

THE UNITED STATES SUPREME COURT

An Adverse Ruling of Grave Significance

THE EDITOR, *Land & Liberty*

Sir,

I regret to advise that the U.S. Supreme Court has made an about face from its previous interpretation of the powers belonging to the Federal Congress, and now holds that it lies within the authority of the Federal Government to relieve private holders of land from the taxes lawfully due and payable on the value of the land, to a State or one of its local governments, such as a county, city or district.

Although the court has always held that the Federal Government is permitted to tax land values only subject to strict limitations, which are so stringent as to make it practically impossible for the Federal Government to collect any revenue from the holders of idle land, no matter how valuable the location, now the rule is that the Federal Government can permit private persons to retain possession of land, even though they have failed, refused or neglected to pay the taxes lawfully payable to a State, and although the State law provided that title to the land must be forfeited to the State, if the taxes were not paid within a certain period after they became legally due. Therefore, although the Federal Government is without effective power to tax the value of land, it now has the power to release persons from having to pay taxes due to a State. Do not the two add up to "mortmain"?

I have been fighting against this, on numerous "fronts" for ten years, in many courts, and have taken many test cases to the Supreme Court of the U.S.A. In 1937 that Court in 298 U.S. 513 held squarely that the Federal Government possesses absolutely no such a power. Then some new justices were appointed, and the Constitution has since been interpreted and construed to mean the opposite from what that Court had invariably ruled, for over 150 years prior to 304 U.S. 27. Unfortunately the change over by the Court is not easy for the layman to detect, and few tax reformers have waked up to its implications.

The landlords in Germany were more direct in their scheme to reach the same "island of safety." On 30th January, 1934, the Reichstag passed a simple statute declaring that the sovereign powers then belonging to the States were thereby transferred to the Reichstag. This simple statute made what the world now thinks about as "Nazism" a possibility. The States, which had jurisdiction over the tenure of privately held land in their boundaries, and the right to tax such land, were without those powers, after 30th January, 1934. A somewhat similar act was passed by your Parliament in 1660 in 12 Charles II, c. 23, exempting land from taxes formerly payable.

Hence, our hope for any effective application of land value tax principle in the U.S.A. has suffered a set-back, which cannot but become very clear through the years to come, although it is now not even suspected by more than a mere handful of its most ardent advocates. Heretofore, if a State enacted a law requiring those hold-

rental value to the State, whether the land was in use or held idle, the Federal Government simply had no more authority or jurisdiction in the premises than it would have had over a similar law enacted in another nation. It could not have "saved" the absentee landlords who were not permitting the land to be used, and who would not pay the taxes. Now it can save them, and has done so by recent decisions. The rights of those now landless to "life, liberty and the pursuit of happiness," were given little if any consideration, by the Court. In *The Federalist*, Essay No. XXXII by Alexander Hamilton, it is stipulated that the authority of the STATES to tax the value of land was to be "independent and uncontrollable" by the Federal Government, in "the most absolute and unqualified sense."

In June, 1934, the Supreme Court of Spain declared invalid a law similar to the California Irrigation District law, which had been enacted by Catalonia. The *Christian Science Monitor* of 14th June, 1934, reported that Catalonia was going to enact another law similar to the one that the Supreme Court at Madrid had declared invalid the week before, on the ground that it was "not favoured by the central government because it would split Catalonia into small farms, advantageous to small holders." This event, it is claimed was the "straw that broke the camel's back," and was the spark that ignited the so-called civil war in Spain. The pattern is very similar. Similar economic results follow similar basic causes, whether operating in Italy, Germany, Spain, Japan or U.S.A.

Yours, etc.,

J. RUPERT MASON.

San Francisco, 13th November, 1942.