3-1-1956

Lawyer Presents

Notre Dame Law School Editors

Follow this and additional works at: http://scholarship.law.nd.edu/ndlr

Part of the Law Commons

Recommended Citation
Available at: http://scholarship.law.nd.edu/ndlr/vol31/iss2/1

This Introduction is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Notre Dame Law Review by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.
On October 3, 1913, the income tax law of 1913 went into effect. By employing a single word, "dividends," the Congress of the United States covered the entire field of the taxation of corporate distributions. What had begun, however, with the utmost in simplicity has now developed into a very complex subject, as is evidenced by a glance at the twenty-five sections which it now occupies in the Internal Revenue Code of 1954. One of the chief criticisms of the present revenue provisions in regard to the taxation of corporate distributions is the great amount of complexity which many attorneys consider entirely unnecessary. The cry has arisen for a greater amount of simplicity — a return to the plain words in the taxing act of 1913. In our first lead article, The Law of Income Taxation and Corporate Distributions, Herman T. Reiling, Assistant Chief Counsel of the Internal Revenue Service, takes a scholarly look at the development of this important area of income taxation. Tracing the history of the successive statutory provisions down to the present code, Mr. Reiling makes a careful analysis of each of the factors which have been instrumental in the weaving of this intricate network. Only by recognizing the foundations and reasons for the present complex provisions, Mr. Reiling believes, is it possible to solve the existing difficulties and inaugurate a greater amount of tax simplification.

In 1953 an amendment to the United States Housing Act of 1937 was introduced into the House of Representatives by Congressman Ralph H. Gwinn of New York. The Gwinn Amendment provided, in substance, that no tenant residing in a housing development constructed with the aid of federal funds under the Housing Act of 1937 shall be a member of an organization designated as subversive by the United States Attorney General. Pursuant to this amendment, tenants were required to sign loyalty oaths containing the Attorney General’s list of subversive organizations. Objections to this loyalty requirement arose quickly and from diverse quarters. The Wisconsin Supreme Court recently held the loyalty oath as violative of constitutional rights and certiorari was subsequently refused by the United States Supreme Court in Lawson v. Housing Authority of Milwaukee, 270 Wis. 269, 70 N.W.2d 605, cert. denied, 350 U.S. 882 (1955). California has taken a similar position and a petition for certiorari
is now pending in the Supreme Court. Housing Authority of Los Angeles v. Cordova, 130 Cal. App. 2d 890, 279 P.2d 215 (1955), petition for cert. filed, 24 U.S.L. Week 319 (U.S. Jan. 24, 1956) (No. 628). In Tenant's Loyalty Oaths, Henry N. Williams, Associate Professor in the Walter F. George School of Law, Mercer University, examines thoroughly the legislative history of the Gwinn Amendment and the various questions which have arisen and undoubtedly will arise under its applications. Professor Williams has a number of unique observations, not only on constitutional issues raised, but on problems of statutory interpretation and policy considerations involved under the Gwinn Amendment.

In personam jurisdiction of state courts over non-resident defendants has continually presented perplexing problems in the adjective development of the common law. In the United States, the inherent complexity of this jurisdictional problem has been intensified by the United States Constitution and its restrictions upon state jurisdiction. Pennoyer v. Neff, 95 U.S. 714 (1877), announced the Constitution's limitation upon a state asserting jurisdiction over a non-resident by requiring that personal service be made upon the person within the state's boundaries. Justice Holmes' definition of jurisdiction exemplifies the Pennoyer case concept: "The foundation of jurisdiction is physical power. . . ." McDonald v. Mabee, 243 U.S. 90, 91 (1917). Though physical power lay at the basis of jurisdiction, subtle doctrines such as "implied consent," "presence in the state," and "doing business within the state" were developed to give the state its needed physical power. Finally, in International Shoe Co. v Washington, 326 U.S. 310 (1945), the Supreme Court set forth the "minimum contact" rule as a basis for state in personam jurisdiction over non-residents. State legislatures were ever alert in pressing to its fullest perimeter the constitutional limitation on state jurisdiction: for example, by enacting statutes exerting jurisdiction over non-resident motorists or over non-residents engaging in dangerous activities within the state. But this was piecemeal development. On January 1, 1956, the newly revised Illinois Practice Act became effective. In section 17 of this act is incorporated, to its fullest extent, the in personam jurisdiction of Illinois courts over non-residents. John M. O'Connor, Jr. and James M. Goff, co-authors of the Lawyer's third lead article, were both members of committees responsible for drafting the new practice act. In this article, the authors explore past decisions and existing state enactments that lend support to the expanded concepts of state jurisdiction over non-residents.