

even the color of a claim, except such as arises from a decision made in this State many years ago, and before the importance of this distinction or indeed of the subject itself, was fully comprehended. The principles of that decision will shortly be in review before the Court of Appeals, and its soundness tested in the light of more recent decisions in the high Courts above referred to. If the views I have presented be sustained, the power of the Legislature to tax the property or business of the corporations cannot be questioned. The owner of personal property engaged in mercantile pursuits, is taxed, as other property holders are, on the value of his property, and in addition is required to pay a license tax for the privilege of doing business or using his property in the way of trade, by exposing it to sale for profit as merchandize. An Express Company, or Telegraph or Transportation Company owning property, is compelled to pay taxes as other property owners, in proportion to the amount of property so held, and is also required to pay a license tax to conduct the business for which it was formed or incorporated. No one ever doubts the legality of such taxes at this day. Is there any good reason why Rail Road Companies making large profits by their business, should not be taxed on the same principles?

The Supreme Court of the United States in 1872, in deciding the constitutionality of a tax imposed by the Legislature of Pennsylvania upon the gross receipts of Rail Road Companies, uses this language: "We think it may be safely asserted that the States have authority to tax the estate real and personal of all their corporations, including Carrying Companies, precisely as they may tax similar property when belonging to natural individuals, and to the same extent. We think also that such taxation may be laid upon a valuation or may be an excise, and that in exacting an excise tax from their corporations, the States are not obliged to impose a fixed sum upon the franchises or upon the value of them, but they may demand a graduated contribution, proportioned either to the value of the privileges granted, or to the extent of their exercise or to the results of their exercise." "A power to tax to this extent may be essential to the healthy existence of the State Government." (15 Wallace, 293.)

In the more recent case of the Delaware Rail Road tax, which was a tax imposed on the net earnings or income of the Delaware Rail Road, that Court in sustaining the law, holds language of similar import. (18 Wallace, 206.) I have elaborated this subject, that the Legislature may thoroughly comprehend the reasons and principles upon which such important legislation has been urged by this Depart-