Exhibit 23

THE TARIFF OF 1913. III

In what has been said during the former discussions of the tariff of 1913, reference has been had almost exclusively to the provisions of the law relating to duties, to customs administration, and to clauses affecting foreign trade relations. The tariff act of 1913, however, was not only a measure for the revision of import rates and for reorganizing the conditions of importation, but was also a revenue law in the larger sense. As has been incidentally noted in the former discussions already referred to, it was recognized from the beginning that very great tariff changes would necessitate a recourse to new methods of revenue raising, or else to a severe cut in expenditures. That a cut could be successfully and effectively attempted few believed. The overgrown expansion of the federal government, the undertaking of many new functions, and the constant hungry struggle at the patronage trough had swollen annual expenditures to a volume never before dreamed of. To check this tide of extravagance, it was seen, would necessarily be the work of years; and congressional leaders, probably wisely, concluded that they would do well to recognize the facts in the case and to seek for the moment simply to get from some source the funds needed to meet expenditures upon the existing basis. The way had already been pointed out by the Republican Congress which passed the tariff act of 1909. In that Congress, to provide for the ever-growing outlays with which even the tariff was not sufficient to cope, the corporation tax had been proposed and enacted, and its yield during the succeeding years had reached the estimated level. It had proved an easy means of providing at least $30,000,000 on the average. To expand this corporation tax so as to include individual income was a natural and logical step. The plan had, besides, the warrant of past experience; since, in the tariff act of 1894, the notion of redressing the balance of taxation had been given scope through the introduction of an income tax designed to supplement the reduced yields of the tariff act of that year, and estimated to produce $40,000,000. For both logical and historical

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As was noted in the first paragraphs of this discussion, the income-tax sections of the tariff of 1913 were the successors of a measure tentatively adopted by the House of Representatives a year earlier and known as the excise income tax. This excise tax was formulated prior to the adoption of the federal constitutional amendment providing for an income tax, but was intended as a genuine income tax. It was in fact the lineal predecessor of the income-tax sections of the tariff. A brief historical review of its terms will show, therefore, by what gradual stages the final provisions were developed.

The excise income tax in the form at first adopted did not answer the purpose which it is desired to serve by the present legislation, for the following reasons:

1. It failed to make any adjustment with the existing corporation tax.

2. It was based upon a plan of legislation framed prior to the adoption of the income-tax amendment.

3. It was defective in principle and detail at many points.

All these difficulties it was felt should be considered in framing a new law and it seemed necessary to begin (*a*) by repealing the corporation tax, on the ground that, as an inclusive income tax is to be adopted, it should bear upon all income, not merely upon that of corporations, and not upon their income except in the same degree as upon other incomes; (*b*) by laying aside the older excise income tax in the form in which it was put through the House, and making a completely fresh start.

When the ground had thus been cleared it was planned to map out a general income-tax measure upon the principles now recognized in financial literature and embodied in European income-tax systems, adjusting such tax, however, to the state systems of revenue in so far as circumstances would permit. The chief points to be disposed of were as follows:

1. The fundamental necessity in income-tax legislation, it was believed, is to arrange wherever possible for the collection of the revenues at the source from which they are drawn. The excise income-tax bill of the preceding session did not satisfactorily do

this. It was therefore open to serious criticism. The excise income tax called fundamentally for an annual return to be made by the individual with reference to his income, after deducting a minimum of exemption and certain allowances for expenses and offsets. This of course threw the whole burden upon the accuracy with which return was made by the person who was to pay the tax. Experience unfortunately shows that taxpayers cannot be relied upon to be honest under such conditions and that they ought not to be subjected to the strain, as the effect of such strain is to penalize the honest man or the relatively honest man and to aid correspondingly the man of questionable integrity. It was admitted to be a doubtful question how far the principle of collection at the source can satisfactorily be extended by the federal government, but it was seen that the plan certainly could be carried to a far more advanced point than had been done in the excise income-tax bill. In that measure it was applied to some incomes, as seen in section 5 of the original bill whereby officials in the employ of the government were to have the tax deducted from their income and whereby corporations, etc., were to make returns in certain cases. This principle is the only effective one in connection with income taxation and it was felt that it should be applied as broadly and thoroughly as the Constitution and laws of the federal government would possibly allow. There was no weaker feature in the excise income-tax bill than this very failure to do what was needed toward insuring the successful levying of the tax by making certain that all doubt so far as possible was eliminated with respect to the accuracy of tax returns. It was thought that the principle of collection at the source could be applied in the following classes of cases at least:

(*a*) All corporations doing an interstate business, interpreting the word interstate in the broadest possible manner.

(*b*) Other classes of corporations chartered under federal law, e.g., national banks.

(*c*) Other classes of corporations over which the United States might in any manner be deemed to have the power of requiring information, or which act as agents for the performance of governmental functions.

(*d*) Other classes of business, not incorporated, falling within any of the above groups.

(*e*) Persons having to do with the collections of rentals or incomes arising from lands.

(*f*) Persons having to do with the registration and enforcement of legal instruments securing debts contracted on the strength of lands.

It was thought that if the principle of collection at the source could be applied to these and perhaps to other payers of interest, dividends, wages, and rents, the ground would be very largely covered, and the field remaining to be dealt with solely through individual returns would be relatively small.

Of course in this connection the difficulty had to be faced that the persons who pay such interest, dividends, wages, or rents would not know whether the people to whom they pay these incomes are or are not within the limit of exemption. For example, if the Pennsylvania Railroad is called on to deduct an income tax from the earnings of its bondholders before paying their interest, a case like this might arise: A may own Pennsylvania Railroad bonds sufficient to entitle him to interest of, say, $6,000, while B may have an equal income from various bonds, of the Pennsylvania and of other railroads. In that case, presumably, the Pennsylvania would deduct the tax on A's interest and would not deduct it on B's, while the other roads would not deduct anything from B's interest because B did not get from any one road an income in excess of the exemption. This could be met only by providing that the tax should be collected in every case and that a voucher should be supplied to the person from whom the money was thus taken, or that when interest was paid a record of ownership should be required. Then this person should be allowed to collect back from the government the sums cut off from his income if such income was clearly shown to be below the exempted minimum, or he should be compelled to pay in future if the tax were not deducted at the time the interest was paid. This would also call for a statement on the part of the individual which might or might not be true, since he would have to show that his income was within the minimum. Thus there might be a field for dishonesty there,

but it would be greatly limited. The plan, it was seen, would be inquisitorial without a doubt, but it was recognized that all income taxes are so, and the more effective they are the more inquisitorial they are.

2. It was desired that the question of interference with state taxes should be very carefully safeguarded. For some years past several states have had income taxes, many of them inefficient, and falling back upon exactly the sources of revenue that were to be drawn upon by the proposed act. Few legislators thought it would be a wise plan that would allow the double taxation of such incomes. In some way, it was believed, the field ought to be shared with the states. The best way to do this seemed to be to allow an offset in those states that have income taxes, equal to the amount paid in such states upon those portions of income which are in excess of the minimum exempted under federal law. A state receipt would release the taxpayer from the payment of the federal tax to the extent that the state tax coincided with the federal; but this allowance could be made only in those states that already had tax laws that duplicate the federal income tax, and the plan could not be so applied as to allow the states to pre-empt this field for all future time. This, it was thought, was a matter requiring to be worked out in a good deal of detail; but in the final form of the act provision was made only for the general deduction of state and municipal taxes in computing income.

3. There was also a strong feeling that the minimum of exemption provided under the old bill ($5,000) was too high. A study of incomes showed that the number above $5,000 is not nearly so great as many persons would suppose, and that this exemption might well be lowered to, say, $4,000. It was urged that if necessity required it, $3,000 would not be unreasonable. The whole question of exemption, it was felt, needed to be considered with very great care in order not to impose the tax upon portions of income that are not properly taxable at all, and at the same time to avoid exempting incomes that ought to pay the tax. An insufficient amount of study had been given to this subject in nearly all efforts at federal income-tax legislation. Moreover, in section 2 of the old excise income-tax bill, the exemptions or