

such as the deceptive appearance of the sidewalk; the degree of visibility at the time of the accident; and the use of the sidewalk by others without any apparent danger.

The Court then held that a comparison of the testimony in the case of *Buesching v. St. Louis Gas Light Co.*, 73 Mo. 219, relied on by relator, and the case at bar did not disclose an analogy of facts. That in the absence of such analogy it could not be contended that the Court of Appeals' ruling contravened the rule as clearly defined in the *Buesching* case, and ordered that the writ be quashed.

INTERNAL REVENUE—VALIDITY OF INCOME TAX ON CITIZEN ABROAD ON INCOME DERIVED FROM PROPERTY ABROAD.

Cook v. Tait, Adv. Opinions, Supreme Court, June, page 507:

This was an action to recover an income tax alleged to have been illegally exacted. The tax was imposed under the Revenue Act of November 23, 1921.

Plaintiff is a native citizen of the United States, and was such when he took up his residence and became domiciled in the City of Mexico. The income upon which the tax was levied was derived from property situated in the City of Mexico. Plaintiff paid the tax under protest.

Plaintiff contends that Congress has no power to impose a tax upon the income of a citizen of the United States, derived from property situated outside the United States, when the citizen is at the time permanently resident and domiciled in a foreign country. Or, to put the contention another way, to the existence of the power and its exercise, the person receiving the income and the property from which he receives it must both be within the territorial limits of the United States to be within the taxing power of the United States.

The Court held that the contention is erroneous. The taxing power of the United States does not depend upon the situs of the property or the domicile of the citizen taxed. In this respect its power is greater than that of a state whose power to tax is limited by the corresponding rights of other states. A citizen and his property derive a benefit from the United States even though they be without its territorial limits, and this benefit creates an obligation to support the government by the payment of taxes.

The Court said: " * * * In other words, the principle was declared that the government, by its very nature, benefits the citizen and his property, wherever found, and therefore has the power to make the benefit complete. Or, to express it another way, the basis of the power to tax was not and cannot be made dependent upon the situs of the property in all cases, it being in or out of the United States, nor was not and cannot be made dependent upon the domicile of the citizen, that being in or out of the United States, but upon his relation as citizen to the United States, and the relation of the latter to him as citizen. The consequence of the relations is that the native citizen who is taxed may have domicile, and the property from which his income is derived may have situs, in a foreign country, and the tax be legal,—the government having power to impose the tax."