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The Traynor Proposals—
Some Considerations

By E. Barrett Prettyman

WITH a sincere tribute to its frank statement and its exhaustive research into facts and figures, I approach consideration of the article by Professor Traynor. Any interested reader must be vividly impressed by these qualities so clearly apparent. It is a refreshing relief to find that the problem is now to be tackled, and in a manner which is calm, thorough and obviously earnest. The article by its tone and its scientific approach invites discussion and criticism. The scholarship and statesmanship readily apparent throughout preclude the possibility of any pride in its authorship being offended by criticism sincerely made. We may therefore approach the discussion as a joint venture by the authors, officially concerned, and ourselves, professionally concerned. In other words, I take it that since Professor Traynor and Mr. Surrey have been friendly and at the same time frank, we can be frank and at the same time friendly.

Beyond doubt we all thoroughly agree with much of the article. It is true that there is at present an alarmingly dangerous delay in the final collection of many taxes due, that the eventual settlement of so many cases on the Board of Tax Appeals docket indicates that they did not require judicial determination, that it is difficult for the Board to function effectively under present circumstances, and that the chronic delay entails substantial losses of revenue. It is also true that multiple reconsiderations in the Bureau make for confusion, and that there is need for an objective analysis of controversies in the early administrative stages.

The proposal involves three principal points of interest—(1) that a new procedure be devised whereby a taxpayer before the Board of Tax Appeals would be limited to the grounds, documents and facts outlined in his protest to the Commissioner, and the Commissioner would be limited to the issues and facts contained in his findings of fact; (2) that a bond be required for an appeal to the Board of Tax Appeals; and (3) that appellate jurisdiction be concentrated in a single Court of Tax Appeals.

Background of Suggested Revision in Board's Functions

It is well that we explore for a moment the causes of the situation which gives rise to the suggested revision of the functions and proceedings of the Board, and submit our own suggestion for remedy before referring to some demerits which appear to the suggestion in the article.

We are not here concerned with the exercise of a regulatory power wherein the regulatory authority seeks to impose its own policy and will upon those to be regulated. We are concerned with the collection of a tax, one of the eternal difficulties of government, and particularly a tax which involves countless disputes, big and little, simple and complex, of both law and fact.

We posit two premises. One, that the income and estate taxes involve an infinite multitude of legitimately disputable questions of fact and of law. Two, that administration solution of these disputes is far preferable to judicial solution.
When we attempt to devise an administrative governmental procedure we are face to face with a very practical fact, which is that so long as democratic government continues the people will not accept what they consider unreasonable or unfair methods or rules. An individual simply will not accept an administrative ruling which he considers unfair or arbitrary. He will litigate every time. People in the mass come to a conclusion slowly, but whenever they at last conclude that a particular governmental activity is arbitrary or unfair, they have no mercy and little discrimination. The whole business must be repeated, destroyed. We simply cannot ignore so deeply-seated a conviction on the part of American citizens, and we are simply foolish if we do not use and capitalize upon the natural inherent attitude of these same citizens toward their government and its agents. An American likes to be proud of his government and if encouraged or even permitted to do so, will cooperate with its agents, short only of submission to what he may deem to be the unfair exercise of power. For some reason or other, government seems never to learn this lesson: "Never?" Well, hardly ever.

Policy of Board v. Procedure

An administrative program for the solution of disputed problems must have three elements—personnel, policy and procedure. There is nowhere a question as to the competency of the personnel engaged in federal tax collection. There is not in this country in any private agency or group of agencies a personnel comparable in experience, character and knowledge with the personnel of the Bureau of Internal Revenue. Nor, I may add, is there in any law office in this country a trial staff comparable to the staff of the Chief Counsel's office in the trial of tax cases.

Professor Traynor thinks that the present difficulty lies in the procedure pursued. My thesis is that it lies in policy, or perhaps more accurately stated in an attitude of approach, rather than in the procedure.

"The Board of Tax Appeals is too valuable an adjunct to the governmental tax procedure to be lightly condemned because its docket is clogged. It was intended by its creators to be a forum in which cases necessarily litigated could be expeditiously and expertly decided. It represents to the American taxpayer an assurance of fair and impartial adjudication of his troubles before he is compelled to meet with cash the demands of the Government for additional taxes."

Between the summer of 1933 and the spring of 1934, the pending cases before the Board of Tax Appeals were reduced from almost 19,000 to less than 9,000. As everybody knows, that task was accomplished by a very simple method in two parts—first, a selected staff was assembled by the Commissioner and advised that they were to be personally responsible to him for their activities, a similar staff with a similar instruction was assembled by the General Counsel, and the members of the two groups were paired off, one and one together. Second, these men were sent into the field with the accumulated cases and told to find the right answers, assured that they would receive unstinted official support regardless of the dollar return from their efforts so long as the answers they reached were, so far as humanly possible, the correct answers to the problems presented. Those men had little difficulty with that task. Once their judgment was released from the necessity of showing a tax in every case, from the embarrassment of having to work backward from the dollar column to the actual question stated, they knew pretty much what the right answers were or what the probable results of litigation would be. And the taxpayers' counsel knew, also. The result was not only a dissipation of the jam, but it is absolutely certain that more money was put into the Treasury in actual cash dollars than would have been collected if all those cases had been litigated. And that policy could be made a permanent policy of the Treasury. I have said before and I say again that if the consensus of public opinion were to be "If the Bureau boys say this is right, it is right," the problem of collecting the tax would vanish into thin air. And I am positively certain that such a state of mind could be created with very little effort on the part of the Treasury.

If the Treasury were to adopt the policy of finding the right answer to the problem in every case, and were to offer to its men in the field and in the conference room full support if the right answers are given to the best of the knowledge and the judgment of the officials concerned, the matter of procedure will solve itself. But so long as the men actually handling the cases are required, or think they are required, to show a tax in every case, and to show as much tax as the taxpayer will stand—and then just a wee bit more—you will never devise an administrative procedure which will satisfactorily collect the tax in this country so long as democratic processes continue. The difficulty is not in the procedure. The difficulty is in the policy under which the government men in the field are working, or think they are working. This is not said in a spirit of criticism. Many earnest and intelligent public officials hold to the view that the duty of taxing officers is to claim for the Government the maximum possible upon the theory that the taxpayer will take care of himself. Our suggestion is that such a policy does not make for administrative disposition of disputed cases. It makes for litigation. Our suggestion is that the Treasury drill its officers in a policy of rendering the right answer to the question presented. The procedure and the revenue will amply take care of themselves under such a policy.

It seems to me that the Traynor article stresses out of all proportion the Commissioner's lack of information in his consideration of disputed tax matters. The major premise of the article seems to be that taxpayers as a class withhold vital information from the Treasury in these disputes. In candor we must submit that the article is wrong in this assumption.

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In the vast majority of cases the examining agent is given everything he needs or asks for. The fact is that the Commissioner makes his initial proposal of a deficiency upon his own discovery of a fact or a difference of opinion between himself and the taxpayer as to the proper rule to be applied to the agreed facts. There is no justification under the statutes for the Commissioner to make a determination of a deficiency in tax unless he knows what it is he is doing. The statute attaches a presumption of validity to his determination. A declaration of deficiency upon a mere vague suspicion that if he, the Commissioner, knew more about the situation, he might possibly find some tax due, is not contemplated by the statute. As a matter of fact, a general notion that such is the frequent practice of the Bureau is one of the chief reasons for the widespread attitude of resistance to deficiency notices on the part of taxpayers.

The article says that

"The complete innocuousness at the present time of the so-called 'protest' to the thirty-day letter and the vague inconclusiveness of many of the ninety-day deficiency letters are directly traceable to the absences of such counterbalances."

We agree with the characterizations, but not to the designation of cause. It is true that in all too many cases the officials in Washington are without full information in cases, but the revenue agents and deputy collectors in the field have the facts in field cases and the auditors and conferees in office audits either have the full facts or have the power to get them. Both the Commissioner and the Collectors have the powers of examination and of subpoena. The paucity of factual data in office reports is not the fault of the taxpayers. It is the fault of the Bureau. The investigatory forces are led to put too much emphasis on the amount of the tax proposed, and too little on the revelation of the facts involved. The temptation to show a big tax and to skip the facts which show it is not due, has been made too great. The combined wrath and antagonism thus aroused in the taxpayer does not make for sympathetic cooperation on his part to the speedy and correct solution of the problems raised by the agent. The Bureau ought to insist upon full revelation of all the facts by its field agents and its conferees. Those men are both able and willing to comply with such a policy if the judgment rendered upon them by their superiors were less influenced by the dollar amount of proposed additional taxes. Of course, such a policy could conceivably be carried too far, but the proper balance is readily available in the insistence upon "Get the right answer" and "State all the facts," with the resultant esprit de corps created by public acclamation for efficiency and fairness. It is a fact that the public hates both a sissy and a bully, and loves a strong, stern person who is gentle; and all government work thrives on public approval.

I venture the assertion that it is rare indeed for a trial attorney for the Bureau who has in his file a trial brief properly prepared, to be surprised by any new facts presented by his opponent at the counsel table, and it is a still rarer occasion when a member of that shrewd, skillful and schooled staff is thrown off balance by any such surprise.

Of course, lawyers in private practice are prone to blame a lost case on a lack of facts, and government lawyers are human, too. But nobody should be alarmed at this universal frailty.

Withholding of Facts

In the next place, the Traynor article misconceives the reason why taxpayers withhold facts from the Bureau, when they do so withhold them. If the taxpayer has a fact which he knows will conclude the controversy in his favor, he does not withhold it if he thinks he will get a fair decision when he reveals it. Taxpayers do not like to litigate matters merely to be litigating. Taxpayers do not like to litigate matters unless they think he will get a fair decision when he reveals it. The only reason why a taxpayer withheld a favorable fact is that he does not believe that the official to whom the fact is revealed will render a fair and true decision upon the facts established, but will on the contrary bend every effort to the collection of additional tax regardless of the revelation of facts. The attitude of "What's the use?" is the reason for withholding facts favorable to the taxpayer.

If the withheld fact be unfavorable to the taxpayer, the government is not harmed. And moreover, such a fact will probably not be revealed by the taxpayer any more readily in the course of litigation than in the administrative process in the first place.

If the Bureau's problem is in the failure of taxpayers to reveal facts, then let it relieve taxpayers' minds of the idea that Bureau agents will not render the right answer to the best of their knowledge regardless of the tax result, and this problem will promptly disappear.

Shifting of Responsibility

It is true, as Professor Traynor says, that the many avenues open for the shifting of responsibility is a factor in the reluctance of officials to assume it, but a much more potent factor is the compulsion which they feel, real or imaginary, that it is to their best interest not to take too much responsibility if the situation seems to require a yielding toward the taxpayers' views—or, perhaps we had better express it, a leaning away from an additional tax possibly but not probably due.

Of course, there are two classes of cases to which the foregoing general remarks do not apply. They are those of the intentional outlaws, a small minority, and those involving questions which should in any event be submitted to the judicial branch of government for decision. The former should be disposed of with annihilating brevity. The latter should be handled with deliberate care. Neither class presents any great problem so long as they are not magnified out of all proportion to their correct place in the general picture.
Finding of Facts

We find ground for criticism of Professor Traynor's proposal as to the Commissioner's findings of fact. The plan requires the taxpayer's protest (made under oath) to contain a statement of all the facts, evidentiary and ultimate, a list of the documents, etc., upon which he relies and where located, and a list of the persons familiar with the material facts. Upon the basis of the protest the Commissioner will make findings of fact. While in theory the findings would be the findings of the Commissioner, in practice they would be the findings of a local examining agent, a subordinate employee, who might or might not be an attorney, and might be utterly incompetent to make appropriate findings of fact, especially in difficult and close cases. Such findings when made would be adopted by the Board as final, subject only to the taxpayer's right "to prove before the Board that the conclusions and findings of fact of the Commissioner were erroneous."

This procedure would deprive the taxpayer of the right of cross-examination. The examining agent would be permitted to include additional facts in his findings. Yet the taxpayer would have no right to test the accuracy of such facts by cross-examination and is relegated to the right, before the Board, of negating the facts found by the examining agent. With right to appeal to a local Federal Circuit Court of Appeals denied, a Board practice might readily grow up under which the Commissioner's findings of fact would be upheld as conclusive in almost every instance.

By limiting the Commissioner and the taxpayer to the issues raised and the facts included in the protest (subject to certain exceptions in the case of after-decided cases), the taxpayer would be forced to make his case in every factual detail in a written protest under oath. In large actions, such as valuations and corporate reorganizations, this would result in an enormous written record, which, if the examining agent makes adverse findings, must be entirely remade before the Board of Tax Appeals. This would definitely delay and clog the disposition of such cases.

If the Commissioner is under a handicap on account of failure to know the material facts on consideration of the protest or in the preparation of the case for trial, he can readily be given a right of examination before trial.

Some blame is visited upon the Board of Tax Appeals in the difficulties described by the article. The Board can readily consider and dispose of between 1,500 and 2,000 cases a year by hearing and decision. It ought not be called upon to consider more. There is no sound reason why more than that number of cases should be litigated in any one year. That four or five times that number of cases go to its docket and then three-fourths of those cases are settled before trial shows that somebody has been unnecessarily stubborn about something in the earlier stages of negotiation. The pending question is "Who?" Taxpayers may cry out "The Treasury" and the Treasury may cry out "The Taxpayer." But I suspect that the true answer is a little of both, and that if somebody not afflicted with a crying-out complex could calmly diagnose the cause of the pain, a cure can be effected. The death of the patient is not indicated by present symptoms.

Reasons for Creation of the BTA

The Board of Tax Appeals is too valuable an adjunct to the governmental tax procedure to be lightly condemned because its docket is clogged. It was intended by its creators to be a forum in which cases necessarily litigated could be expeditiously and expertly decided. It was not intended as a public resort for parties who have been, either one or the other or both, unnecessarily stubborn in negotiating a difficulty through administrative processes. It was not intended as a haven for fugitives from tax obligations. It was not intended as the buckeye for government officials harassed with difficult problems. That it has been used for all these purposes is no reason for its destruction. It represents to the American taxpayer an assurance of fair and impartial adjudication of his troubles before he is compelled to meet with cash the demands of the government for additional taxes. Whether taxpayers need such an assurance is beside the point. They have thought they do and caused Congress to create the Board for that purpose. None of the present difficulties would be solved by its abolition. On the contrary, the difficulties would be thereby greatly aggravated by the suspicion and hostility created in the minds of taxpayers by the insistence of the Treasury upon compliance in cash with its own determination without review. It is not as though taxpayers had never experienced the Board. They have had it for some fifteen years. The reasons why the Board is misused are partly because its docket is clogged and partly because one party or the other has failed to be frank and fair until the last moment. If we can cure these two troubles, the Board can resume the function for which it was created, a valuable function in orderly governmental tax processes. And I hark back to my first thesis as the real cure.

There is much to be said for and against decentralization, both of the Bureau and of the Board. The short of it is that, like almost everything else, well designed it is good; improperly designed it is bad.

Shall Bond Be Required for Appeals?

We vehemently disagree with the suggestion that bond be required for appeals to the Board of Tax Appeals, basing our disagreement principally upon the injustice such a provision would entail. If the litigated cases were reduced to a proper number, the mere fact that a case is litigable under such a program would deny that an unnecessary burden impede the right of the taxpayer to litigate. Bonds in large amounts are almost prohibitive in price, and bonds in small amounts on small taxpayers are a gratuitous obstacle to the adjudication of his rights.

The recent Tex-Penn case ¹ comes to mind as an example. Originally the Commissioner asserted a deficiency of some $68,000,000, which fell entirely upon two individual citizens since the corporation involved had long since been dissolved. A bond was

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¹ Helwering v. Tex-Penn Oil Co. et al., 300 U. S. 481, 57 S. Ct. 569, 37-1 uct. § 9194.
out of the question and payment equally impossible. Any judicial review would have been thus definitely foreclosed. Yet in that case the Circuit Court of Appeals and the Supreme Court held that the taxpayers owed nothing additional. Had such a case arisen under the suggested rule, the gravest injustice would have resulted.

Furthermore, the requirement would tend to encourage unduly high assessments. In cases which involve a very large deficiency, the very existence of the requirement would tend to encourage an over-eager tax collector to raise the assessment by the stroke of a pen and assert a figure which, on account of the considerations indicated above, would preclude any recourse except a hat in hand on the ground of insolvency.

Bonds on appeals to the Circuit Courts from the Board are a different matter. A day in court has already been had. Moreover, appeal bonds to the Circuit Court are merely for supersedesas, whereas the proposed bond to the Board would be jurisdictional.

Under the statutes as at present drawn, the Commissioner has power to force a taxpayer to assume the burden of disproving a liability by the simple act of signing his name to a deficiency notice. This power must be limited by ready and inexpensive judicial review, in order to safeguard the rights of a citizen and insure approximate justice.

Withdrawal of Jurisdiction from District and Appeals Courts

We come now to the proposed withdrawal of jurisdiction from Federal District Courts and Circuit Courts of Appeal; the division of the Board into five regional divisions and the creation of a single court of Tax Appeals. This is a fundamental and far-reaching change in our traditional judicial procedure. It should be scrutinized with utmost care. The following considerations appear:

(1) By depriving the District and Circuit Courts of Appeal of all jurisdiction, leaving open only an administrative quasi-judicial tribunal closely identified with the Treasury, the confidence of the citizen in the justice of an adverse decision is definitely undermined.

(2) The elimination of all right of trial by jury deprives the citizen of a traditional local right, the existence of which, whether used or not used, is essential to preserve confidence in government. While jury trials are rare, the existence of the right is fundamental in such a vital field as taxation, and is sometimes availed of in the accomplishment of justice.

(3) The plan would completely eliminate the healthy approach and broad experience of the federal courts in the field of substantive law, upon which the large majority of tax cases turn; the income tax is not "a distinct branch of the law" but must be applied in accordance with the broad principles of substantive law upon which it rests. The handling of tax questions exclusively by tax tribunals would definitely tend toward technicality of decision and ultimately confine all tax practice to so-called tax experts and "a specialized tax bar," thus depriving a citizen of the benefit of representation by attorneys trained and experienced in the fundamental principles of jurisprudence. The segregation of tax law from the general body of our substantive law would be intolerable.

(4) The procedure might be held not to constitute due process, since it deprives the citizen of right of recourse to a constitutional court. The limited but discretionary review by certiorari to the Supreme Court does not cure the constitutional defect. Even though the Circuit Court of Appeals for the District of Columbia should be made the one appellate court, the same considerations would exist which underlie the constitutional requirement of a judicial remedy in a constitutional court, namely, all citizens would be forced to journey to a distant point, thus depriving them of the right of trial and appeal in the local community before judges locally known, and greatly increasing the burden and expense of litigation.

(5) The existence of such a single court would tend strongly to eliminate final review by the Supreme Court on matters of vital and national importance, thus depriving the Treasury and the citizen of the broad vision and realistic quality of a decision of that Court, particularly in a field where the modern tendency is to cloak economic and political reform in the guise of taxation.

Conflicting Opinions as a Deterrent to Arbitrary or Hasty Judgment

The main abuse toward the correction of which the plan is directed is the existing diversity of decision among different Circuit Courts of Appeal and the inability under present certiorari practice of obtaining speedy and final determinations by the Supreme Court. We do not agree that conflicts in decision in the Circuit Court are necessarily an evil. If the truly right answer is the ultimate goal of all concerned, a second consideration by a second tribunal often corrects an initial error. And moreover, the presence of the possibility of conflicting opinion by equal tribunals is a deterrent to arbitrary or hasty judgment on the part of everyone. Of course, too great opportunity for differing decisions is a torment devoutly to be avoided, but the eleven circuit courts and the Court of Claims seem not to involve too great difficulty in this respect. Moreover, the abuses are not really as great as the proponents of the plan assert. They could be largely corrected by improved supervision over pending cases in the various circuit courts through the Department of Justice, acting through one experienced attorney charged with this function. While the Solicitor General cannot control petitions for certiorari filed by defeated taxpayers, he can control petitions filed by the Government.

If the difficulty incident to the existence of ten circuits is real, the problem could be much reduced by combining the appellate districts of two Circuit Courts of Appeals and designating one of the two Circuit Courts to hear all appeals in tax cases arising within the combined geographical division, thus reducing the reviewing circuit courts to five instead of ten as at present.
Conclusion

An admirable suggestion of the article is that both Commissioner and taxpayer be forced to acquiesce in a decision of the new Court of Appeals if certiorari be denied. We all have in mind the classic but apocryphal tale of the official who asserted the Commissioner's non-acquiescence in a decision of the Supreme Court.

In concluding, let me say as I said in the beginning, that if we have been more direct or more frank than the occasion permits, it is because we rejoice in the directness and frankness of the approach to this problem by Professor Traynor and Mr. Surrey, who by their attitude have led us to believe that the Treasury wishes frank discussion of its proposals to the end that a remedy be found for a problem vitally affecting us all.

The Traynor Plan—What It Is

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This, in brief, is the "Traynor Plan." Its sole purpose is to provide a procedure that will effectively and expeditiously determine controversies between the taxpayer and the Commissioner, and at the same time will operate with fairness to each party. The word "plan" may be misleading, for it connotes an inflexible program, whereas the proposal is subject to whatever change is necessary to accomplish this purpose. The proposal was formulated only after critical and objective appraisal of the present procedure. Criticism of the proposal should be made on the same objective plane, for without such objectivity it will be impossible to achieve a procedure that is equitable to Commissioner and taxpayer alike. It is to be hoped that the tax bar, possessing as it does a special and intimate acquaintance with the problems to be solved, will bring its knowledge and training to bear on these problems to the end that we may finally obtain an improved tax administration.

Taxation of Judges' Salaries

(Continued from page 422)

had thus charged them with the common duties of citizenship, by making them bear their aliquot share of the cost of maintaining the Government, is to trivialize the great historic experience on which the framers based the safeguards of Article III, § 1. To subject them to a general tax is merely to recognize that judges are also citizens, and that their particular function in government does not generate an immunity from sharing with their fellow citizens the material burden of the government whose Constitution and laws they are charged with administering.

*Miles v. Graham*

*Miles v. Graham* is obliterated in a brief sentence: "But to the extent that what the Court now says is inconsistent with what was said in *Miles v. Graham*, 268 U. S. 501 [1 usrc 138], the latter cannot survive."

*Evans v. Gore*

There remains the question of taxability in those cases where the judge took office before the 1932 Act or before any taxing statute. *Evans v. Gore, supra*, prohibited taxation of the salary in such case. However, the decision on that question may not require a repudiation of that case although it may require a repudiation of its principle. The reason is found in the Public Salary Tax Act of 1939.* That Act provides that salaries of Federal judges who took office before June 6, 1932, are taxable. But Sec. 209 of that Act provides that such tax may not be retroactively imposed. Consequently, the issue will arise in connection with the constitutionality of this provision in the Public Salary Tax Act. However, the decision on that issue will involve the same principle as was involved in *Evans v. Gore*, and the Supreme Court's comment on that case may have an important bearing on the Court's future attitude. The opinion clearly discredits the earlier case. For example: "However, the meaning which *Evans v. Gore* imputed to the history which explains Article III, § 1 was contrary to the way in which it was read by other English-speaking courts. The decision met wide and steadily growing disfavor from legal scholarship and professional opinion. *Evans v. Gore* itself was rejected by most of the courts before whom the matter came after that decision."

Here discussion of the case stops. But it is reasonable to conclude that the principle of the case has been thoroughly devitalized, as the result of which it is equally reasonable to conclude that the provision of the Public Salary Tax Act taxing salaries of judges who took office before June 6, 1932 will also be upheld. Certainly, if the status of judges appointed after that date "does not generate an immunity from sharing with their fellow citizens the material burden of government," there seems to be little reason why judges appointed before that date cannot be called upon to share similarly the burden of government.

Dissenting Opinion

Mr. Justice Butler wrote a lengthy and scholarly dissenting opinion. He traces the constitutional history of Art. III, § 1. He concludes:

For one convinced that the judgment now given is wrong, it is impossible to acquiesce or merely to note dissent. And so this opinion is written to indicate the grounds of opposition and to evidence regret that another landmark has been removed.

Excise Tax on Toilet Preparations

In *Campana Corp. v. Harrison* recently decided by the District Court for the Northern District of Illinois, the issue was whether the excise tax on Italian Balm should be based on the price at which the manufacturer (taxpayer), Campana Corporation, sold the toilet preparation to Campana Sales Company or on the price at which the latter company sold the product. The Court held that the sales by the taxpayer to the selling corporation were at fair market prices, and at prices for which the articles involved in such sales were sold in the ordinary course of trade by manufacturers or producers thereof. It was therefore held that the Commissioner erred in basing the tax on the price for which the selling company sold the product. Neither corporation held stock of the other and stockholders owning stock of each corporation did not hold the stock in substantially the same proportions.

4 Page 12, 289, 1939 CCH Index Vol.
5 Sec. 3 of the Public Salary Tax Act.
6 394 CCH ¶ 9905.