THE BATTLE OF MARCH 15

A map of the ground,

in projection and

in relief, and in detail

(plus The Artful Dodger:

cartoons by Syd Hoff)

"TAXES," said Justice Holmes, "are the price I pay for civilization"; and as civilization gets more complicated the price goes up. Most people have forgotten that the United States came into the 20th century a nation in which a two per cent tax on income had been attacked by prominent citizens as "a monstrous injustice" and declared by the Supreme Court a violation of protections guaranteed by the Constitution. And they have forgotten too that the road from 1900 to the present—to our current income tax, which takes up to twenty per cent from wages even before they are paid, and can swallow as much as 90 per cent of a man's income—is strewn with the wreckage of a continuing bitter political battle.

Great events made great taxes: the major jumps that our taxes have taken were stimulated by wars or threats of wars, the lesser jumps by economic depressions. During most of the 19th century the Federal government collected nearly all its revenues from customs duties—even as late as the second year of the Civil War customs receipts brought in more than $60,000,000 out of $52,000,000 in total revenue. At that war-torn time the government needed more money, and adopted an income tax and a Federal inheritance tax, the first of either breed which the nation had ever seen.

After the war these taxes were killed, and the government went back to customs for its income. It was not until the depression of 1893—the first great economic depression of the modern industrial era—that income taxes were again invoked. The depression in the latter part of the 19th century brought unemployment, labor violence, the first steps in large-scale economics—and a two per cent Federal income tax.

Though the tax was small, the wrath of the conservatives is and out of Congress was mighty, and the fight was taken to the courts. Amid cries that the law was populistic, socialistic, communistic and confiscatory the Supreme Court struck down the tax. For eighteen years the friends of the income tax changed this Constitutional barrier; and finally in 1913 they crashed through it with the Sixteenth Amendment, which specifically opened the way to an income tax. In the years of depression, war and emergency that followed, they swarmed over secondary defenses in Congress, the Executive and the Courts. Today the income tax is the heart of a tax system that raises sixty billion dollars a year; it is as important in our lives as the weather, and it is equally as annoying.

Through the opponents of the dominant position of the income tax have been defeated and overrun in every major battle, they have never given up the fight, and they may ultimately win the war. In 1942 there was a good chance that Congress might decide to finance a good part of the rapidly mounting cost of the Second World War by sales taxes instead of by income taxes. Legislators in 23 states have proposed another amendment to the Constitution, one which would set a ceiling of 25 per cent on any individual's tax (as many as 24 states have endorsed this amendment, but three later withdrew their endorsement; in two states the legislature proposed and the Governor vetoed, which he may or may not have had the right to do). Korea was the signal for another fresh, well-financed drive toward a Federal sales tax, and the results of the last election may set off still another. Moreover, while losing nearly all the battles over rates, the opponents of the income tax have clung to certain strong points of tax relief—barricades behind which upper-bracket taxpayers may take shelter from the bombardment of high rates.

These places of safety have been built in two ways—by political counterattack and by legal strategem. Some of them have been specifically established by Congress in special laws or amendments to laws, and some have been devised and developed, for appropriate fees, by the tax lawyers and tax accountants who are the tactical experts in this bloodless war.

This guerrilla warfare, this hunt for "loopholes," is far more important in this country than anywhere else. Only here do citizens wage war on fairly equal terms with the tax collector. Other countries—Great Britain, Canada, Australia and New Zealand—have given the tax collector greater power to compel acquiescence in his interpretations of the tax laws. Our Congress has reserved most final interpretations to the courts, trying meanwhile to lay down definite and detailed rules that will cover the tax treatment of transactions in every favorable situation. But our economy is much too complicated for such paper-boiling; and the result has been that taxpayer and tax collector engage in a running, free-for-all fight, with the courts as referees, to determine what the law really means.

In this running fight the taxpayer needs help, and usually he can get it only from the tax lawyer and the tax accountant. Their stock-in-trade is a knowledge of the tax laws—which have been changed more than thirty times since 1913—and the interpretations of the courts. Sometimes they are also specialists in lobbying for new and helpful laws. At all times they are called upon to be imaginative, inventing from the huge, complicated technology of laws and judicial decisions new weapons by which the taxpayer may be able to protect and promote his position. In the most complicated tax structure the world has ever seen, their special knowledge (or claims to knowledge) win them the respect accorded in simpler societies to witch doctors and soothsayers—and just as the witch doctor provided psychological assistance before he began treatment, the tax expert tells you his fee will be deductible.

There are two ways of looking at these defenses against high taxes won from Congress or plucked from the resourceful minds of tax lawyers and tax accountants. The cynical view sees an opportunistic grabs by special interests; the more perceptive recognize that some of them at least represent realistic moral compromise, the sort of adjustment necessary in a democracy to relieve pressures on important minorities. Whatever the attitude, however, it is here—in the creation and demolition of these barricades of tax relief—that the lines of battle are drawn today.

THE LINES OF BATTLE

today's taxes

THESE Federal taxes take a bite of nearly twenty per cent out of the nation's yearly earnings. It can be said graphically, if a little misleadingly, that as a people we work full time until about the middle of March of each year to provide for the rest of our Federal government. The rest of State, municipal and local governments keeps us working another month or so. That is what Federal, State and local government cost and, political orations to the contrary, not much can be done about it. So that today the shape of the bite is more important than the size of the bite.

In a simpler time the art of taxation was defined as getting the most feathers from the goose with the least amount of hissing. We have abandoned this concept of taxation; today we have high-rate taxes placed directly on personal and corporate income, estates and gifts—a way of sharing the tax burden which will always draw angry hisses. It is quite possible that the hisses would be fewer and less strident if we used a tax system based more on indirect excise taxes hidden in the final prices of goods and services. We already have such taxes on gasoline and cars and liquor and tobacco, and surveys have shown that the public often has no idea how badly it is getting plucked. But for the most part we take the hisses with the feathers these days, because our taxes on income are considered a more just way of sharing the load than any practical system of sales taxes.

The most important single characteristic of our Federal tax system is that it relies for revenue mainly on what is called a "progressive" rate income tax—a direct tax on individual incomes, at rates which rise as the income rises. If you have more income, not only do you pay more taxes, but you pay in taxes a bigger share of your total income. It is also true for most taxpayers that the higher your income gets the faster the rate rises. Our present rates go from zero on the smallest incomes to 92 per cent on the part of the taxable income over $200,000, with a maximum tax of 88 per cent of any individual's total income.

We also have a special, low-rate tax on "long-term capital gains"—profits that are not treated as ordinary income. In the simplest form a long-term capital gain is the profit resulting from the sale of stocks, securities, real estate or other property that the owner has held for at least six months. Such a capital gain is taxed at only half the income tax rate, or at 26 per cent, whichever tax is lower (if he has held the property for less than six months, his profit is a short-term capital gain and he pays the full income tax rate on it). And it is remarkable how many transactions can be made to produce capital gains instead of ordinary income.

In addition to the income tax on individuals we have an income tax on corporations. At present this tax ranges from thirty per cent on incomes of "small business" to 52 per cent on earnings over $25,000. In times of emergency, such as the present and during both World Wars, we have imposed a further corporation income tax on excess profits—profits which we believe are made because there is an emergency. The present excess-profits tax, scheduled to expire in June, has a rate of thirty per cent, over and above usual corporation taxes. Though the two taxes together may hit 82 per cent, the law provides that no corporation shall pay in total taxes more than seventy per cent of its net earnings.

Except to the limited extent that corporation taxes can be passed on to consumers in the form of higher prices—or to employees in the form of lower wages—the burden of these taxes falls on the stockholders. Since most stocks are held by upper-income groups, these taxes probably contribute to the overall "progressive" nature of the income tax. But where the tax does hit lower-income groups it hurts them more. It reduces the amount that can be paid out as dividends by the companies, and small stockholders—who because of their own low tax rates could keep most of any dividends paid to them—lose more spendable money per share than large stockholders, who are already subject to high tax rates on their other income (plus a dividend credit on personal investment most of the extra dividends anyway). The common advertisements and editorials about "double taxation" refer to the combination of corporate and individual income taxes.

The other principal direct progressive taxes on individuals are the estate and gift taxes. The rates on estates vary from zero on the small and middling estates to 77 per cent on estates over $50 million. Although the top rates are very high, the amounts covered by exemptions are large, the rates go up slowly, deductions are generous, loopholes are wide—and the result is that only twelve or fifteen thousand of the 1,000,000 persons who die each year leave enough to pay any tax at all. The rates on gifts are somewhat lower, and supplement the estate tax. The total revenue produced by the estate and gift taxes is small, only a little more than half the proceeds from the Federal tax on cigarettes, and the secondary effect—the tax was planned partly to break up large inherited fortunes—is not nearly as great as the top rates might suggest.

These direct progressive taxes on individuals, corporations and estates produce today about eighty per cent of all Federal revenue. Most of the rest comes from excise taxes, which replaced declining customs duties in the late years of the 19th century and the early years of the 20th. Some of these excise taxes are applied on the manufacturer's first sale and then passed along to the prices charged all the way to the consumer. This group includes taxes on gasoline, tobacco, liquor, automobiles, tires, tubes and some kinds of electrical equipment, to name a few. Gasoline, tobacco and liquor taxes have become so high that most people at least know they exist, but many other excise taxes—such as the ten per cent tax on new cars and the twenty per cent tax on electric light bulbs—are so well hidden in the retail price that only the experts see them.

A few excise taxes are imposed directly at the retail sale, and then the purchaser knows how much he pays. In this group are the twenty per cent tax on admissions to movies, theatres and other entertainments, and on jewelry, furs and cosmetics.

These excise taxes, whether on manufacturers' or retail sales, are essentially the same as the sales taxes imposed by many cities and 33 States. Every taxpayer pays the same rate of tax regard-

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