

University of Chicago Law School

Chicago Unbound

Journal Articles

Faculty Scholarship

1926

Federal Income Tax of Income of State Consulting Engineers

James Parker Hall

Follow this and additional works at: https://chicagounbound.uchicago.edu/journal_articles



Part of the [Law Commons](#)

Recommended Citation

James Parker Hall, Comment, "Federal Income Tax of Income of State Consulting Engineers," 21 Illinois Law Review 38 (1926).

This Article is brought to you for free and open access by the Faculty Scholarship at Chicago Unbound. It has been accepted for inclusion in Journal Articles by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

COMMENT ON RECENT CASES

CONSTITUTIONAL LAW—INTERGOVERNMENTAL RELATIONS—FEDERAL TAXATION OF INCOME OF STATE CONSULTING ENGINEERS.—[United States] In *Metcalf v. Mitchell*¹ the following situation came before the federal courts: Two consulting engineers were employed professionally in 1917 under eighteen separate contracts by states or municipal subdivisions of states, for which compensation was paid, in some instances on an annual basis, in others on a monthly or daily basis, and in still others by a gross sum. They took no oath of office, were free to accept concurrent employment, none of the engagements called for continuous work, and their duties were prescribed by the contracts. They claimed that this compensation was received by them as officers or employees of the states in question and was thus exempt from the federal income tax. They brought suit against the collector of the Boston district to recover it, paid under protest. The lower court denied recovery² and this was affirmed by the Supreme Court in the present case. Stress was laid upon the fact that they were independent contractors, not exclusively engaged by their state clients, and that the tax did not in any substantial sense impair their ability to act for the states or that of the states to procure their services. The court (by Mr. Justice Stone) noted that certain agencies—

“may be of such a character or so intimately connected with the exercise of a power or the performance of a duty by the one government that any taxation of it by the other would be such a direct interference with the functions of government itself as to be plainly beyond the taxing power.”³

while in general this was not true of private citizens making a profit from government contracts; though even as to the latter the court refused to lay down a rule that taxation might not have such an effect as to be void.

The case seems well decided upon practical grounds and follows several prior decisions of a like tenor, though not involving income taxes. It is of some local interest on account of the resemblance of its facts to those apparently involved in the like litigation now pending between the Treasury Department and certain Chicago real estate experts who rendered well-paid services to the city and are claiming immunity from federal taxation thereon.

JAMES PARKER HALL.

EVIDENCE—CROSS-EXAMINATION TO A RECORD OF ACQUITTAL.—Is there never, never, to be any progress by our Supreme Courts in the handling of rulings on the law of evidence? This ques-

1. (1926) 46 Sup. Ct. Rep. 172.
2. *Metcalf v. Mitchell* 299 Fed. 812.
3. 46 Sup. Ct. Rep. at 175.