that the rules had been consulted only when it could be reasonably applied.

The changes contemplated from the former practice in this matter, Justice Harlan said, were little less than a revelation. Every one concedes 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, or something entirely different from a tax on land from which rent was collected.

He combated the idea that rents were a devise of lands, in view of the fact that the present law was to continue in operation for only five years. A tax on 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 and the tax is payable in money.

He said the present decision was a step in advance of the court's 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. Continuing, he said:

In my judgment this decision strikes at the very foundations of national authority, in that it denies to the general Government a power which is, or may at some time in a great emergency, such as that of war, become vital to the existence and preservation of the Union. It tends to re-establish that condition of helplessness in which Congress found itself during the period of the articles of confederation, when it was without powers by laws operating directly upon individuals to lay and collect, through its own agents, taxes sufficient to pay the debts and defray the expenses of Government, and was dependent in all such matters upon the good will of the States and promptness in making the requisitions made upon them by Congress.

In its practical operations this decision withdraws from national taxation not only all incomes derived from real estate, but the personal property of the whole country—personal property, bonds, stocks, investments of all kinds—and the income that may be derived from such property. This result is from the fact that, under the decision of the court, such incomes cannot be taxed otherwise than by apportionment among the States on the basis simply of population.

No such apportionment can possibly be made without doing monstrous, wicked injustice to the many for the benefit of the favored few in particular States. Any attempt on the part of Congress to apportion taxation of incomes among the States upon the basis of their population would, and properly ought to, arouse such an indignation among the freemen of America that it would never be repeated. The American majority practically decides that without an amendment of the constitution such incomes can never be made to contribute to the support of the National Government.

If this new theory of the constitution, as I believe it to be—if this new departure from the way marked out by the fathers, is justified by the fundamental law, the American people cannot too soon amend their constitution.

The judgment just rendered defeats the purpose of Congress by taking out of the revenue not less than $30,000,000 and possibly $50,000,000 expected to be raised from incomes. We know from the official reports of both houses of Congress that taxation would not have been reduced to the extent it was by the Wilson act but for the belief that if the country had the benefit of revenue derived from a tax on incomes, that could be safely done. In every possible way the two houses of Congress indicated that must be a part of any scheme for reducing the taxation and for raising revenue for support of the Government; that (with certain exceptions) incomes arising from every kind of property and from every trade and calling should bear some of the burdens of the taxation imposed. If the court knows or is justified in believing that Congress would not have provided an income tax which did not include a tax on incomes from real estate we are more justified in believing the Wilson act would not have become a law at all without provision being made for it in the income tax.

If, therefore, all the income sections of the Wilson act must fall because some of them are invalid, does not the judgment this day rendered furnish ground for the contention that the entire acts fall when the court strikes from it all of the income tax provisions, without which the act would never have been passed?

But the court takes care to state that there is no question as to the validity of any part of the Wilson act except those sections which provide for a tax on incomes. Thus something is stated for the support and maintenance of the Government.

The practical if not the direct effect of the decision to-day is to give to certain kinds of property a position of favoritism, an advantage inconsistent with the fundamental principle of our social organization, to invest them with power and influence that is perilous to that portion of the 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 be at the mercy of the lawless.

STRIKES AT THE POOR.

Justice Jackson's Bitter Denunciation of the Action of His Confreres.

WASHINGTON, D. C., May 20.—The views of no other member of the court have been the subject of so much speculation as Justice Jackson's, who, it was thought, would be practically a referee in the case.

Justice Jackson said his health had not been equal to the task of preparing a formal decision, and proceeded to give an outline of his views from notes. His voice was at first feeble, but as he became interested in his subject he was able to speak with more strength, although his reading was slow and interrupted by frequent fits of coughing.

In beginning, Justice Jackson announced that he concurred fully in the dissents expressed by Justice White on the former hearing, and the other Justices who dissented to-day. He said:

It is not and cannot be denied that under the broad and comprehensive taxing power conferred by the constitution, Congress has the authority to tax incomes from whatsoever source arising, whether from real estate, personal property or otherwise. It is equally clear that Congress, in exercise of its authority, has the discretion to impose upon tax incomes above a designated amount. The undenying and controlling question now presented is whether the taxation of incomes received from land and personalty are subject to the rule of apportionment.

It was not found, said the Justice, that there was any lack of uniformity in the legislation, and he could not understand the principle upon which the court reached the conclusion that because one branch of the law was invalid for the reason that the tax was not laid by the rule of apportionment it thereby invalidated another branch resting upon the rule of uniformity, and against which there was not valid objection. If the conclusion of the court was sound the principle could, with equal propriety, be extended to the entire tariff act.

The court took a wrong method of arriving at the meaning of the words "direct tax," depending on the opinions of writers since the constitution, who agreed on nothing. It was never contemplated by the framers of the constitution to reach by direct taxation subjects of partial distribution. What would be thought of a direct tax laid upon cotton at so much a bale, on tobacco or rice, property not existing in a majority of the States?

They contemplated the apportionment of a direct tax on subject matter having general distribution among the States. They never contemplated anything as a direct tax but that laid directly upon property itself according to valuation of assessment. No intention could be attributed to the framers of the constitution to make any tax a direct tax which it was possible to apportion. If a tax could not be apportioned among several States with reasonable approximation to equality to all citizens of the country that should be evidence that it was not a direct tax within the meaning of the constitution.

What is to be the end of the application of this rule, this new rule adopted by the court? A tax is laid by the General Government against all money on hand or on deposit upon every citizen of the country at a given rate. When laid, a few persons come before the court and say: "My deposits were derived from the proceeds of farm produce, or from bonds and securities, and they are not therefore taxable by this law."

In my judgment the principle announced in this decision practically destroyed the power of the Government to reach incomes. There is no real difference between changing the existence of the power to tax incomes from real and personal estates and attaching such conditions and requirements to its exercise as will render it impossible or incapable of any practical operation.

You might just as well strike at the power to reach incomes from the sources indicated as to attach these conditions of apportionment which no Legislature can undertake to adopt, and which can be forced with no degree of equality in taxation, but the further principle that the imposition of taxes, the burdens, should be imposed upon those having the most ability to bear them.

This decision works out a directly opposite result in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability. Considered in all its bearings the decision is the most disastrous blow ever struck at the constitutional power of Congress. It strikes down an important portion of the most vital, essential power of government, in practically excluding any recourse to incomes from real and personal estates for the purpose of raising needed revenue to meet the Government's wants and necessities under any circumstances.

BROWN AND WHITE.

They Declare the Decision a Practical Surrender to the Money Classes.

WASHINGTON, D. C., May 20.—Justice Brown in his dissent said:

If the question what is and what is not a direct tax were now for the first time presented, I should entertain a grave doubt whether, in view of the definition of a direct tax given by the courts and writers of political economy during the present century, it ought not to be held to apply not only to an income tax, but to every tax the burden of which is borne immediately and ultimately by the person paying it. I regard it as very clear that the clause requiring direct taxation be apportioned as to the population has not application to taxes which are not capable of apportionment according to population. It could not be supposed that the constitution could have contemplated a practical inhibition upon the power of Congress to tax in some way all taxable property within the jurisdiction of the Federal Government for the purpose of a national revenue.

Justice Brown said in conclusion:

Respect for the constitution will not be inspired by a narrow and technical construction which shall limit the necessary powers of Congress. The decision involves nothing less than the surrender of the taxing power to the money class.

While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward submergence of the liberties of the people in a sordid despotism of wealth.

Justice White stated his views briefly. From first to last, he said, the opinion of the majority was but a series of contradictory propositions, one eating up and destroying the other. Speaking of the grounds upon which he dissented, Mr. White laid great stress on the Hylton case, and re-enunciated the legal points he had made in his first decision in the case. In conclusion he said:

The injustice of the conclusion points to the error of adopting it. It takes invested wealth and reads it into the constitution as a favored and protected class of property, whilst it leaves the occupation of the minister, the doctor, the professor, the lawyer, the inventor, the author, the merchant and all the various forms of human activity upon which the prosperity of a people must depend subject to taxation without apportionment.

The absolute inequality and injustice of taxing by reference to population and without regard to the amount of the wealth taxed is so manifest that to admit the power to tax and limit to this mode substantially denies the power itself, since it imposes a restriction which renders its exercise practically impossible.

A few extemporaneous remarks were made by Justice White after the reading of his written opinion. He spoke of the decision as a blow struck at the American people, and said the power of levying an income tax now left could only be exercised with such injustice that no legislative body would dare attempt to exercise it, for such an attempt would bring forward a bloody revolution.

STOPS THE COLLECTION.

Commissioner Miller Notifies Agents That Their Work Is Now at an End.

WASHINGTON, D. C., May 20.—Commissioner Miller of the Internal Revenue Bureau to-day sent this telegram to collectors of internal revenue:

Income tax law declared unconstitutional by the Supreme Court. Stop all work in connection therewith and send to this office at once, under seal, all books, assessment lists, returns and records in your office or hands of deputies relating to income tax.

The Commissioner's opinion is $35,000,000 or $40,000,000 would have been collected during the first year from incomes had the entire law been sustained by the court, and even after it had been shorn of the rent provision at least $15,000,000, and probably $20,000,000, he estimated, could have been collected.

As soon as possible those persons who have already paid their tax will be notified that under the authority granted the Commissioner by section 3229 of the revised statutes he will refund all such moneys on application of the payees.

Although to-day's decision of the court will naturally cut down the anticipated revenues of the Government, it is not thought that it will necessitate an extra session of Congress, unless some unlooked-for contingency arises. It is known that the administration does not regard an extra session as necessary, although the revenues during the last month have not been at all satisfactory.

The customs receipts are surprisingly slow.

The deficit for the fiscal year on January 31, 1895, was $34,246,386. On February 28 this had been increased to nearly $38,000,000 and on April 30 to about $45,250,000. The deficit, as stated to-day, was $51,043,584.

CLEVELAND OUSTS MEADE

The Order Retiring the Admiral Accompanied by a Rebuke.

Regrets That a Brilliant Career Should Be Tarnished by Disgraceful Conduct.

WASHINGTON, D. C., May 20.—The President has signed an order directing Admiral Meade to be retired.

Admiral Meade's application for retirement was made to the Secretary of the Navy on May 9, and by him forwarded to the President, who to-day returned it to the Navy Department with this indorsement:

The within recommendation is approved, and Rear-Admiral Richard W. Meade is hereby retired from active service in the navy, pursuant to Section 1433 of the Revised Statutes. The President regrets exceedingly that the long active service of this officer, so brilliant in its early stages, and so often marked by honorable incidents, should at its close, be tarnished by conduct at variance with his commendable career and inconsistent with the example which an officer of his high rank should furnish of submission to restraints and of a wholesome discipline and manifest propriety.

GROVER CLEVELAND.

FREEDOM FOR CUBA.

The Island Patriots to Declare Their Independence

CONFIDENT OF VICTORY.

General Gomez Says the Insurgents Are Certain of Final Triumph.

FEED BUT A SMALL ARMY.

Spain, on the Other Hand, Must Maintain a Large Force in the Field.

NEW YORK, N. Y., May 20.—Advices at the Cuban revolutionary headquarters in New York state that Gomez has instructed all insurgent bands of 100 men and upward to send a delegate to the general assembly, which will meet at Yara in June, to put into execution the declaration of independence and form a definite provisional government.

The Cuban chiefs have great hopes that the United States Government will recognize them as belligerents at the next session at Washington.

GOMEZ IS CONFIDENT.

Spain, He Declares, Must Eventually Give Up the Fight.

NEW YORK, N. Y., May 20.—A special to the Herald from Hoguin, Cuba, says:

General Gomez of the Cuban armies, who passed near this place, escorted by a cavalry force of 1200 men, on his way to Puerto Principe, has sent a letter to the Herald, of which the following is a translation:

"Magnanimity will mark this war, as well as untiring energy. Among the veterans of the previous struggle flocking to my standard to guide the rank and file of the younger generation of patriots of liberty to sure victory there is noticeable a spirit of determination and an energy far superior to anything displayed during our last war, and entirely free from certain objectionable features which then tended to localize our movements and prevent rapidity of operations.

"The outlook for the success of the present revolution before two years is so bright that there can be no doubt that the Republic of Cuba will be one of the new States soon to occupy its place among the free Governments of the New World.

"Martinez Campos has by force of circumstances been compelled to accept the only plan of campaign left to him to enable Spain temporarily to maintain possession of the larger towns and principal coast ports, and these will soon slip from her sickly grasp. Campos will require a double army—one of occupation and one for operation. For the first one he must have, as any military expert knows, the strength of the revolution, and one possessing a knowledge of the geography of the island may see at a glance that at least 30,000 men must be had in order to occupy and defend the cities, towns and strategic outposts already threatened by the revolution. For his army of operation as many more troops will be required to enable him to face our forces in the field.

"From physical and financial exhaustion Spain will be compelled, as she was in Santo Domingo, to give up the fight. Free Cuba will not need such a large military force, for with our superior knowledge of the island, we can with one and the same army, of much less strength numerically, assisted as we are by these advantages and by all the natural resources of the island, compel the Spanish army of occupation to keep strictly with the army of operation, harassing the enemy upon every hand by our alternate movements of sudden dissemination and quick concentration.

MAXIMO GOMEZ."

AN OFFICIAL UKASE.

American Correspondents Warned Not to Visit the Rebel Camps.

HAVANA, CUBA, May 20.—The Spanish authorities, in view of the visits recently paid by the correspondents of American newspapers to the camps of the insurgents, have issued orders prohibiting them from making such excursions in the future, under penalty of severe punishment.

Railroad communication with San Luis has been restored, but the inhabitants of that town and of Cristo have become so alarmed at the progress of the insurgents that they are flocking into Santiago de Cuba.

The band of insurgents commanded by Felix Ruens recently attacked the village of Sabala, near Baracoa, and pillaged the stores. Maceo is understood to have planned to make a diverson in the vicinity of Santiago de Cuba in order to draw the attention of the authorities of that neighborhood and allow the rebel bands to pass Camaguey and El Cid.

WON IN THE FIRST ROUND

Pugilist Maher an Easy Winner in the Fight With Marshall.

The Irish Boy Knocks Down His Opponent Five Times in Less Than a Minute.

CONEY ISLAND, N. Y., May 20.—The bouts to-night at the Sea Beach Palace were witnessed by a big crowd. Champion Corbett was among the spectators.

The first bout on the programme was a ten-round contest at 110 pounds between Maxey Haugh of Brooklyn and Dolly Lyons of New York. The referee declared Lyons the winner.

The second bout brought out Joe Dunfee of Syracuse and Dan Creedon of Australia for twelve rounds at 160 pounds. Creedon won.

The Marshall-Maher fight was next in order. It was announced that Paddy Ryan would challenge the winner. Marshall was extremely fat. Maher went at him like a cyclone and rained right and lefth and blows on his head and jaw.

The Briton went to his knees four times, and then went down and rolled over on his back. Referee Eckardt saved him from a knockout by stopping the bout in the first round at the end of forty-five seconds, declaring Maher the winner.

Arrested for Forgery.

EAU CLAIRE, WIS., May 20.—A warrant was issued to-night on complaint of the Chippewa Valley bank for James M. Dulaney, Mayor of Rice Lake, charging him with passing a forged note on the bank for $6000, signed by his father, W. H. Dulaney, a well-known lumberman of Hannibal, Mo. Mayor Dulaney was brought here under arrest.

AMERICAN HORSES IN BERLIN.

Michael Dwyer to Enter a String of Kentucky Thoroughbreds.

NEW YORK, May 20.—A special to the Herald from Berlin says Michael F. Dwyer, the turfman, has bought in America the horses Bonnie Bell and Yantar from the Woodbury Farm, Lexington, Ky., and intended to start them in the trotting races in Berlin, and also in the races at the coming trotting meeting in Munich under the patronage of Prince Arnulph of Bavaria.

The good sport and large crowds at the trotting races here attest the rapid growth of trotting in Germany, and surprise is expressed that there are not more American horses here to take part in the contests.

Can Collect the Insurance.

ST. LOUIS, Mo., May 20.—Judge Priest to-day gave Minnie Robinson a judgment for $5375 16 against the United States Mutual Accident Assoctation. This establishes the proposition that a woman who is engaged to marry a man has an insurable interest in his life.

Condition of the Treasury.

WASHINGTON, D. C., May 20.—To-day's statement of the condition of the treasury shows: Available cash balance, $182,549,900; gold reserve, $97,153,249.

FOLSOM-STREET PARADE.

What Bicycle Clubs Are Expected to Participate in the Procession.

The preparations for the grand bicycle parade on Folsom street to-morrow evening were fairly completed yesterday.

"It should be understood," says Chairman Wynne, "that the invitation to participate in the parade is a sweeping one and includes every man, woman and child having a wheel, whether belonging to a club or not. We want to make it a great event."

Electric lights were placed on the street crossings on Folsom street yesterday. Many residences are to be decorated with Japanese lanterns.

The grand marshal will be Captain Charles Johnson of the Imperial Club, and H. F. Wynne of the California Cycling Club will be chief aid. The question of appointing aids has been easily disposed of by making the captains of all the bicycle organizations aids in one general order.

The procession will form at Twenty-first and Capp streets and move down Capp to Twenty-second, down Twenty-second to Shotwell, Shotwell to Twenty-first, down Twenty-first to Folsom, out Folsom to Twenty-sixth, countermarch to Nineteenth, countermarch to Twenty-first, up Twenty-first to Capp and disband.

The following bicycle organizations will participate and in about the order named: Imperial Cycling Club, Olympic Club Wheelmen, Bay City Wheelmen, California Cycling Club, Y. M. C. A. Cycling Club, Pathfinders' Cycling Club, Liberty Cycling Club, Crescent Cycling Club, California Camera Cyclists, Golden Gate Cycling Club, Royal Cycling Club, Pacific Cycling Club, Outing Road Club, Knockabouts and Eintracht Cycling Club.

CHARLES PIERS SHOT.

Ex-Officer Dalton Turns His Pistol Loose in a Saloon.

Charles Piers of 715 Howard street, employed by W. & J. Sloane Furniture Company, 641 Market street, was shot shortly after midnight, in the saloon of John Kelley, 715½ Howard street, by John Dalton, an ex-police officer and until recently driver of the Southern Police Station patrol wagon.

The trouble between the men is said to have arisen over a woman. They got into a dispute, but before they came to blows Kelley jumped between the two men, but Dalton fired over his shoulder, claiming self-defense.

The bullet entered Piers' nose and lodged under the eyelid. He was taken to the Receiving Hospital, where Dr. Pecht extracted the lead.

Dalton was arrested and booked at the Central Station on a charge of assault to murder.

Piers is a cripple, having lost all the fingers of his right hand a short time ago. His wound is not considered dangerous.

DIED.

KUHN—In this city, May 20, 1895, W. F. Henry Kuhn, beloved son of Henry and Anna Kuhn, and brother of Mrs. B. Taylor and Emma and the late Fred Kuhn, a native of San Francisco, aged 21 years 6 months and 15 days.

RETAIL PROFITS

On Clothing are simply enormous. They are sold by the Manufacturer to the Wholesaler—by the latter to the Retailer, who in turn sells to the consumer—thus making the purchaser pay 3 distinct profits.

We are and have been for the past 15 years manufacturers of clothing at 594 Broadway and 127 Crosby street, New York. In order to avoid all loss with dealers in general we find it more profitable to sell to the consumer direct. We guarantee you savings of fully 40 to 50 per cent and have no hesitancy in saying that ours is the place where your dollar has the greatest purchasing power.

HYAMS, PAUSON & CO.,

34, 36, 38 and 40 Kearny Street,

—AND—

25 and 27 Sansome Street.