

RECEIVED
OCT 8 1915
JAMES D. MAHER
CLERK

Supreme Court of the United States,

OCTOBER TERM, 1915.

No. 140.

FRANK R. BRUSHABER,
Appellant,

VS.

UNION PACIFIC RAILROAD
COMPANY,
Appellee.

APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK.

MEMORANDUM FOR APPELLEE.

The appellant, a stockholder of the appellee, instituted this suit, without invitation or encouragement from the appellee, to test the constitutionality of the income tax law (Act of October 3, 1913; 38 Stats., 166). As the only

issue is the validity of the obligations, sought to be imposed by the income tax law on the appellee, to pay taxes on its corporate income and to withhold, report and account for taxes on disbursements made by it supposed to constitute income of others, notice of the institution of the suit was given to the Attorney General with the request that he conduct the defense in view of the primary interest of the Government in the issue. The Attorney General having undertaken to appear and represent in this Court the interests of the Government, it is considered that the appellee is relieved of any obligation to defend the statute and it therefore makes no separate presentation of the case.

Respectfully submitted,

HENRY W. CLARK,

Counsel for Appellee.

October 7, 1915.