

INCOME TAX

SIXTEENTH AMENDMENT

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

INCOME TAX

History and Purpose of the Amendment

The ratification of the Sixteenth Amendment was the direct consequence of the Court's 1895 decision in *Pollock v. Farmers' Loan & Trust Co.*¹ holding unconstitutional Congress's attempt of the previous year to tax incomes uniformly throughout the United States.² A tax on incomes derived from property,³ the Court declared, was a "direct tax," which Congress, under the terms of Article I, § 2, and § 9, could impose only by the rule of apportionment according to population. Scarcely fifteen years earlier the Justices had unanimously sustained⁴ the collection of a similar tax during the Civil War,⁵ the only other occasion preceding the Sixteenth Amendment in which Congress had used this method of raising revenue.⁶

During the years between the *Pollock* decision in 1895 and the ratification of the Sixteenth Amendment in 1913, the Court gave evidence of a greater awareness of the dangerous consequences to national solvency that *Pollock* threatened, and partially circumvented the threat, either by taking refuge in redefinitions of "direct tax" or by emphasizing the history of excise taxation. Thus, in a series of cases, notably *Nicol v. Ames*,⁷ *Knowlton v. Moore*,⁸ and *Pat-*

¹ 157 U.S. 429 (1895); 158 U.S. 601 (1895).

² Ch. 349, § 27, 28 Stat. 509, 553.

³ The Court conceded that taxes on incomes from "professions, trades, employments, or vocations" levied by this act were excise taxes and therefore valid. The entire statute, however, was voided on the ground that Congress never intended to permit the entire "burden of the tax to be borne by professions, trades, employments, or vocations" after real estate and personal property had been exempted, 158 U.S. at 635.

⁴ *Springer v. United States*, 102 U.S. 586 (1881).

⁵ Ch. 173, § 116, 13 Stat. 223, 281 (1864).

⁶ For an account of the *Pollock* decision, see "From the Hylton to the Pollock Case," under Art. I, § 9, cl. 4, *supra*.

⁷ 173 U.S. 509 (1899).

⁸ 178 U.S. 41 (1900).