THE OMAHA DAILY REE: TUESDAY, MAY 21, 1895.

larged by the acceptance of their logical con

The very nature of the constitution, as observed by Chief Justice Marshall in one of his greatest judgments, requires 'that only outlines should be marked, its im portant objects designated, and the minor ots be ngredients which compose those leducted from the nature of the objects them-In considering this question then, nolves. must never forget that it is a constitution that we are expounding.

As heretofore stated the constitution divided federal taxation into two great classes, the class of direct taxes and the class of duties, imposts and excises, and prescribed two rules which qualified the grant of power as to each class. The power to lay direct taxes apportioned among the several states rtion to their representation in the popular branch of congress, such representation based on population as ascertained by the census, was plenary and absolute; but to lay direct taxes without apportionment was for hidden. The power to lay duties, imposts and excises was ubject to the qualification that the imposition must be uniform through out the United States.

"Our previous decision was confined to the consideration of the validity of the tax on the income from real estate, and on the incom municipal bonds. The question thus limited was whether such taxation was direct or not in the meaning of the constitution. and the court went no further as to the tax omes from real estate than to hold on the ln that it fell within the same class as the whence the income was derived, that 8011708 is, that a tax upon the realty and a tax from With rethe rents therefrom were direct. With r gard to the tax from the income from munic rd to the tax from the income from munici-t bonds that could not be taxed because for to the views of Hamilton and Madison, as of want of power to tax the source no referof want of power to tax the source to reference was made to the nature of the tax as ence was made to the nature of the tax as being direct or indirect. We are now per-carriage tax act, and again to briefly consider effect upon this ground in Weston against ence was made to the nature of new per-being direct or indirect. We are now per-mitted to broaden the field of inquiry and ment. The act of June 4, 1879, laying duties a tax upon a person's entire income, whether derived from rents or products, or otherwise, of real estate, or from bends, stocks or other forms of personal property, belongs; and we to conclude that the enforced subtraction from the yield of all the owners of real or personal property in the manner prescribed is so different from a tax upon the property itself that it is not a direct but an indirect tax in the meaning of the constitution

WORDS IN THEIR NATURAL SENSE.

"The words of the constitution are to be taken in their obvious sense, and to have a In Gibbons vs. Ogreasonable construction. den Mr. Chief Justice Marshall with his usual Massachusetts this tax had been long known felicity said: 'As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlight-ened patriots who framed our constitution and the people who adopted it must be understand ave employed words in their natural sense and to have intended what they have said. We know of no reason for holding otherwise than that the words 'direct taxes' on the one hand and 'duties, imposts and excls s' 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 ground for enlarging them beyond or narrowing them within their natural and obvidua import at the time the constitution was framed and ratified. And passing from the text we regard the conclusion reached as when the circumstances which sur-Inevitable grounded the convention and controlled its ac tion and the views of those who framed and these who adopted the constitution are con

"We do not care to retravel ground already traversed, but some observations may b added. In the light of the struggle in the whether the nation should be empowered to levy taxes directly on fi individual until after the states had failed to respond to requisitions, a struggle which did terminate until the amendment to that effect proposed by Massachusetts and concurred in by South Carolina, New Hampshire New York and Rhod | Island had been rejecti it would seem beyond reasonable question that direct inxation, taking the place as it did of requiaitions, was purposely restrained to apportionment according to representation, in order that the former system, as to ratio

written after the ratification of ths proposed amendment to congress which, while opposing the amendment as calculated to im-pair the power only to be exercised 'in ex-traordiary emergencies' emergencies' in the second s traordiary emergencies,' assigns adequate ground for its rejection as substantially un-

the qualified grant was made. Those who made it knew that the power to tax involved the power to destroy, and that, in the lan-guage of Chief Justice Marshall, 'the only courity against the abuse of this power ound in the structure of the government itself.' In imposing a tax the legislature acts upon its constituents. This is in general a sufficient security against erroncous and opand they retained this pressive inxation." security by providing that direct taxation and representatives in the lower house of der it. congress should be adjusted on the same

'Moreover, whatever the reasons for the constitutional provisions, there they are and they appear to us to speak in plain language. It is said a tax on the whole income of property not a direct tax in the meaning of the cor etitution, but a duty, and as a duty leviable without apportionment, whether direct or in-direct. We do not think so. Direct taxation was not restricted in one breath and the ri striction thrown to the winds in another soley (on faxation) says the word 'duty ordinarily 'means an indirect tax imposed o the importation, exportation or consumption goods,' having a broaler meaning than ustom, which is a duty imposed on importa r exports. That the term impost also sig offer any tax, tribute or duty, but it is sel form applied to any but the indirect taxes

An excise duty is an inland impost levied upon articles of manufacture or sale, and also ipon licenses to pursue certain trades or to deal in certain commodities

QUOTES HAMILTON AND MADISON

"In the constitution the words 'duties, imposts and excises' are put in antithesis to direct taxes. In this connection it may be thrown into relief in the pages of the Feder upon carriages for the conveyance of persons. was enacted in a time of threatened war. It was, therefore, as much a part of a system of axation in war times as was the income taxes of the war of the rebellion. The bill passed the house on the 29th of May, apparently after a very short debate. Mr. Madison an Mr. Ames are the only speakers on flat day reported in the annals. Mr. Madison objected this tax on carriages as unconstitutional

nd as an unconstitutional measure he would oto against it "Mr. Ames said it was not to be wondered that he, coming from a different part of the country, should have a different idea of this tax from the gentleman who spoke last. In and there it was called an excise It was difficult to define whether a tax is direct or not. He had satisfied himself this was not so it appears then Mr. Madison regarded th carriage bill as unconstitutional, and accord-ngly voted against it, although it was to a arge extent a war measure. Where did Mr. large extent a war measure. Hamilton stand? At that time he was secre tary of the treasury and it may therefore be assumed without proof that he favored the egislation. But upon what ground? Ho must, of course, have come to the conclusion was not a direct tax. Did he agree with Fisher Ames, his personal and political friend that the fax was an excise? The evidence i verwheiming that he did. From articles i he Federalist it appears to us to inevitably

follow that in Mr. Hamilton's judgment at that time all internal taxes, except duties and excises on articles of consumption, fell into the category of direct taxes. REASON FOR HAMILTON'S OPINION.

"Did he, in supporting the carraige tax bill hange his views in this respect? His argu ient in the Hylton case in support of t iw enables us to answer this question. an not reported by Dallas, but was publish a 1851 by his son in the edition of all Hyl-m's writings except the Federalist. After aving we shall seek in vain for any lega eaning of the respective terms 'direct and and after forcibly stating the taxes." mpossibility of collecting the tax, if it is to considered a direct tax, he says, doubt-gly: 'The following are presumed ngly: the only direct taxes; Capital or coll taxes, taxes on lands and buildings 01 conceral assessments, whether on the whole roperty of individuals or on their whole real r personal estate. All else must of necessity considered as indirect taxes. Duties, im might be retained, while the mode of collec-tion was changed. "This is forcibly illustrated by a letter of Mr. Madison of January 29, 1789, recently pubon carriages, which is there considered as an constitution, but before the organization of the excise. Where so important a distinction in the government, about the submission of the the constitution is to be realized it is fair to

prehended by the constitution. Any loose exsiders himself entitled to take with his subjuct. He gives, however, it seems, to the United States a definition which covers the question before us. A tax on one's whole inome is a tax upon the annual receipts from his whole property, and as such it is a tax upon that property and a direct tax in th meaning of the constitution. CASE BADLY REPORTED. "And Mr. Hamilton, in his report on the public credit, in referring to contracts with persons of a foreign country, said: "This principle, which seems critically correct, would exempt as well the income as the would exempt as well the income as the capital of the property. It protects the use as effectually as the thing. What, in fact, is property but a fiction, without the beneficial use of it? In many cases, indred, the in-come or annuity is the property itself.' We think there is nothing in the Hylton case in conflict with the foregoing. The case is badly reported. What was decided in the Hylton case was that a tax on carriages was an excise, and therefore an indirect tax. The contention of Mr. Madison in the house was only so far disturbed by it that the court classified it where he himself would have held it unconstitutional, and he subsequently, is the subsequently. tax were placed by both governments on the an excise and therefore an indirect tax. The held it unconstitutional, and he subsequently as president, approved a similar act. The contention of Mr. Hamilton in the Federalist was not disturbed by it in the least. In our judgment the construction given to the constitution by the authors of the Federalist (the five numbers contributed by Chief Justice support of the government, in addition to the Jay related to the danger from forcign force revenue from duties, imposts and excises, and influence and to the treaty making apportion the quota of each state upon the nd influence and to the treaty making ower) should not and cannot be diaregarded. The opinion next took up the argument that power) should not and cannot be disregarded. a tax on property is not a direct tax within to assess that amount on all the real and the meaning of the constitution and on this personal property, or the income of all perpoint it says: "The constitution prohibits any direct tax unless in proportion to 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 no direct. In the meaning of the constitution, be muse confined to the income therefrom? WOULD DEFEAT THE CONSTITUTION. "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 general unapportioned tax on the products f the farm and the rents of real estate, al-hough imposed morely 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 "There can be but one answer, unless the constitutional restraint is to be treated as atteriv flusory and futile, and the object of its framers defeated. We find it impossible hold that a fundamental requisition, deemed important as to be enforced by two pro-sions, one affirmative and one negative, can refined away by forced distinctions, by tween that which gives value to the property and the property itself. Nor can we perceive ground why the same reasoning does any ground why the same reasoning does not apply to capital in presently for the purpose of income or ordinarily yielding in-come, 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 of an apportionment 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 a reapportioned 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

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 accode to the idea that the constitution has become weakened by a particular course of inaction un-

WHAT THE INCOME TAX IS. "The stress of the argument is thrown however, on the assertion that an inc tax is not a property tax at all; that it is not real estate tax, nor a crop tax, 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 renia received for the crops harvested, interest collected, have lost all connection with their rigin, and although once not taxable, become transmuted in their form into taxa-ble subject matter; in other words that inome is taxable irrespective of the source from whence it is derived."

This was the view entertained by Mr. Plitt and was expressed in his celebrated speech on introducing his income tax law of 1799, and he did not hesitate to carry it to its logical conclusion. The English loan acts provided the public dividends should be paid free of all taxes and charges whatsoever, but Mr. Pitt pointedly contended that 'the dividends for the purposes of the income tax were to be considered simply in relation to

recipient as so much income, and that the holder had no reason to complain.' And this, said Mr. Gladstone, fifty-five y after, was the national construction of years Charleston, but the court rejected it. That was a state tax, it is true but the states have power to lay income taxes, and if the source is not open to inquiry constitutional safeguards might be easily eluded.

"We have unanimously held in this case at so far as this law operates on the rethat so far as this law celpts from municipal bonds it cannot be sustained, because it is a tax on the power of the states and their instrumentalities to borrow money, and consequently repugnant to the constitution. But if, as contended, the interest when received has become merely money in the recipient's pocket and taxable as such without reference to the source from whence it came, the question is immaterial whether it should have been or ginally taxed

at all. This was admitted by the attorney general, and it inevitably follows that if the revenue derived from municipal bonds cannot he taxed because of the source, cannot the same rule be applied to revenue from other source not subject to a tax and the lack of power to levy any but an appor-tioned tax on real and personal property usually as to the revenue therefrom? CONSIDERED DIRECT IN ENGLAND

"Admitting that this act taxes income of property irrespective of its source, still cannot see that such a tax is necessarily an indirect tax in the meaning of the constitu-tion. In England we do not understand an income tax has ever been regarded as other than a direct tax. In Dowell's history o taxes and taxation in England, admitted to be the leading authority, the evolution o taxes is given, and an income tax is invari ably classified as a direct tax. That view is concurred in by the cyclopediaists and cographers and political economists, and gen erally by the classification of European go ernments wherever an income tax obtains. "In Attorney General against the Queen Insurance company, which arose in British North America in 1867, which provided that the provincial legislatures could only raise revenue for provincial purposes within each province (in addition to licenses) by direct taxation, an act of the Quebec legislature laying a stamp duty came under consideration, and the judicial committee of the privy speaking by Jessel, M. R., held that the words 'direct taxation' had either a technical

meaning or a general meaning, or, as it i sometimes called, a popular meaning. One ar the other meanings the words must have, and in trying to find out their meaning we must have recourse to the usual sources must have recourse to the usual sources of information, whether regarded as technical words, words of art, or words used in pop-ular language, and considering their meaning either 'as words in the sense of political conomy or as words used in jurisprudence in the courts of law, it was concluded that stamps were not included in the category of

direct taxation, and that the imposition was not warranted. In Bank of Toronto against

tory language of that country from which our jurisprudence is derived." "Mr. Hamilton, therefore, clearly supported the law which Mr. Madison opposed, for the same researd Fisher Ames did because it was the law which Mr. and son opporting it was same reason Fisher Ames did, because it was an excise, and as such was specifically com-prehended by the constitution. Any loss ex-prehended by the constitution. Any loss exbe 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 to declare that the in-tention of the legislature was that the part pronounced valid should be enforcable, even though the other parts should fail. To hold otherwise would be to substitute for the law intended by the legislature one they may never have been whing by itself to enact." pression in definition of the word direct, sa looked on as a direct tax of the most ob-far as conflicting with his well conceived vious kind, and it would run counter to the views in the Federalist, must be regarded as common understanding of men on this subliberty which the advocate usually con- ject, which is one main clue to the meaning legislature. After this review of cases and consideration of arguments of counsel the court as i "And again as stated by the same eminen approached its conclusion set up the following judge in Sprague against Thompson, when it was urged that certain illegal exception rgument "If it were a fact that there had been no in a section of a statute might be a garded, but that the rest could stand, income tax law such as this at the time the constitution was framed and adopted, it would not be of controlling importance. A superable difficulty with the application of that principle of construction to the present instance is that by rejecting the exception direct tax cannot be taken out of the con-stitutional rule because the particular tax intended by the legislature of Georgia, the state is made to enact what confersedly the legislature never meant. It confers upon the did not exist at the time the rule was 'This scribed. As Chief Justice Marshall said in the Dartmouth college case: statute a positive operation beyond the legis lative intent, and beyond what anyone wan say it would have enacted in view of the It is not enough to say that this particular case was not in the mind of the conillegality 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 and improvements thereon made up \$39,544,544,333. Of course, from the latter must be deducted, in applying these

the power of direct taxation has been exercised erty without due process of law; not that it ing directly upon individuals, to lay and congress did not see fit, for reasons of ex is not open 25 fraud, and evasion, and in-pediency, to levy a tax upon personalty, this quisitorial in its methods, but because it is pre-eminently a tax upon the rich and en-ables the burden of taxes on consumption and of duties on imports to be sensibly di-minished, and, it is said that the United States, 'as the representative of an indivisa-ble nationality, as a political sovereign, equal In authority to any other on the face of the globe, adequate to all emergencies, foreign

or domistic, and having at its command for offense and defense and for all governmental purposes all the resources of the nations, would be 'but a maimed and crippled crea-tion after all inless it posses the power to lay a tax on the Pheeme of real and personal property throughout the United States with out apportionment.

TAXATION THROUGH APPORTIONMENT "The power to tax real and personal prop erty and the income from both through at portionment is concedel; that such a tax is 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 enforce-

ment of the mandate of the constitution which prohibits congress from laying a dige tax on the revenue from property of the citi without regard to state lines, and in zen such manner that the states cannot intervenby payment in regulation of their own sources, lest a government of a delegated power should be found to be not less powerful, but less absolute, than the Fragination of its advocates had supposed. We are here concerned with the question whether an income tax is not desirable, or whether of not such a tax would enable the government to diminish taxes on consumption and duties on imports and enter upon what may be believed to be a reform of its fiscal and com mercial system. Questions of that characte belong to the controversies of political partie and cannot be settled by fudicial decision In such 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 unap portioned, in violation of the constitution, and we must so declare.

"Differences have often 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 had, 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 any be deprived of its equal suffrage in the senite

"The ultimate sovereignty may be thus called into play by a slow and deliberate process, which gives time for more hypothesis o exhaust itself and the sober second thought of every part of the country to assert its if. "We have considered the act in no respect of the tax on income derived from real es tate and from invested personal property and have not commented on so much of it bears on gains or profits from business priv leges or employments, in view of the in-stances in which tax on business, privilege or employments has assumed the guise on income tax and been sustained as such.

GENERAL TARIFF ACT STANDS.

"Being of opinion that so much of the of this law as lays a tax on income derived from real and personal property is invalid, we are brought to the question the effect of that conclusion upon these s lons as a whele. It is elementary that the

same statute may be in part constitutional 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 the rule laid down by Chief Justice SI Warren against. Charleston is applicable, that if the different parts are so mutually con-nected with and dependent upon each othas conditions, considerations or company tions for each other, as to warrant a bell that the legislature intended them as 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 dependent, conditional or connecte must fall with them.

"Or as the point is put by Mr. Justic Mathews in Poindexter against Greenhow "It is undoubtedly true that there may be cases where one part of a statute may be enforced as constitutional and another may be declared inoperative and void because

which could not have been contemplated ex

sidered as an entirety, we are constrained to

onclude that sections 27 to 37, inclusive,

the act which begang a law without the sig-nature of the president on August 28, 1894

income of real estate are equally direct taxes

sonal property or on the income of personal property are likewise direct taxes. "3. The tax imposed by sections 27 to 37, in-clusive, of the act of 1894, so far as it falls on the income of real estate and on personal

property, being a direct tax within the mean-

ing of the constitution and therefore uncon-

stitutional and yold because not apportioned according to representation, all these sections constituting one entire scheme of taxation

"The decrees for Autobafore entered in this

act of 1894

"In my opinion, this

court will be vacated. The decrees below

will be reversed and the cases remanded with instructions to grant the relief prayed."

Sections 27 to 37 of the tariff act of 189 referred to in the conclusions of the court i

the opinions are all the section; of the ac relating to the income tax so that the en-tire income tax law is declared void specific

JUSTICE HARLAN'S DISSENT.

Justice Harlan delivered the principal dis

senting opinion. After brief argument

against the position of the court, construing taxes on incomes derived from rents as a

judgment atrikes 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 tends to re-establish that condition of

are necessarily invalid.

direct tax, he said:

ally

We are of opinion that taxes on per-

provisions and am glad of the sequel. W. A. L. Gibbon-I regret to hear it, be-cause it will tend to upset the fiscal affairs penses of government and was dependent in all such matters upon the good will of the of the government A tax that makes small generally. upon the citizen's property in excess of his needs is a just tax and every loyal citizen states and promptness in making the requisitions made upon them by congress. In Its

practical operation this decision withdraws from national taxation not only all incomes derived from real estate, but the personal property of the whole country-personal prop-orty, bonds, stocks, investments of all kinds C. F. Weller-It was just and proper to knock out the whole bill after its recent and the income that may be derived from ridiculous revision in regard to rents and the

such property. This results from the fact that under the decision of the court that such icomes cannot be taxed only by apportion-ent among the state on the basis simply of ing news to all manufacturers. Judge Ferguson-I would prefer to be exopulation. No such apportionment can posably be made without doing monstrous vicked injustice to the many, for the benefit cused from expressing any opinion on the law, as I have really never given it any of the favored few in particular states. Any thempt upon the part of congress to apporthought aside from the newspaper accounts. Henry M. Morrow-This later decision is consistent and satisfactory in many phases, which the former decision was not. The country will be better off without an income taxation of incomes among the states on the basis of their population would, and roperly ought to, arouse such indignation mong the free men of America that it would

lever be repeated. The majority opinion practically decides hat without an amendment of the constituion such incomes can never be made to contribute to the support of the

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 he American people cannot too soon amend their constitution

PURPOSE OF CONGRESS DEFEATED

been popular with the moneyed class. The corporations should be made to pay their "The judgment just rendered defeats the share the same as the rest and the aim of the purpose of congress by taking out of the evenue not less than \$30,000,000, and possibly law was to bring them in to pay with the rest their just share. The supreme court might as well have wiped out the whole law in the \$60,000,000, expected to be raised from in mes. We know from the official reports both houses of congress that taxation first place as to have killed it one-half. Sheriff Drexel-My opinion has been that ould not have been reduced to the extenthe law was a good one. I am sorry to see the decision go thus way. I suppose the suwas by the Wilson bill but for the belief the country had the benefit of a revenue rived from a tax on incomes that could safely done. In every possible way the to houses of congress indicated that it ust be a part of any scheme for the reducpreme court had good reasons for its opinion Charles Conoyer-The decision suits me well enough for I never thought that the law was quite right. I believe in an income tax, but I think that the per cent of the tax tion of taxation and for raising revenue for the support of the government; that (with should be strictly pro rata with reference to the incomes, and, instead of making the artain exceptions) incomes arising from every kind of property and from every trad-ind calling should bear some of the burdens exemption \$5,000, I would bring it down to \$1,000 of taxation imposed. If the court knows or

Councilman Howell-I think that the decision will met with the approval of a ma-jority of the democratic party and of the justified in believing that congress would ot have provided an income tax which did ot include a tax on incomes from real es-ate, we are more justified in believing that people generally.

lecision made

nince the revenues.

It.

the Wilson act would not have become a law at all, without provision being made io A teaspoonful of Price's Baking Powder ces the same perfect work today it did yesterday, or last month, or last year it in the income tax. If, therefore, all the me tax sections of the Wilson act must LEADERS FOR CLUB WORK fall because some of them are invalid, does

not the judgment this day rendered furnish ground for the contention that the entire act Women Choose Directors of Departments falls when the court strikes from it all of the income tax provisions, without which the for the Ensuing Year.

This week most of the different depart

They think the long vacation is t

ict would never have been passed. ments of the Woman's club hold their last "But the court takes care to state that meeting for the year. At these meetings the ere is no question as to the validity of the election of leaders for the ensuing year takes Wilson bill, except those sections which pro-ride for a tax on incomes. Thus something stated for the support and maintenance The "Moral Philosophy department" met

the government. "The practical, if not the direct, effect of and decided to take up the study of psychology for next year, and also review this year's he decision today is to give to certain kinds f property a favoritism and advantage that work. Mrs. Andrews was elected leader of this department, with Mrs. Axtell us assistant. Mrs. Robbins is the new secretary. consistent with the fundamental prinples of our social organization; to inves them with power and influence that is peril-ous to that portion of the people upon whom wests the larger part of the burdens of the The Parliamentary Practice department me nmediately after. A motion to change the name of this department to that of parlia mentary study was lost. Mrs. Henderson the able leader, was re-elected by acclamaovernment, and who ought not to be sub dominion of augregated wealth ny more than the property of the country Mrs. Dewey is the new assistant leade hould be at the mercy of the lawless." and Mrs. Patrick secretary. A quotation fre

CONTRADICTORY PROPOSITION.

Denver paper was read, in which the vomen of the Woman's club of Denver aske Justice White stated his views briefly hat a given number of the public schools t 'rom first to last, he said, the opinion ppened during the summer months for manual raining, music and drawing. The women of the majority was but a series of contradic ory propositions, one eating up and destroy ng the other. Speaking of the grounds upor dea did not originate in the Omaha Woma which he dissented. Mr. White laid grea tress upon the Hylton case, and re-enunc such for the poorer class of children, reat many of these children have no yar ted the legal points he had made in hi irst decision dissenting. In conclusion. o play in, and therefore spend most of their ce White's opinion said: "The injustice o time on the street. If some of the school buildings of our city were opened for the summer, text books thrown aside and the hand and eye trained, instructions given in music and descent school of the school of the school clusion points to the error of adopt It takes invested wealth and reads the conclusion into the constitution as a favored and pro cted class of property, whilst it leaves music and drawing, there would be an im coupation of the minister, the doctor, the professor, the lawyer, the inventor, the au-thor, the merchant and all the various forms bility of the Republic?" Some of the women thought "monopolies." One woman said with considerable spirit, that if there was less human activity upon which the prosperity f a people must depend subject to the cx ction without apportionment.

"The absolute inequality and injustice of taxing by reference to population and with-out regard to the amount of the wealth faxed is so manifest that to admit the power to tax and limit to this mode substantially am glad of the sequel. on-I regret to hear it, be-HOW THEY CAUGHT CASSIDAY Omaha Police Wait While a Petty Thief and likewise

Does the McGarrigie Ar levs There is no wisdom like that experience, says some one, and the truth of the saving was ladled out in a big duse to two should not object to paying the same toward maintaining the government. George Hicks-I am very happy to hear it fly coppers of the police force day before yesterday when they started out to arrest

Low Cassiday. Low Cassiday is pretty well known to the police as a petty thief. He is a strictly Dan Farrell, Jr -- I knew all the time that home product and has worked up quite a

this would be the result. It will be gratify- reputation. Moreover, he is shrewd. Some me ago a certain small shoe dealer in the purchased several pairs of shoes and exbibited them in a box in the front of his store. One day Lew passed by, and, being struck by the appearance of the footwear, quietly appropriated two or three pairs. Several days after Cassiday entered the same store and remarked that he had several pairs of shoes he wished to dispose of at a tax than with one, so unjust as the former bargain. The shoe dealer examined the who: s, saw that they were in good condition Peter E. Elsassor-I am sorry that it is and purchased them. After Cassiday left Captain Ijams-Without going into the

the shoe dealer, looking at the shoes again, suddenly reached the conclusion that he had merits of the right or wrongness of an in-come tax in the present condition of the trensury, the decision will certainly seriously bought the identical ones that had been stolen from him. He also remembered that several days before he had noticed a man answering Cassiday's description examining the shoes in the box. He immediately swore J. E. Houss-I should have been glad for

my part to have been in a position where I could pay an income tax. The law has not out a warrant for Cassiday's arrest The warrant was placed in the hands of Sergeant King and Officer Chamberlain. The to Cassiday's home at Sevencenth and Nicholas streets and found him there. He was perfectly willing to pany them, but asked permission to wash is hands before he visited the bon ton at

he station. This seemed a reasonable enough request to the officers, and while Cassiday went into the bedroom, shutting the door chind him, the two officers contentedly and comfortably scated themselves in two of the sest chairs in the front room. They waited and waited. Suddenly a large sized sus-delon entered the mind of one of them that and walted. assiday was taking a bath instead of only washing his face and hands. Struck by the hought, he opened the bedroom door. The oom was empty, but the window was open

Cassiday has not yet come back probably now washing his hands and face at tome other point in the universe

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their proper nourishment. What you need is enriched and purified blood, and the medicine for this is Hood's Sarsaparilla, which is the one great blood puritier. Hood's Sarsaparilla cures scrofula.

salt rheum and all similar afflictions, because it makes the blood pure. You can take Hood's Sarsaparilla with full confidence that it will do you good.

Hood's Saraparilla Is the Only True Blood Purifier Prominently in the public eye today. Hood's Pillsness, headache, 25c. AMUSEMENTS. his department bemoaned the fact that the BOYD'S Two Nights Mor More. MON, and TUES., MAY 20-21 Return of Everybody's Favorite, PETER F. DAILEY ense amount of good done. The subject for scussion was "What Most Menaces the Sta-The Funniest Man of Our Time

A COUNTRY SPORT John J. McNally's 20th century farce comedy: croaking about the fall of the republic and more work for its stability, it would not be in any immediate danger. Another contended that corruption in politics was the great force we had to contend with. She is not a woman euffragist, and thinks as long as women allow nore work, for its stability, it would not be

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ecessary, since he says 'every state which chooses to collect its own quota may always prevent a federal collection by keeping a little eforehand in its finances and making its payment at once into the federal treasury." REASONS FOR THE CURTAILMENT.

On this point of the prohibition of direct taxation by the framers of the constitution the court said: "The reasons for the clauses of the constitution in respect to direct taxa-tion are not far to seek. The states re-spectively possessed plenary powers of taxation. They could tax the property of their citizens in such manner and to such extent as they saw fit; they had unrestricted powers to impose duties or imposts on imports from abroad and excises on manufactures, consumable commodities or otherwise. They gave up the great sources of revenue derived from commerce; they retained the current power of levying excises and duties if covering anything other than excises; but in respect to them, the range of taxation was narrowed by the power granted over interstate comrce and by the danger of being put at a disadvantage in dealing with excises on manufactures

"They retained the power of direct taxa-tion and to that they looked as their chief resource, but even in respect of that they granted the concurrent power, and if the same subject the claim of the United States had preference. Therefore, they did not grant the power of direct taxation without regard their own condition and resources as but they granted the power of apportioned direct taxation, a power just as efficacious to serve the needs of the general government, but securing to the states the opportunity to pay the amount apportioned and to recoup from their own citizens in the most feasible way and in harmony with their systems of local self government. If, in the changes of wealth and population in particular states, apportionment pre equality, it was inequality stipulated for, just as the equal representation of the states, however small, in the senate, was stipulated for. The constitution ordains affirmatively that each state shall have two members of that body and negatively that no state shall by amendment be deprived of its equal suffrage in the senate' without its consent.

MUST BE APPORTIONED.

The constitution ordains affirmatively that representative and direct taxes shall be aportioned among the several states according numbers and negatively that no direc tax shall be laid unless in proportion to the enumeration. The founders anticipated that the expenditures of the states, the counand towns would chiefly be met by direct taxation on accumulated property, while they expected those of the federal gov-ernment would be for the most part met by idirect taxes. And in order that the power of direct taxation by the general government should not be exercised, except on necessity, and when the necessity arose should be so exercised as to leave the states at liberty to discharge their respective obligations, and should not be so exercised unless fairly and discriminately as to particular states or otherwise by a mere majority vote, possibly of those whose constituents were intentior ally not subjected to any part of the burden

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sections, all unproductive property and all property whose net yield does not exceed \$1,000, 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 A SUGGESTION TO CONGRESS.

also the income from all invested personal "Being direct, and therefore to be laid by property, bonds, stocks, investments of all apportionment, is there any real difficulty kinds, it is obvious that by far the larger in doing so? Cannot congress, if the neces-sity exists of raising thirty, forty, or any part of the anticipated revenue would eliminated, and this would leave the burden of the tax to be borne by professions, trades, employments or vocations, and in that way other number of millions of dollars for what was intended as a tax on capital would sons in the state, and collect the same it the state does not in the meantime assume and pay its quota and collect the amount ac cording to its own system and in its owr way? Inconveniences might possibly attend the levy of an income tax, but that it is

apportionable is hardly denied, although i asserted it would operate so unequally as be undestrable. "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 al-together, because of inequalities alleged to necessarily accompany its pursuit could not be allowed to influence the conclusion, the suggestion of this naturally vites attention to the conte in contention of appellant's counsel, that the want of uni-formity and equality in this act is such as to invalidate it. And figures drawn from the ensus are given, showing that enormous as iets of mutual insurance companies, of build ing asociations, of mutual savings banks, and

large productive property of ecclesiastical or-ganizations are exempted, and that the ex-emptions reach so many hundred millions that the rate of taxation would perhaps have been educed one-balf if they had not been made. "We are not dealing with the act from that point of view, but assuming the date to b ubstantially reliable, if the sum desired e raised had been apportioned, it may b loubted 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 allowed to to escape taxation. If so, a better measure of equality would have been at-tained than would otherwise be possible, since

according to the arguments for the govern ment the rule of equality is not prescribed by the constitution as to federal taxation and the observance of such a rule as inherent all just taxation is purely a 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 lessness in which congress found itself during

"Nor are we impressed with the argument so wanting in uniformity and equality as in the period of the articles of confederation that, because in the four instances in which substance to amount to deprivation of prop- when it was without power by laws operat-

fenies he power itself, since it imposes a rethemselves to be swayed by impulse striction which renders its exercise prac of principle, they are better without the bal tically impossible.

lot. Commence with the boys and girls and educate them so they will vote for right, re-A few extemporaneous remarks were made by Justice White after the reading of his gardless of party. "Want of patriotism" is felt in the republic. The lessons taught by the Grand Army of the Republic are invaluable. written opinion. He spoke of the decision as a blow struck at the American people and said that the power of levying an income tax They are doing more toward inculcating lov-of country than any other force now at work now could only be exercised with such injus-tice that no executive body would dars at-There was quite a discussion over the man tompt to exercise it, for such an attemp would bring forward a bloody revolution.

HAS BEEN DEFINED BEFORE.

There was quite a discussion over the man-ner in which the women came into the club meetings and wont out. "They wait not upon the order of their going," but go when the spirit moves them, regardless of the fact that any one is talking or reading. The Parlia-mentary Practice department hopes that "public opinion" will be so strong next year that they will se and sume "on time." Justice Brown in his dissent said: If the nestion what is and what is not a direct tax ere now for the first time presented, h could entertain a grave doubt, whether i that they will go and come "on time lew of the definition of a direct tax given by the courts and writers on political economy luring the present century, it ought not to be The length of time to be given to prepared rapers was touched upon, the general senti-

held to apply not only to an income tax the nent being in favor of more papers and burden of which is borne both immediately and ultimately by the person paying it. He shorter ones, seven minutes being thought to be a good limit. The club room is a hard room to speak in, and no woman should be asked to read before the audience unless she regards it as very clear that the clause re quiring direct taxation to be apportioned to has voice enough to fill the room. A poor he population, has no application to taxes which are not canable to apportionment ac cording to population. It could not have been thing well said is better than a good thing

poorly said. supposed that the constitution could have con No wine has a purer boquet than Cook's templated a practical inhibition of the power of congress to tax in some way all taxable Extra Dry Imperial Champagne. It pure juice of the grapes fermented. It is the property within the jurisdiction of the federal

government for the purpose of a national AMUSE MENTS. Justice Brown said in conclusion; "Respec The opening night of the "Carraboo for the constitution will not be inspired by narrow and technical construction which shall

Mines" at the Empire last evening made it limit the necessary powers of congress. "The decision involves nothing less than evident that the play will be a great favority with the play going public. Its production the surrender of the taxing power to the was greeted with repeated rounds of applause "While I have no doubt that congress will

the telling situations and startling incidents find some means of surmounting the presen crisis, my fear is that in some moment of fairly carrying the audience. The author, Mr. W. S. Nead, took th national peril this decision will rise up t title role, and proved to be not only a successful playwright but an actor of no mean order as well. The cast is a strong one, including Mrs. Nead, who represented the vitch admirably; Miss Chandos, who made a mest charming and attractive little heroine

Miss Nations, the funniest of old maids; Miss Edwards, the most broken-hearted of broken earted mothers; Mr. Victor Constance, who gave the finest representation of the delirium tremens ever seen in the west; Mr. Bordwell, who played the villain to perfection; Mr

Clawson, a very fine Yankee study; Mr. Wrothe, the funniest of Irish comedians; Mr. Plair and Mr. Harpur, who rendered very efficient service, Mr. Edwards, the musical Dudley Smith-I did not think it a wise measure when passed on account of certain and did much toward the success of the play.

ĨŦIJŧŴŦŨŦŴĿŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴŦŴĿ ONLY pure grape cream of tartar is used in Royal Baking Powder. Unlike other powders, Royal leaves no acid or alkali in the food.

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One and one-half pints flour, four table One quart best Graham flour, one table poonfuls sugar, one-half teaspoonful sait, on and one-half teaspooafuls Royal Baking Pow epoonful sugar, one-half teaspoonful sait, one half leaspoonful Royal Baking Powder, two tablespoonfuls butter, little more than casder, two tablespoonfuls butter, four eggs, nearly one-half pint mills. Rub to white, light cream butter and sugar, add yelks of half pint milk. Sift together Graham, sugar salt, and powder; rub in lard cold, add milk, light cream butter and sugar, and yeiks of sait, and powder; rub in fait eggs, one at a time. Sift flour, sait, and mix into smooth, consisten powder together; add to butter, etc., with the board, turn out doug milk and egg whites whipped to dry froth; minutes. Roll with rolling mix together into a smooth batter. Bake in small cakes; as soon as brown turn, and brown the other side. Have buttered baking tin; fast as browned, lay then on it, and spread raspherry Jam over them; then bake ord store for use. mix into smooth, consistent dough, Flour the board, turn out dough, knead well Rell with rolling pin to thickness of one-quarter inch; cut with knife into small Bake in hot oven with care (as they burn readily) ten

more, which lay on others already done. Repeat this until you have used jam twice, then baks another batch, which you use to cover them. Sift sugar plenifully over them, place in a moderate oven to finish cooking.

Handle carefuly while hot; when Rice Flour (rackers.

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what was intended as a tax on capital would national perit this becausion will rise up to 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 Chief Justice Fuller announced that the direct tax on all real estate and personal property or the income thereof, might nor court would adjourn for the term on the 3d of June, and that it would also sit next Monalso lay excise taxes on business, privileges, employments and vocations. But this is no such an act, and the scheme must be conday. Local Opinions on the Decision. sidered 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

revenue.

moneyed class.

Euclid Martin clapped his hands enthuiastically at the Commercial club where he was enjoying lunch, and after surveying the fragments of a piece of moring chicken in front of him, shouted: "I am glad of it." Dudley Smith-I did not think it a wise are wholly inoperative and void." "1. We adhere to the opinion already an-nounced that taxes on real estats being in-disputably directiaxes, taxes on the rents on