

CONTROLLING CONSTITUTIONAL PRINCIPLES, PURPOSES & PRACTICES
Supreme Court of the United States – The “Authority of Law”
Doctrine of Stare Decisis [Latin, Let the decision stand]



1. *Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429 (1895)

The doctrine of *stare decisis* is a salutary one, and is to be adhered to on proper occasions, in respect of decisions directly upon points in issue; but this court should not extend any decision upon a constitutional question if it is convinced that error in principle might supervene.

2. *Scott v. Sandford*, 60 U.S. 19 How. 393 393 (1856)

Congress cannot do indirectly what the Constitution prohibits directly.

The power to make all needful rules and regulations is a power to legislate. This no one will controvert, as Congress cannot make "rules and regulations," except by legislation."=

3. *Elrod v. Burns*, 427 U.S. 347, 373 (1976)

The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976)

4. *Reid v Covert* 354 US 1, (1957)

The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution.

5. *Flora v. United States*, 362 U.S. 145 176 (1960)

The income tax system is a self-reporting and self-assessing one. It is based upon voluntary assessment and payment not distraint.

6. *Terrett v. Taylor*, 13 U.S. 9 *Cranch* 43 43 (1815)

And there can be no doubt that it was competent to the people and to the legislature to deprive it of its superiority over other religious sects and to withhold from it any support by public taxation. But although it may be true that "religion can be directed only by reason and conviction, not by force or violence," and that "all men are equally

Page 13 U. S. 49

entitled to the free exercise of religion according to the dictates of conscience,"

7. *Gregory v. Helvering*, 293 U.S. 465 (1935)

By means which the law permits, a taxpayer has the right to decrease the amount of what otherwise would be his taxes, or altogether to avoid them. P. 293 U. S. 469.

The legal right of a taxpayer to decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means which the law permits, cannot be doubted. *United States v. Isham*, 17 Wall. 496, 84 U. S. 506; *Superior Oil Co. v. Mississippi*, 280 U. S. 390, 280 U. S. 395-396; *Jones v. Helvering*, 63 App.D.C. 204, 71 F.2d 214, 217.

8. *Eisner v. Macomber*, 252 U.S. 189 (1920)

What is or is not "income" within the meaning of the Amendment must be determined in each case according to truth and substance, without regard to form. P. 252 U. S. 206.

Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.

The same fundamental conception is clearly set forth in the Sixteenth Amendment -- "incomes, *from whatever source derived*" -- the essential thought being expressed Page 252 U. S. 208 with a conciseness and lucidity entirely in harmony with the form and style of the Constitution.

9. *United States v. Calamaro*, 354 U.S. 351 (1957)

We find neither argument persuasive. In light of the above discussion,

Page 354 U. S. 359

we cannot but regard this Treasury Regulation as no more than an attempted addition to the statute of something which is not there. [Footnote 12] As such, the regulation can furnish no sustenance to the statute. *Koshland v. Helvering*, 298 U. S. 441, 298 U. S. 446-447.

10. *Blatt Co. v. United States*, 59 S. Ct. 472, 280 (1938)

“Treasury Regulations can add nothing to income as defined by Congress.” [Footnote 9] *Koshland v. Helvering*, 298 U. S. 441, 298 U. S. 447.

11. *Reinecke v. Gardner*, 277 U.S. 239 (1928)

The extension of a tax by implication is not favored. *United States v. Whitridge*, *supra*; *Smietanka v. First Trust & Savings Bank*, *supra*.

12. *United States v. Bishop*, 412 U.S. 346 (1973)

The requirement of an offense committed "willfully" is not met, therefore, if a taxpayer has relied in good faith on a prior decision of this Court. *James v. United States*, 366 U.S. at 366 U. S. 221-222. Cf. *Lambert v. California*, 355 U. S. 225 (1957).

13. *United States v. Kaiser*, 363 U.S. 299 (1960)

In the light of these decisions of the Supreme Court *Stratton's Independence v. Howbert*, 231 U. S. 399, and *Eisner v. Macomber*, 252

Page 363 U. S. 318

U.S. 189, it must be held that there is no gain, and therefore no income, derived from the receipt of damages for alienation of affections or defamation of personal character. In either case, the right invaded is a personal right, and is in no way transferable.

14. *Allgeyer v. Louisiana*, 165 U.S. 578 (1897)

The "liberty" mentioned in that amendment means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of *all his faculties*, to be free to use them in all lawful ways, to live and work where he will, to earn his livelihood by any lawful calling, to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out to a successful conclusion the purposes above mentioned. (Emphasis added)

15. *Norton v. Shelby County*, 118 U.S. 425 (1886)

An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation as inoperative as though it had never been passed.