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### Case Note, *Juneau v. Wisconsin Tax Commission*

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settled rule of the common law, which permits the recovery of money paid on an altered instrument.<sup>12</sup>

Although it may be well, in general, so to interpret the Negotiable Instruments law as to leave a minimum of cases uncovered by its provisions, the wisdom of holding that acceptance, as the term is used in section 62, includes payment, may be doubted. At least, the courts should clearly realize that such a construction may result in an important, and probably unintended, modification of the common law.

FREDERIC C. WOODWARD.

CONSTITUTIONAL LAW—TAXATION—PUBLICITY OF STATE INCOME TAX RETURNS.—[Wisconsin] A case of some general interest, in view of the publicity provisions of the 1924 amendments to the Federal Income Tax Law is *Juneau v. Wisconsin Tax Commission*.<sup>1</sup> In 1923 Wisconsin repealed those provisions of its income tax law which forbade the divulging of returns, and thereby made them public records accessible to any person.<sup>2</sup> A taxpayer who had filed returns for 1920, 1921, and 1922, under the statute making them secret, attempted to restrain the state tax commission from making these returns public, on the ground that competitors and other persons would otherwise be enabled to secure information regarding his private transactions which might injure his credit. The plaintiff was a real estate dealer and offered no evidence to show that he had suffered or would suffer any injury from a public inspection of his returns. The trial court granted an injunction under the due process and equality clauses of the Fourteenth Amendment. The Wisconsin Supreme Court reversed this, holding it would not consider the question save at the suit of a party personally injured by the statute, and saying:

"Courts will not consider or decide moot questions. No injury to the plaintiff is shown. It cannot be assumed that income tax returns, even if it be shown that they infringe constitutional limitations as to one taxpayer, will so operate as to all taxpayers. Many persons have no income but that derived from their salary as public officials—certainly no harm can be done them. While we resent intrusion into our private affairs, there is no presumption that the giving of such information as is necessary to enable the taxing authorities to make a lawful assessment will result in injury. The attempt to rush to the courts and secure broad, far-reaching declarations upon questions of the gravest import where no right of the plaintiff has been invaded is wholly without warrant in law, and will not be encouraged by this court."<sup>3</sup>

Unless the doctrine of a 'right of privacy' is to be extended to income tax returns, it seems likely that a similar view will be taken by the federal courts, and that a taxpayer will not be heard on the merits of the publicity provisions of the federal law unless he shows a fair likelihood of injury therefrom.

JAMES PARKER HALL.

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12. For a collection of cases, see 7 C. J. 691, note 11.

1. (1924 Wis.) 199 N. W. 63.

2. Wis. Sess. Laws 1923 c. 39, and Wis. Rev. Sts. 1921 sec. 18.01.

3. 199 N. W. at 64-5.