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STATE LEGISLATORS FOR THE XXII AMENDMENT

To de-centralize Federal Government—to re-establish State's Rights

AN ARGUMENT FOR THE XXII AMENDMENT

"The power to tax is the power to destroy"—to destroy the States of the American Union.

Unless a ceiling is placed on the power of the Federal Government to tax, it can destroy the States by drawing into Washington so much of the wealth created in the States and their towns, cities and counties, that they cannot finance their own activities.

Many States have constitutional limitations on their taxing and borrowing power. Thousands of local governments have statutory limitations of the same character.

If it is sound to limit the taxing power of State and local government, it is doubly sound to limit with respect to income, gift and inheritance taxes, that power in the hands of the Federal Government. This, for the reason that the Federal Government (as court decisions seem to indicate) has a prior claim on all wealth and income upon which all governments, Federal, State and local, must depend.

In 1938, Governor Lehman of New York, in a letter to Senator Pat Harrison of the Senate Finance Committee, wrote:

"The independent sovereignty of the States is threatened by Federal taxing policies . . . If one of two governments having equal, concurrent jurisdiction to levy a tax, actually monopolizes the field to the ex-

clusion or the near exclusion of the other, it may follow that that other government will be destroyed or at least starved into impotency. The extent to which the Federal Government has been and is ignoring the rights of the States in the income (personal and corporate) and estate tax fields and virtually monopolizing those fields to the exclusion of the States, is truly alarming."

This danger, now so apparent, was foreseen by a few men when the 16th Amendment was before the State Legislatures for ratification in 1910. At that time, Governor Charles E. Hughes of New York and some of the country's most distinguished lawyers such as Joseph H. Choate, warned of the dangers of an unlimited power to tax being given the Federal Government. In a brief before the New York Legislature it was said:

". . . It is almost universally conceded that no such taxing power can be safely vested in Congress, and that the existence of the power might seriously imperil the independence and autonomy of the several States . . . It is, of course, now elementary that the power to tax is the strongest of all governmental powers, that it 'acknowledges no limits but the will of the legislative body imposing the tax,' that it is indisputably the power to destroy, and that of all powers, it is the one most liable to abuse . . . There is, indeed, no limit to the possible ascent in the scale of progression, and no power to prevent abuse and oppression on the part of temporary or irresponsible