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George Maurice Morris

Allan H. Gardner

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REVIEW OF RECENT SUPREME COURT DECISIONS ON SUBJECT OF FEDERAL TAXATION

GEORGE MAURICE MORRIS*

ALLEN H. GARDNER*

The Supreme Court of the United States on November 21, 1927, handed down decisions in nine cases relating to the subject of Federal taxation, several of which are of outstanding importance. On no other occasion has "decision day" in that Court furnished so many determinations of that tribunal.

There were eight of these decisions, one of which covered two cases, namely, *Heiner* v. *Colonial Trust Company* and *Llewellyn* v. *Colonial Trust Company*.[1] Herein is a review of the opinions in these cases.

BOARD OF TAX APPEALS—JURISDICTION—POWER TO SUBPOENA

> The United States Board of Tax Appeals has jurisdiction to review the determination of the Commissioner of Internal Revenue under §§327, 328 of the Revenue Act of 1918 and to require that official, under subpoena, to furnish information concerning the income tax returns of taxpayers.[2]

This proceeding was brought in the Supreme Court of the District of Columbia by the respondent herein to compel the Commissioner of Internal Revenue to respond to a subpoena of the United States Board of Tax Appeals requiring him to answer interrogatories and to furnish information contained in the tax returns of twelve corporations. The Supreme Court of the District decided in favor of the respondent and that decision was affirmed by the District of Columbia Court of Appeals. The case went up to the United States Supreme Court on certiorari.

The respondent had appealed to the Board of Tax Appeals from the determination by the Commissioner of Internal Revenue of its income and excess profits tax liability for the years 1918 and 1919. The respondent contended in

* Members of the Bar of Washington, D. C.

[1] U. S. Adv. Op. 29, 48 S. Ct. Rep. 65 (1927).

[2] Blair, Commissioner *v.* Oesterlein Machine Co., U. S. Adv. Op. 24, 48 S. Ct. Rep. 37 (1927).

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that proceeding that its profits taxes for those years should be computed under the provisions of §328 of the Revenue Act of 1918. §328 provided that, in certain cases specified in §327, the profits taxes of a corporation should bear the same ratio to its net income as the average tax of corporations similarly situated bore to their average net income. The Board of Tax Appeals issued a subpoena directing the Commissioner to answer the interrogatories and to furnish the information regarding those corporations deemed to be similarly situated. The Commissioner refused to comply with the subpoena. The respondent then brought this action in the District of Columbia Supreme Court.

The questions before the United States Supreme Court were whether the Board had jurisdiction to review the Commissioner's determination of profits taxes under §§327 and 328 of the Revenue Act of 1918 and whether it had authority to issue the subpoena referred to above.

The Commissioner maintained that the Board was without jurisdiction to review his determination under §§327 and 328 in view of the peculiar provisions of those sections. §327 provides that the tax shall be determined under §328 "where the Commissioner is unable to determine the invested capital" or where the "Commissioner finds and so declares of record that the tax if determined without benefit of this section" would, owing to abnormal conditions work a hardship on the taxpayer. It was argued on behalf of the Commissioner that these provisions vested in him the exercise of a discretion not subject to appellate review. It was urged also that this position was fortified by §1018 of the 1924 Act which provides that information contained in income tax returns shall not be divulged in any manner whatever not provided by law.

The Supreme Court said concerning the effect of §§327 and 328:

> "But there is no inherent difficulty or, indeed, serious difficulty in reviewing judicially any determination authorized by §§327 and 328. The determination is to be made upon prescribed and ascertainable data and is to conform to standards set up by the statute, all defined with sufficient definiteness and clarity to be susceptible of judicial scrutiny. We cannot assume that it is to be either

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arbitrary or unrelated to the appropriate data in the Commissioner's office, or that he is more qualified to make it than the board established to review his decisions."

The Court said further that the secrecy provisions contained in §1018 did not limit the Board's appellate powers and that the Board might, in complete harmony with §1018, issue the subpoena since such issuance was provided for in §900 (i) of the 1924 Act and was, therefore, made in a manner provided by law.

While this decision has no relation to the Federal tax levy subsequent to 1921, there are thousands of taxpayers' cases that will be affected by the Court's holding. The sums involved though incapable of estimation are believed to be very great.

INCOME SUBJECT TO FEDERAL INCOME TAX

Income derived by a non-Indian lessee from leases of Indian lands is subject to the Federal Income Tax.[3]

These cases came before the Supreme Court on writs of certiorari to the Circuit Court of Appeals for the Third Circuit to review judgments affirming judgments of the District Court for the Western District of Pennsylvania in plaintiff's favor in actions brought to recover income taxes paid.

Respondent's decedent procured an oil lease from the Tribal Council of the Osage Tribe of Indians covering certain oil deposits situated in Oklahoma. These deposits were held in trust for the Indians as wards of the United States. The lease was approved by the Secretary of the Interior. The lessor reserved as royalties an agreed percentage of the gross proceeds from the sale of the oil produced, to be paid to the superintendent of the Osage Indian Agency. The taxes in controversy were paid on the income derived by decedent from the sale of oil between 1917 and 1921.

Respondent brought these suits upon the ground that, as the interests of the Indians were concerned, Congress had not intended by the various revenue acts to tax the income received by the decedent, a non-Indian lessee of the lands, from operating the leasehold.

[3] Heiner, Collector *v.* The Colonial Trust Co., and Lewellyn *v.* The Colonial Trust Co., U. S. Adv. Op. 29, 48 S. Ct. Rep. 65 (1927).

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The various applicable revenue acts provided in substance for the inclusion in taxable net income of gains growing out of the use of, or interest in, real or personal property, and gains from the transaction of any business carried on for gain or profit, or gains or profits derived from any source whatever.

It was contended by the respondent that, since the Osage Tribe members were wards of the government with respect to the oil deposits in question, it should not be inferred that Congress intended to tax the lessee's income since such a tax would be detrimental to the wards.

The respondent relied upon various decisions of the Supreme Court holding that a state may not tax income derived by lessees from similar leases. These decisions held that a tax upon the income of the lessees was an interference with the power of the Federal government to make the leases on behalf of its wards and, therefore, unconstitutional. The respondent also relied upon Supreme Court decisions holding that general acts of Congress are not applicable to Indians where to apply them would affect the Indians adversely.

The Supreme Court was not impressed with the force of these arguments in view of the comprehensive language in the various revenue acts relating to the inclusions in taxable income.

The Court said:

> "The disposition of Congress has been to extend the income tax as far as it can to all species of income, despite immunity from state taxation. During the period now in question the compensation of many federal officials was subject to federal income tax, and income from government bonds was taxed except when expressly exempted.
>
> "Assuming that the Indians are not subject to the income tax, as contended, the fact that they are wards of the government is not a persuasive reason for inferring a purpose to exempt from taxation the income of others derived from their dealing with the Indians. Tax exemptions are never lightly to be inferred * * * *, and we think any implication of an exemption of the income of the Indians themselves, if made, must rest on too narrow a basis to justify the inclusion of the income of other persons merely because the statute, if applied as written,

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may have some perceptible economic effect on the Indians."

The Court's position in the first of the above-quoted paragraphs seems impregnable; the soundness of the conclusion in the second paragraph is not so certain. The matter appears to resolve itself into a question as to the directness of the effect of the tax upon the Indians. The case would seem to be on the border-line separating instances of taxable income from nontaxable income. A decision either way would hardly have done violence to sound logic.

The decision in this case involves 1,000 cases of similar character pending before the United States Board of Tax Appeals for sums approximating $495,000.

INCOME TAX—LOSSES

A taxpayer sustaining a loss by reason of his prepayment to a seller who had contracted to deliver merchandise to him is not required to deduct it as a "worthless debt" under §234 (4) of the Revenue Act of 1918, but is entitled to deduct it as a "loss" under §234 (5) of that act.

Deduction for loss disallowed for lack of evidence.[4]

This action was brought in the District Court for the Western District of Pennsylvania by the respondent herein to recover income taxes paid by it for the year 1918. The District Court found for the defendant. The case went up to the Supreme Court on writ of certiorari to the Circuit Court of Appeals for the Third Circuit to review its judgment reversing the judgment of the District Court.

In July, 1918, respondent contracted, and paid in advance, for the sale and delivery to it of certain ore. Only a small quantity of ore was ever shipped. This was received in December, 1918. The purchase price, paid in 1918, exceeded the contract value of the ore received by more than $27,000. In 1919 respondent began three separate suits to recover the $27,000—one against the seller, the second against the broker, and the third against the bankers. Respondent did not charge off the $27,000 on its books in 1918, nor did it claim a loss on account of the payment in its tax return for that year. It bases its suit upon the

[4] Lewellyn v. Electric Reduction Co., U. S. Adv. Op. 33, 48 S. Ct. Rep. 63 (1927).

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contention that the amount of $27,000 should be allowed as a deduction in arriving at net income for the year 1918.

Section 234 of the Revenue Act of 1918 provides that, in determining taxable net income, there may be deducted:

> "(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise;
> "(5) Debts ascertained to be worthless and charged off within the taxable year."

The questions arose whether the amount sought to be deducted was technically a "loss" within section 234 (4) and, if so, whether the loss was sustained during the year 1918. If it was not a "loss" but a "debt" it was admittedly not deductible since the amount was not charged off within the taxable year.

The Supreme Court assumed, without deciding, that sub-sections (4) and (5) were mutually exclusive. It held, under that assumption, that the amount was deductible, if at all, as a loss and not as a debt. The Court said:

> "The buyer's rights were upon a contract for the delivery of merchandise and were not a 'debt' in either a technical or a colloquial sense. We conclude that if respondent's contract rights became worthless in 1918 he was not required to deduct his loss as a worthless debt under sub-section (5), but was entitled to deduct it under sub-section (4) as a loss sustained in that year."

The Court then considered the question whether the loss of $27,000 was sustained in 1918 and decided in the negative. On this point the Court said:

> "But we do not think that a loss resulting from a buyer's prepayment to a seller who proves to be irresponsible is necessarily sustained, in the statutory meaning, as soon as the money is paid."

The Court concluded that inasmuch as the litigation was not begun until 1919 by the respondent it was not sustained in 1918.

GIFT TAX

Gift tax provisions of the Revenue Act of 1924 held unconstitutional as applied to gifts made during January, 1924, prior to the passage of that act.[5]

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[5] Blodgett *v.* Holden, U. S. Adv. Op. 67, 48 S. Ct. Rep. 105 (1927).

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The decision in this case was in answer to the following question certified by the Circuit Court of Appeals for the Sixth Circuit:

> "Are the provisions of sections 319-324 of the Revenue Act of 1924 * * * * unconstitutional insofar as they impose and levy a tax upon transfers of property by gifts inter vivos, not made in contemplation of death, and made prior to June 2, 1924, on which date the Act was approved, because the same is a direct tax and unapportioned, or because it takes property without due process, or for public use without just compensation, in violation of the Fifth Amendment?"

The gift tax sections of the 1924 Act provided for the imposition of a tax upon the transfer of property by gift during the calendar year 1924 and subsequent years. The tax was fixed at certain percentages (which increased with the size of the gifts) of the value of the property transferred. The tax was to be paid by the donor.

In its decision the Court took into consideration the following facts in addition to the question as certified by the court below, namely:

The gifts in the case at bar were all made during January, 1924, and the gift tax provisions were not presented for the consideration of Congress prior to February 25, 1924.

The Court said:

> "In Nichols v. Coolidge (May 31, 1927) this Court pointed out that a statute purporting to levy a tax may be so arbitrary and capricious that its enforcement would amount to deprivation of property without due process of law within the inhibition of the Fifth Amendment. As to the gifts which Blodgett made during January, 1924, we think the challenged enactment is arbitrary and for that reason invalid. It seems wholly unreasonable that one who, in entire good faith and without the slightest premonition of such consequence, made absolute disposition of his property by gifts should thereafter be required to pay a charge for so doing."

Justice Holmes rendered a separate opinion in which three other Justices concurred. He reached the same ultimate conclusion, that the gifts made in January, 1924, were not taxable, but by a different chain of reasoning.

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He gave it as his opinion that the Revenue Act of 1924 was never intended to apply to gifts made prior to June 2, 1924. He fortified this opinion by the statement that, when it is possible to do so, the Supreme Court will construe a statute in such a manner as to render it valid and not unconstitutional.

Under the opinion of the Court it has been said that there is some doubt concerning the taxability of gifts made, subsequent to February 25, 1924, (the date that the gift tax provisions were presented to Congress) or subsequent to June 2, 1924. Under the opinion of Justice Holmes, however, all gifts made prior to June 2, 1924, would not be taxable. As a result of the two opinions, it seems almost certain that the Supreme Court, if called upon to make the decision, would hold all gifts prior to June 2, 1924, to be non-taxable.

It will be noted that the Court did not consider the important question as to whether gifts made subsequent to June 2, 1924, are subject to the gift tax.

INCOME TAX—INVESTED CAPITAL

Earned surplus may not be included in invested capital under the Revenue Act of 1918 until a prior operating deficit has been made good.[6]

This action was brought by the Milton Dairy Company, respondent herein, in a federal district court to recover excess profits taxes paid for the years 1919 and 1920. The case went up to the Supreme Court on writ of certiorari to review a judgment of the Circuit Court of Appeals for the Eighth Circuit reversing the judgment of the district court.

The respondent corporation was organized with a paid-in capital of $145,817.04. At the end of 1917 an operating deficit of $70,296.12, shown on the books, impaired the capital to that extent. In 1918 respondent had a net income of $11,489.26 and in 1919 a net income of $22,908.14. These earned profits were not distributed, and $29,853.03 thereof remained in the business at the end of 1919, without having been applied to reduce the impairment of capital.

In determining the excess profits taxes imposed by the 1918 Revenue Act for the years 1919 and 1920 it was nec-

[6] Willcuts *v.* Milton Dairy Co., U. S. Adv. Op. 39, 48 S. Ct. Rep. 71 (1927).

essary under the law to compute the invested capital for those years.

Section 326 of the 1918 Act defined the term "invested capital," with certain exceptions not now material, as the actual cash and cash value of other property bona fide paid in for stock or shares, at the time of such payment and "paid-in or earned surplus and undivided profits, not including surplus and undivided profits earned during the year."

The question before the Supreme Court was whether the earnings of $11,489.26 and $29,853.03 might be added to the paid-in capital of $145,817.04 in determining the invested capital for 1919 and 1920 or whether such earned profits as remained in the business must first make good the operating deficit with excess only added to the paid-in capital.

The answer to this question was dependent upon the proper interpretation of the words "paid-in or earned surplus and undivided profits."

The Supreme Court in interpreting the words "surplus and undivided profits" used the ordinary meaning according to commercial usage and held that there could be no surplus or undivided profits while there existed a net deficit.

The Court said:

> "These terms as commonly employed in corporate accounting denote an excess in the aggregate value of all the assets of a corporation over the sum of all its liabilities, including capital stock. * * * It is a prerequisite to the existence of 'undivided profits' as well as a 'surplus' that the net assets of the corporation exceed the capital stock. Hence, where the capital is impaired, profits, though earned and remaining in the business, if insufficient to offset this impairment, do not constitute 'undivided profits.'
>
> "We cannot doubt that this term was used * * * with its ordinary meaning * * * . We do not think Congress intended that a corporation whose capital was impaired should be entitled to treat profits that, though earned, were insufficient to make good the impairment and create a surplus as 'undivided profits.' "

INCOME TAX—DIVIDENDS

Dividends declared in 1916 and in 1917 and paid in 1917 are taxable to the recipient at 1916 rates where it is affirmatively shown that the corporation declaring them had no 1917 net profits prior to the payment of such dividends and that there were ample 1916 earnings to cover them.

Dividends are "received" under Section 31 (b) of the Revenue Act of 1916, as added by the Revenue Act of 1917, in the year paid and not in the year declared. Dividends declared in 1916 and paid in 1917 are income to the recipient in the year paid.[7]

This action was brought in a federal district court by the petitioner to recover income tax paid for the year 1917. The case went to the Supreme Court on writ of certiorari to review the judgment of the Circuit Court of Appeals for the Sixth Circuit reversing the judgment of the District Court.

The petitioner, a shareholder in the B. F. Goodrich Company, received during 1917, five dividends, prior to July 3. Two of them had been declared in 1916; three in January, 1917. No profits were earned by the B. F. Goodrich Company in 1917 prior to the payment of the dividends. The total profits for 1917 were in excess of all dividends paid in that year. The net profits for 1916 were in excess of the five dividends here in question.

Section 31 (b) of the Revenue Act of 1916 which was added by the Revenue Act of 1917 provided that any "distribution made to the shareholders * * * in the year nineteen hundred and seventeen, or subsequent tax years * * * shall constitute a part of the annual income of the distributees for the year in which received," but that it "shall be deemed to have been made from the most recently accumulated profits or surplus * * * and shall be taxed to the distributees at the rates prescribed by law for the years in which such profits were accumulated."

There were two questions before the Supreme Court:

(1) Whether these five dividends should be deemed to have been paid for 1917 or 1916 profits, and

(2) Whether the two dividends declared in 1916 were distributed to, and received by, the petitioner in 1916 or

[7] Mason v. Routzahn, U. S. Adv. Op. 60, 48 S. Ct. Rep. 50 (1927).

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in 1917, the year paid.

Concerning the first question, the Court said that in determining the most recently accumulated profits earned for the fractional part of the year preceding the payment of the dividends should be taken into consideration. The Court indicated that if no evidence had been available showing that no profits had been earned prior to July 3, 1917, the year 1917 might be treated as a unit in which case at least a portion of the dividends would have been deemed paid from 1917 profits. Since there were no earnings accumulated in 1917 prior to July 3, 1917, and since the 1916 profits were more than sufficient to take care of the dividends, the Court held that the dividends should be deemed to have been paid from 1916 profits. The Court referred to the long settled practice of the Treasury Department in allowing the actual earnings at a given date to be considered and stated that it could see no good reason for disturbing such practice since it was consistent with the language of the Act.

Concerning the second question, the Court said: "Since two of the dividends paid in 1917 were declared in 1916, it becomes necessary for us to consider whether these also are to be deemed distributions made in 1917, as it is only to such that the section applies. It declares that the dividend is income of the shareholders in the year in which it is 'received.' We think it clear that, for this purpose, the date of payment, not the date of the declaration of the dividend, is the date of distribution."

SUIT TO RECOVER INCOME TAX—CLAIM FOR REFUND

Literal compliance with the requirement of the regulations established pursuant to the statute that "all the facts relied upon in support of the claim shall be clearly set forth under oath" may properly be waived by counsel for the government in a suit brought by the taxpayer for recovery of a tax upon grounds other than those stated in such claim.[8]

This action was brought in a federal district court for the recovery of income tax paid. The case went to the Supreme Court on writ of certiorari to review the judgment of the Circuit Court of Appeals for the Eighth Circuit reversing the judgment of the District Court.

The petitioner filed a claim for refund of income tax paid for a certain year assigning as one of his reasons the Commissioner's erroneous computation of the value of certain

[8] Tucker v. Alexander, U. S. Adv. Op. 27, 48 S. Ct. Rep. 45 (1927).

stock on March 1, 1913. No explicit statement was made in the claim that the Commissioner had erred in decreasing the March 1, 1913, value of the stock by the value of the corporate assets distributed to the petitioner in May, 1913, nor was that point raised by the petition in the District Court.

In the trial petitioner without objection by counsel for the government abandoned the contention raised in the claim and in the petition and attacked only the Commissioner's deduction of the May, 1913, distribution from the March 1, 1913, value. At the close of the trial counsel stipulated that, if the court found the deduction to have been improper, petitioner should have judgment. Each of these contentions related to the profit realized by the distribution of the corporate assets upon dissolution in 1920. The judgment of the District Court for petitioner was reversed by the Circuit Court which held that under Section 3226 of the Revised Statutes as amended by Section 1014 of the Revenue Act of 1924, there could be no recovery upon grounds different from those set up in the claim. This was the sole issue before the Supreme Court.

§3226 as amended provides that "No suit * * * shall be maintained * * * for the recovery of any internal revenue tax * * * until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; * * * ." The pertinent article of the regulations of the Secretary of the Treasury provided that "all the facts relied upon in support of the claim shall be clearly set forth under oath."

It will be seen from the foregoing that the ground relied upon at the trial was different from that set forth in the claim although each ground related to profit realized upon the same transaction.

The Supreme Court held that counsel for the government had power to waive the objection as to the difference in the contentions and that it was waived during the trial in the District Court. The Court said:

> "Literal compliance with statutory requirements that a claim or appeal be filed with the Commissioner before

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suit is brought for a tax refund may be insisted upon by the defendant, whether the Collector or the United States * * * But no case appears to have held that such objections as that urged here may not be dispensed with by stipulation in open court on the trial. The statute and the regulations must be read in the light of their purpose. They are devised, not as traps for the unwary, but for the convenience of government officials in passing upon claims for refund and in preparing for trial. * * * If the Commissioner is not deceived or misled by the failure to describe accurately the claim, as obviously he was not here, it may be more convenient for the government and decidedly in the interests of an orderly administrative procedure that the claim should be disposed of upon its merits on a first trial without imposing upon government and taxpayer the necessity of further legal proceedings. We can perceive no valid reason why the requirements of the regulations may not be waived for that purpose."

Comment in tax circles which followed this decision merits a further analysis of the opinion. It is extremely doubtful whether the Supreme Court would have come to its conclusion had the two different contentions made by the taxpayer been wholly unrelated. Accuracy of description is a matter of degree. Each of the two contentions related to the same transaction; in a sense they were different species of the same genus, the genus being the contention that the income realized upon dissolution was improperly computed. The decision may, therefore, be justified on the theory that the grounds in the claim and in the suit were sufficiently similar to permit of a slight divergence without an infraction of the law.

The decision deals with the statute and the regulation somewhat loosely, referring at one moment to the statute, and at another to the regulations. There appears to be no reason why the strict requirements of the regulations might not be waived but it is certainly debatable whether the statutory provisions could be waived lawfully. It is submitted by the writer that the statutory provisions were not violated and that the decision may be defended upon the ground that the requirements of the regulations were waived lawfully or that they were unduly exacting and not in harmony with the spirit of the statute.

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FEDERAL TAX—EFFECT OF COMMISSIONER'S FINDING

Evidence

Courts have jurisdiction to try questions of tax liability *de novo*, the decision of the Commissioner of Internal Revenue not being conclusive as to such liability.

Evidence tending to show that a transfer of property was not made in contemplation of death held sufficient to go to jury.[9]

Petitioner brought this suit in a federal district court to recover estate taxes paid. The case was taken to the Circuit Court of Appeals for the Seventh Circuit on writ of error and from that court to the Supreme Court on writ of certiorari.

The estate tax provisions of the Revenue Act of 1918 imposed a tax upon the net estate of a decedent and provided that the value of the gross estate should include the decedent's interest in any property transferred in contemplation of death. They further provided that any transfer of a material part of his property in the nature of a final disposition thereof, made by the decedent within two years prior to his death without fair consideration, should, unless shown to the contrary, be deemed to have been made in contemplation of death.

In December, 1919, the decedent transferred to his wife, petitioner herein, property to the value of $362,028.48. He died April 21, 1920. Petitioner did not include the value of this property in his federal estate tax return. The Commissioner of Internal Revenue determined that the transfer was made in contemplation of death. Petitioner paid the tax in dispute upon the basis of such determination.

At the trial the district court excluded evidence offered by petitioner tending to show that the transfer was not made in contemplation of death on the ground that the finding of the Commissioner, unless impeached for fraud, bad faith, or mistaken legal theory, could not be reviewed by the court.

The Circuit Court of Appeals held that the district Court was not concluded by the finding of the Commissioner on the question of fact but held that, on the whole record, the

[9] Wickwire *v.* Reinecke, U. S. Adv. Op. 88, 48 S. Ct. Rep. 43 (1927).

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judgment of the lower court in dismissing the case should be affirmed on the apparent ground that the evidence offered by petitioner showed as a matter of law that the transfer was in contemplation of death.

The tender of evidence was, in general, as follows:

> * * * that decedent's physical condition until early in 1920 was at least as good as it had been for the preceding ten years; that his death was the result of an attack of influenza suffered after the transfer; that he had long agreed with his wife that half of what he had belonged to her; that he had no reason to anticipate death in the near future when he made the transfer; that the transfer was in pursuance to a plan long made and not in anticipation of death.

There were thus two questions before the Supreme Court: (1) whether the finding of the Commissioner was conclusive; (2) whether there was sufficient evidence to go to the jury.

On the first question, the Court stated that it was quite clear that the Commissioner's finding was not conclusive, but furnished prima facie evidence only of its correctness.

Upon the second question, the Court said that it was very clear that there was enough evidence offered to go to the jury to meet the burden of proof upon petitioner.

The Court gave no argument in support of its opinion on either question, merely citing two decisions in support of its position on the first question.

The decision seems wholly sound and its correctness so manifest that no argument was necessary.

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