Specifically, the Court held that a stock dividend was capital when received by a stockholder of the issuing corporation and did not become taxable as "income" until sold or converted, and then only to the extent that a gain was realized upon the proportion of the original investment that such stock represented. A stock dividend, Justice Pitney maintained, "[f]ar from being a realization of profits of the stockholder, . . . tends rather to postpone such realization, in that the fund represented by the new stock has been transferred from surplus to capital, and no longer is available for actual distribution. . . . We are clear that not only does a stock dividend really take nothing from the property of the corporation and add nothing to that of the shareholder, but that the antecedent accumulation of profits evidenced thereby, while indicating that the shareholder is richer because of an increase of his capital, at the same time shows [that] he has not realized or received any income in the transaction."[21] But conceding that a stock dividend represented a gain, the Justice concluded that the only gain taxable as "income" under the Amendment was "a gain, a profit, something of exchangeable value *proceeding from* the property, *severed from* the capital however invested or employed, and *coming in*, being '*derived*,' that is, *received* or *drawn by* the recipient (the taxpayer) for his *separate* use, benefit and disposal;—*that* is income derived from property. Nothing else answers the description," including "a gain *accruing to* capital, not a *growth* or *increment* of value *in* the investment."[22]

Although the Court has not overturned the principle it asserted in *Eisner v. Macomber*,[23] it has significantly narrowed its application. The Court treated as taxable income new stock issued in connection with a corporate reorganization designed to move the place of incorporation. The fact that a comparison of the market value of the shares in the older corporation immediately before, with the aggregate market value of those shares plus the dividend shares immediately after, the dividend showed that the stockholders experienced no increase in aggregate wealth was declared not to be a proper

[21] 252 U.S. at 211, 212.

[22] 252 U.S. at 207. This decision has been severely criticized, chiefly on the ground that gains accruing to capital over a period of years are not income and are not transformed into income by being dissevered from capital through sale or conversion. Critics have also experienced difficulty in understanding how a tax on income that has been severed from capital can continue to be labeled a "direct" tax on the capital from which the severance has thus been made. Finally, the contention has been made that, in stressing the separate identities of a corporation and its stockholders, the Court overlooked the fact that when a surplus has been accumulated, the stockholders are thereby enriched, and that a stock dividend may therefore be appropriately viewed simply as a device whereby the corporation reinvests money earned in their behalf. *See also* Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509 (1921).

[23] Reconsideration was refused in Helvering v. Griffiths, 318 U.S. 371 (1943).