

PREFACE.

THE following pages have been prepared with a view to present in a shape for practical use, the general rules which must govern the action of all authorities acting in matters of taxation. Had a similar task been previously undertaken, the writer would gladly have been spared the labor; but Mr. Blackwell's Treatise on Tax Titles covers the ground only in part, and Judge Dillon, though he has done valuable service in the same direction, has not, in his work on Municipal Corporations, deemed it advisable to go beyond what seemed necessary to a legitimate and perspicuous presentation of that subject. Other writers have had occasion to discuss only particular topics in the law of taxation, leaving a comprehensive examination of the general subject to be still entered upon.

The decisions in this country on the subject of taxation have become so numerous, that it would be impossible to give abstracts of them all, within any reasonable compass. The author has thought it preferable, instead of attempting a digest of them, to group the references about the controlling principles. The tax systems of the several states are so dissimilar, that a mere digest of the cases is exceedingly liable to mislead, by giving, as a general rule of law, what is only a conclusion from a local law or custom. There are, or should be, general principles underlying all the cases; and an understanding of these will enable one to make use of decisions under the various tax systems, without confusion.

The subject of taxation seems to invite some consideration of questions of political economy; but these have been passed by after bare mention, as not being necessarily involved in a discus-

sion of the legal points. They present considerations for the legislature in framing tax laws; but courts and ministerial officers must enforce tax laws as they are, whether based on sound or unsound principles of political economy.

The preparation of any treatise on taxation necessarily involves the presentation of disputed points, and the expression of opinions upon them. This has been done in the following pages. It has not been the purpose, however, to take any positions which it was not believed the authorities would justify; and if this has been done in any instance, the references which are made to authorities will doubtless enable the reader to detect the error. Possibly it may be thought, that on some points, too much importance has been attached to those fundamental principles which restrict the power to tax. But when one considers how vast is this power, how readily it yields to passion, excitement, prejudice or private schemes, and to what incompetent hands its execution is usually committed, it seems unreasonable to treat as unimportant, any stretch of power—even the slightest—whether it be on the part of the legislature which orders the tax, or of any of the officers who undertake to give effect to the order. Especially is this so, when it is understood how little restraint there can be on the ignorant action of assessors, acting with jurisdiction, and how very seldom an effectual remedy can be administered where fraud or corruption exists. And as the benefits of republican government have been reached through the efforts of the people to establish and maintain the legitimate restraints upon the power to tax, it seems unwise in a high degree, to slight or disregard any of the checks which the law has provided, whether those which are entrusted to the hands of the judiciary, or those which are the lawful right of the people themselves, who are to bear the burden of the particular tax.

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