**COOK**

**v.**

**TAIT,**

**265 U.S. 47 (1924)**

**Decided May 5, 1924.**

Messrs. Charles Claflin Allen and Charles Claflin Allen, Jr., both of St. Louis, Mo., for plaintiff in error.

Mr. Solicitor General Beck, of Washington, D. C., for defendant in error.

Mr. Justice McKENNA delivered the opinion of the Court.

Action by plaintiff in error, who will be referred to as plaintiff, to recover the sum of $298.34 as the first installment of an income tax paid, it is charged, under the threats and demands of Tait.

The tax was imposed under the Revenue Act of 1921, which provides by section 210 (42 Stat. 227, 233 [Comp. St. Ann. Supp. 1923, 6336 1/8 e]):

> "That, in lieu of the tax imposed by section 210 of the Revenue Act of 1918, there shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 8 per centum of the amount of the net income in excess of the credits provided in section 216: Provided, that in the case of a citizen or resident of the United States the rate upon the first $4,000 of such excess amount shall be 4 per centum." 1

Plaintiff is a native citizen of the United States, and was such when he took up his residence and became domiciled in the city of Mexico. A demand was made upon him by defendant in error, designated defendant, to make a return of his income for the purpose of taxation under the revenue laws of the United States. Plaintiff complied with the demand, but under protest; the income having been derived from property situated in the city of Mexico. A tax was assessed against him in the sum of $1,193.38, the first installment of which he paid, and for it, as we have said this action was brought.

The question in the case, and which was presented by the demurrer to the declaration is, as expressed by plaintiff, whether Congress has power to impose a tax upon income received by a native citizen of the United States who, at the time the income was received, was permanently resident and domiciled in the city of Mexico, the income being from real and personal property located in Mexico.

Plaintiff assigns against the power, not only his rights under the Constitution of the United States, but under international law, and in support of the assignments cites many cases. It will be observed that the foundation of the assignments is the fact that the citizen receiving the income and the property of which it is the product are outside of the territorial limits of the United States. These two facts, the contention is, exclude the existence of the power to tax. Or to put the contention another way, to the existence of the power and its exercise, the person receiving the income and the property from which he receives it must both be within the territorial limits of the United States to be within the taxing power of the United States. The contention is not justified, and that it is not justified is the necessary deduction of recent cases. In United States v. Bennett, 232 U.S. 299, 34 Sup. Ct. 433, the power of the United States to tax a foreign-built yacht owned and used during the taxing period outside of the United States by a citizen domiciled in the United States was sustained. The tax passed on was imposed by a tariff act,2 but necessarily the power does not depend upon the form by which it is exerted.

It will be observed that the case contained only one of the conditions of the present case, the property taxed was outside of the United States. In United States v. Goelet, 232 U. 293, 34 Sup. Ct. 431, the yacht taxed was outside of the United States, but owned by a citizen of the United States who was "permanently resident and domiciled in a foreign country." It was decided that the yacht was not subject to the tax-but this was a matter of construction. Pains were taken to say that the question of power was determined "wholly irrespective" of the owner's "permanent domicile in a foreign country," and the court put out of view the situs of the yacht. That the court had no doubt of the power to tax was illustrated by reference to the income tax laws of prior years and their express extension to those domiciled abroad. The illustration has pertinence to the case at bar, for the case at bar is concerned with an income tax, and the power to impose it.

We may make further exposition of the national power as the case depends upon it. It was illustrated at once in United States v. Bennett by a contrast with the power of a state. It was pointed out that there were limitations upon the latter that were not on the national power. The taxing power of a state, it was decided, encountered at its borders the taxing power of other states and was limited by them. There was no such limitation, it was pointed out, upon the national power, and that the limitation upon the states affords, it was said, no ground for constructing a barrier around the United States, “shutting that government off from the exertion of powers which inherently belong to it by virtue of its sovereignty.”

The contention was rejected that a citizen's property without the limits of the United States derives no benefit from the United States. The contention, it was said, came from the confusion of thought in “mistaking the scope and extent of the sovereign power of the United States as a nation and its relations to its citizens and their relation to it.” And that power in its scope and extent, it was decided, is based on the presumption that government by its very nature benefits the citizen and his property wherever found, and that opposition to it holds on to citizenship while it “belittles and destroys its advantages and blessings by denying the possession by government of an essential power required to make citizenship completely beneficial.” In other words, the principle was declared that the government, by its very nature, benefits the citizen and his property wherever found, and therefore has the power to make the benefit complete. Or, to express it another way, the basis of the power to tax was not and cannot be made dependent upon the situs of the property in all cases, it being in or out of the United States, nor was not and cannot be made dependent upon the domicile of the citizen, that being in or out of the United States, but upon his relation as citizen to the United States and the relation of the latter to him as citizen. The consequence of the relations is that the native citizen who is taxed may have domicile, and the property from which his income is derived may have situs, in a foreign country and the tax be legal-the government having power to impose the tax.

Judgment affirmed.

Mr. Justice McREYNOLDS took no part in the consideration or decision of this case.

**Footnotes**

[Footnote 1] The following regulation, No. 62, promulgated by the Commissioner of Internal Revenue under the Revenue Act of 1921, provides in article 3: "Citizens of the United States except those entitled to the benefits of section 262, ... wherever resident, are liable to the tax. It makes no difference that they may own no assets within the United States and may receive no income from sources within the United States. Every resident alien individual is liable to the tax, even though his income is wholly from sources outside the United States. Every nonresident alien individual is liable to the tax on his income from sources within the United States."

[Footnote 2] Section 37, Tariff Act of August 5, 1909, c. 6, 36 Stat. 11, 112, provided in part as follows: "There shall be levied and collected annually on the first day of September by the collector of customs of the district nearest the residence of the managing owner, upon the use of every foreign- built yacht, pleasure boat or vessel, not used or intended to be used for trade, now or hereafter owned or chartered for more than six months by any citizen or citizens of the United States, a sum equivalent to a tonnage tax of seven dollars per gross ton."